

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Aiken County

Honorable Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHA'KEL RAHEEM DIXON,

APPELLANT.

APPELLATE CASE NO. 2021-000948

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 93 - FACEBOOK RECORDS OF SHA’KEL DIXON

Savanna Williams - Cross-examination
By Mr. Johnson

1 Was there any DNA of Mr. Jackson found in Mr.
2 Barnwell's car?

3 A Barnwell or Bacon's vehicle?

4 Q Either one.

5 A No.

6 Q Well, let me start with Bacon.

7 Was there any DNA found linking my client to Mr. Bacon?

8 A No.

9 Q And were there any fingerprints found linking my client
10 to Mr. Bacon's car?

11 A Not to my knowledge.

12 Q Were there any fingerprints found linking my client to
13 Miss Toney's car?

14 A Not to my knowledge, no.

15 Q And you heard that -- well, you've been in here, in
16 fact, correct?

17 A Yes, sir.

18 Q And you heard that Miss Toney's been alleged
19 Mr. Jackson drove her vehicle.

20 Is that correct?

21 A Yes.

22 Q But there's no evidence scientifically to corroborate
23 or to confirm that, correct?

24 A Yes.

25 Q Now, with regard to the firearm seized from Mr.

Savanna Williams - Cross-examination
By Mr. Johnson

1 Jackson's home, are you familiar with whether those firearms
2 were tested for any type of DNA?

3 A Yes.

4 Q And were they tested for DNA?

5 A Yes, sir, both of them.

6 Q And what were the results of that?

7 A I believe it was a mixture on the short barrel AR and
8 then I believe the defendant was found on the Glock.

9 Q But no DNA of Mr. Curry, correct?

10 A No.

11 Q And with regard to those same firearms, they were
12 actually sent off to the SLED agency for ballistic testing.

13 Is that correct?

14 A Yes, sir.

15 Q Now, will you explain to the jury what that means,
16 ballistic testing?

17 A Ballistics, when you find a projectile and/or a shell
18 casing, if you do have a firearm seized, what you can do is
19 send it up to SLED for examination. What they will do,
20 depending if it's a shell casing or a projectile, is fire
21 the weapon and they will physically look at the two up under
22 a microscope to see if the rifling is familiar on the two
23 items.

24 Q And was that done in this case?

25 A Yes, sir.

Savanna Williams - Cross-examination
By Mr. Johnson

1 Q And was it fair to say that the firearm seized from the
2 family home of Mr. Jackson had no link to the projectile in
3 Shaniyah Toney's room?

4 A Not a direct link, no, sir.

5 Q And is it fair to say that there were no other pieces
6 of information regarding those firearms that had any
7 evidentiary value in this case?

8 A No, sir.

9 Q Now, did you actually go out -- well, I believe you
10 stated that you did go out to Christian Barnwell's home?

11 A Yes, sir.

12 Q Did you take any photographs?

13 A I don't recall if I did or not.

14 Q If you had taken photographs, would they be contained
15 in your report?

16 A Yes, sir.

17 Q And if they're not contained in your report, is it fair
18 to say that there were no photographs taken?

19 A Yes, sir.

20 Q And you didn't take any photographs because you didn't
21 find anything of evidentiary value to the case to record.

22 Is that correct?

23 A Can you repeat that for me?

24 Q Sure.

25 If there were no photos taken, would it be fair to say

Savanna Williams - Cross-examination
By Mr. Johnson

1 that's because there was no evidence of a crime that you
2 wanted to notate in your report?

3 A Yes, sir.

4 Q You indicated that there was a small fire pit that---

5 A Yes, sir.

6 Q ---you observed.

7 was that a yes?

8 A Yeah.

9 Q I'm sorry.

10 A Yes, sir, I'm sorry.

11 Q And you located nothing of value in or around that fire
12 pit, correct?

13 A No.

14 Q And actually in the front yard of the area, according
15 to Miss Toney, she said that there was a bonfire.

16 You didn't find any evidence to corroborate or confirm
17 that information as part of your investigation of Mr.
18 Barnwell's home, right?

19 A No, sir.

20 Q And, once again, if you had, that would be something
21 that you would include in your report.

22 Is that accurate?

23 A Yes, sir.

24 Q Now, you are aware of the, the messages that we
25 discussed yesterday between Ms. Kenya Bush and Shaniyah

Savanna Williams - Cross-examination
By Mr. Johnson

1 Toney.

2 A Yeah.

3 Q Is that correct?

4 A Yes, sir.

5 Q And you are aware that Shaniyah Toney indicated that
6 Derrick Curry dropped her off to work at IHOP around five
7 o'clock on April 30th, right?

8 A Yes, sir.

9 Q And is there any or was there any effort to confirm or
10 refute that statement by your agency?

11 A That Derrick Curry dropped her off?

12 Q (WHEREUPON, there was no audible response.)

13 A Did we confirm or deny it?

14 Is that what you're asking?

15 Q Yes, ma'am.

16 A We could deny that, of course.

17 Q Well, did you try to pull any surveillance video from
18 the parking lot?

19 A There was none at the parking lot. Only interior to
20 the IHOP.

21 Q And did you review that interior footage?

22 A I never received anything back from the corporate
23 office.

24 Q Did you follow up with them to inquire?

25 A Yes, sir.

Savanna Williams - Cross-examination
By Mr. Johnson

1 Q And what was the response?

2 A I never received anything back from them.

3 Q Did you look at possible cameras in the intersection
4 that would of confirmed whether she, in fact, traveled with
5 anyone?

6 A Yes, sir.

7 Q And what did those reveal?

8 A Nothing. They belonged to the Aiken Department of
9 Public Safety, the ones right there at the intersection of
10 whiskey Road, and mall -- entrance to the mall and they do
11 not record. They are just a live feed camera only.

12 Q So, essentially there's no footage of who dropped her
13 off at IHOP, correct?

14 A No footage.

15 Q And she also stated that Mr. Curry was alive on the
16 night of April 30th or at least that's what she indicated
17 in real time to several individuals.

18 Is that correct?

19 A Yes, sir.

20 Q And then she testified to something different in Court,
21 correct?

22 A Yes, sir.

23 Q Do you have any confirmation as to who, in fact, picked
24 her up from work?

25 A Other than what she told us and what some phone records

Savanna Williams - Cross-examination
By Mr. Johnson

1 show.

2 Q So, there's no independent evidence, just her word,
3 correct?

4 A Yes, sir.

5 Q And she also stated that she dropped him off in some
6 part of Aiken near a, a, a housing project.

7 Do you recall that being something that she admitted
8 to?

9 A I think she -- it was said the PJ's or -- yeah.

10 Q And what, based on your knowledge, what would you
11 indicate that stands for?

12 A Projects.

13 Q And so based on that statement, she's indicated that he
14 was alive, picked her up from work around midnight, and she
15 dropped him off, correct?

16 A In those conversations, yes.

17 Q And those are written conversations, right?

18 A Yes, sir.

19 Q That you obtained through the Facebook business record,
20 right?

21 A Yes, sir.

22 Q So you have no reason to believe that those
23 conversations were, were altered in any way, correct?

24 A No, sir.

25 Q And speaking of Facebook messages, you indicated that,

Savanna Williams - Cross-examination
By Mr. Johnson

1 if a message is deleted, Facebook does not store that
2 message if it is retrieved by the law enforcement agency?

3 A Yes.

4 Q Is that correct?

5 A Yes, sir.

6 Q But a Facebook user can not delete someone else's
7 messages linked to another person's account, correct?

8 A As in two separate users, is that what you're referring
9 to?

10 Q (WHEREUPON, there was no audible response.)

11 A No, another user, unless they're actually within that
12 account, can they not delete that other person's messages.

13 Q So, you're not representing to this jury that Denzell
14 Jackson was able to go into the account of Miss Toney and
15 delete any communications, right?

16 A No, sir.

17 Q So if there are no messages to confirm her statement
18 that she exchanged messages with Mr. Jackson, how do you
19 view that?

20 A How do I what, sir?

21 Q How do you view that?

22 A If there are none, then we're not able to view them.

23 Q And you're not able to confirm, in fact, whether she
24 had any communication via Facebook --

25 A No, sir.

Savanna Williams - Cross-examination
By Mr. Johnson

1 Q -- if they're no messages, correct?

2 A That's correct.

3 Q Now, you talked to Miss Toney approximately how many
4 times over the last few years?

5 A Three times.

6 Q Did she say anything about deleting her messages from
7 Facebook?

8 A I don't recall if she did or not.

9 Q If she had, would that be information that you would
10 notate in your report?

11 A Possibly, yes, sir. Yes.

12 Q And if -- and, and, and all of your statements with
13 Miss Toney were recorded, correct?

14 A Yes.

15 Q So, if that information's not contained in the
16 reporting, is it fair to say that she never discussed the --
17 erasing any of her messages between her and Mr. Jackson?

18 A Not, not that I recall.

19 Q So, as we sit right here this morning on August 18th,
20 2021, are there any messages, Facebook messages, between
21 Shaniyah Toney and Denzell Jackson that you have retrieved?

22 A No.

23 Q You also were able to review Facebook messages between
24 Miss Cordajiah Council and Shaniyah Toney as part of your
25 investigation.

Savanna Williams - Cross-examination
By Mr. Johnson

1 Is that correct?

2 A Yes.

3 Q And you were in here yesterday when Miss Toney admitted
4 that she was bragging about having intercourse with
5 Mr. Curry on April 30th, right?

6 A Yes.

7 Q And wouldn't you agree that that's in stark contrast to
8 the tears that she cried on the witness stand yesterday?

9 SOLICITOR CHARBONNEAU: Objection. Improper question.

10 THE COURT: The objection's sustained.

11 Q You would agree that she did make that statement about
12 having sex with Mr. Curry?

13 A In the conversation with Miss Council, yes.

14 Q Yes.

15 And that conversation occurred between April 30th
16 and, and May 1st, correct?

17 A I believe so, yes.

18 Q And so that wasn't a week later or a week prior.

19 That was in real time when this allegation allegedly
20 occurred, right?

21 A Yes, sir.

22 Q Do you have any information that Miss, Miss Toney was
23 acting ab -- abnormally that night at work during her shift?

24 A No, sir.

25 Q And actually to the contrary you were in here when

Savanna Williams - Cross-examination
By Mr. Johnson

1 Morgan Blacks testified, correct?

2 A Yes.

3 Q And she testified that there was no abnormality or
4 emotion shown by Miss Toney, correct?

5 SOLICITOR CHARBONNEAU: Objection. Improper question.

6 THE COURT: The objection's sustained.

7 Q Did you interview any of the employees at the IHOP?

8 A Not interview, no.

9 Q Do you have any reason to believe, based on the last
10 two years of investigation, that Shaniyah Toney, besides
11 what she stated, went in the back and was sulking?

12 A Do I have any --?

13 Q Any information to confirm that.

14 A No.

15 Q Approximately how long was she at work on that night?

16 A I believe they stated she clocked in at 5:15 and
17 clocked out af -- right after 11:00.

18 Q So, approximately six hours or so?

19 A Yes, sir.

20 Q Do you think that that's enough time to call 9-1-1?

21 SOLICITOR CHARBONNEAU: Objection. Improper question.

22 MR. JOHNSON: I -- Your Honor, I'm asking for her
23 personal opinion.

24 THE COURT: Whether someone can call 9-1-1 in a span of
25 six hours?

Savanna Williams - Cross-examination
By Mr. Johnson

1 MR. JOHNSON: Yes, sir.

2 THE COURT: You may answer it.

3 THE WITNESS: Yes.

4 Q Now, based on those messages with several individuals
5 while she's at work, did she ever indicate that there's
6 anything wrong with Mr. Curry?

7 A No.

8 Q Now, as a part of your investigation, did you find any
9 blood from Mr. Jackson anywhere on any scene that you've
10 investigated?

11 A No.

12 Q I may of already asked you about this but did you find
13 any fingerprints?

14 A No.

15 Q On any item?

16 A No.

17 Q And you seized several items, correct?

18 A Yes.

19 Q And you actually seized Mr. Jackson's cell phone.
20 Is that correct?

21 A Yes, sir.

22 Q And did you do a phone, a phone dump?

23 A Yes, sir, I do believe I completed a search warrant for
24 that phone.

25 Q Now there's no evidence that he ever threatened

Savanna Williams - Cross-examination
By Mr. Johnson

1 Shaniyah Toney, correct?

2 A No.

3 Q And I believe she testified to that.

4 Is that correct?

5 A Yes.

6 Q Do you recall Miss Curry (sic) being asked about
7 whether these messages would be on Facebook when she was
8 interviewed the first time?

9 A Do I recall if the messages were on Facebook when she
10 was being interviewed?

11 Q I'll restate the question.

12 Do you recall asking her where these messages could be
13 found at?

14 A Yes.

15 Q And do you remember her response?

16 A Facebook.

17 Q Okay. And in reviewing Sha'Kel Dixon's Facebook
18 messages, any discussion between he and Mr. Jackson about a
19 crime?

20 A No.

21 Q Did you actually canvass the neighborhood of Nokesville
22 Circle?

23 A Yes, sir.

24 Q All right. Can you explain to the jury what a canvass
25 is?

Savanna Williams - Cross-examination
By Mr. Johnson

1 A It's basically where you go door-to-door to see if
2 anybody was home during the incident or obtain any video
3 surveillance that may be on the out -- exterior (phonetic)
4 of their dwellings.

5 Q And you canvassed this as, as part of your normal law
6 enforcement procedure of trying to figure out what happened,
7 right?

8 A Yes, sir.

9 Q And tell me what the results of that canvass were
10 please.

11 A We found multiple video surveillances outside of the
12 homes within that neighborhood and none of them were either
13 working or had the subscription with some of them that would
14 actually store the data.

15 Q Did you include in -- any statements from neighbors in
16 your report?

17 A No, sir.

18 Q And is that because there was nothing of evidentiary
19 value heard or seen by any of the neighbors?

20 A Yes.

21 Q No one said that they heard a gunshot?

22 A No.

23 Q No one identified any of these young men as being in
24 the neighborhood?

25 A No.

Savanna Williams - Cross-examination
By Mr. Johnson

1 Q Approximately how tall was, was -- is Derrick Curry?

2 A I don't know.

3 Q Are you familiar with your first interview with
4 Miss Toney?

5 A Yes.

6 Q And was there a transcript made of that interview?

7 A Yes, sir.

8 Q And do you recall some discussion about the pink tote?

9 A Yes, sir.

10 Q And do you recall there being some indication that he
11 must of been a little guy to fit in that tote?

12 A Yes, sir.

13 Q And you don't have any indication that he was a small
14 man, correct?

15 A Just based off of photographs he looked smaller, yes.

16 Q He looked small?

17 A Smaller in weight size smaller.

18 Q What about height?

19 A Are you asking me to guess his height?

20 Q No, I want to -- just, just generally speaking---

21 A He's---

22 Q ---would you---

23 A He's taller than me.

24 Q Fair enough.

25 Do you recall Lieutenant Flurry saying he's got to be a

Savanna Williams - Cross-examination
By Mr. Johnson

1 little guy to fit in this tote?

2 A Yes, sir.

3 Q You were in the room to hear that, right?

4 A Yes, sir.

5 Q Now, was there any DNA evidence of Mr. Jackson found
6 in, in the trunk of either of these vehicles?

7 A No, sir.

8 Q No.

9 were there any fingerprints --

10 A No, sir.

11 Q -- of Mr. Jackson?

12 A No, sir.

13 Q But there were fingerprints found of an individual by
14 the name of Elijah Sloan?

15 A Yes, sir.

16 Q And he is Shaniyah Toney's child's father?

17 A Yes, sir.

18 Q And he lives in Greenwood?

19 A Yes, sir.

20 Q Do you recall Miss Toney stating in her first interview
21 that she wasn't sure if Mr. Curry was dead when he was
22 placed in the vehicle?

23 A I don't recall.

24 Q If I show you a transcript, would that refresh your
25 recollection?

Savanna Williams - Cross-examination
By Mr. Johnson

1 A Yes, sir.

2 Q All right. So, after reviewing the transcript, do you
3 recall Miss Toney being asked if Derrick Curry was dead when
4 placed in the vehicle?

5 A Yes, sir.

6 Q And she indicated that she didn't know, correct?

7 A She was not sure, yes.

8 Q And that was in contradiction to her statements on the
9 witness stand.

10 Do you recall?

11 SOLICITOR CHARBONNEAU: Objection. Improper question.
12 Commenting on another witness' testimony.

13 THE COURT: Overrule the objection.

14 Q Is that in contradiction to what she testified to
15 yesterday that he was immediately -- he passed away
16 immediately?

17 A Yes, sir, I think she just said he was dead though.

18 Q So it's two, two different statements that's in there,
19 correct?

20 A Yes, sir.

21 Q You didn't find any evidence of communication between
22 Denzell Jackson and Shaniyah Toney while she was at work,
23 correct?

24 A No, sir.

25 Q Based on your law enforcement experience, she -- well,

Savanna Williams - Cross-examination
By Mr. Johnson

1 strike that. I'll ask another question.

2 Did you take any DNA from Miss Toney?

3 A I did not.

4 Q why not?

5 A The areas to include her home and her vehicle, her DNA
6 is to be expected within those two locations.

7 Q what about Mr. Bacon's vehicle?

8 A She never stated she was in Mr. Bacon's vehicle.

9 Q How about the firearms?

10 A She never stated she held a firearm either, sir.

11 Q But she stated a lot of things that she went back on,
12 correct?

13 A Yes, sir.

14 Q So, essentially you never treated her like a suspect?

15 A We did at the beginning treated her like a suspect.

16 But I am -- I -- her DNA's to be expected in that home and
17 that vehicle.

18 Q So if she was treated like a suspect, why was she never
19 arrested?

20 A Due to the totality of the circumstances involved in
21 the case.

22 Q Totality of, of the circumstances being that she
23 testified that she lures a man into her home, well knowing
24 that he's about to be killed, helps clean up the scene, and,
25 and leaves town for 10 days?

Savanna Williams - Cross-examination
By Mr. Johnson

1 That's not criminal activity?

2 A She never admitted that she knew that he was going to
3 be killed.

4 Q Isn't there such thing as accessory after the fact to
5 murder in the State of South Carolina?

6 A Yes, sir.

7 Q would cleaning up blood be the kind of thing that could
8 get you arrested for something like that if you knew you
9 were cleaning up blood of someone who had just been
10 murdered?

11 A Yes, sir.

12 Q But she was never charged with that, was she?

13 A No, sir.

14 Q She's never spent a day in jail with regard to this
15 case?

16 A No.

17 Q Do you recall Miss Toney being asked about what day
18 this happened on?

19 A I recall it being brought up yesterday, yes, sir.

20 Q And what day did she say?

21 A I believe she stated May 1st.

22 Q Okay. And the cell phone data that you have that was
23 mapped out, that's from April 30th, correct?

24 A Yes, sir.

25 Q Do you have a map or any pictures of where the phones

Savanna Williams - Cross-examination
By Mr. Johnson

1 are on May 1st?

2 A I'm not sure actually.

3 Q Were you able to -- well, one second please.

4 (Pause.)

5 A Okay.

6 Q What I'm showing you is marked as Defendant Exhibit
7 2-1.

8 You're reviewing the Facebook messages between Ms. Bush
9 and Miss Shaniyah Toney?

10 A Yes, sir.

11 Q And what's the date on those messages?

12 A The date is 5/1 of 2019 at 3:21 in UTC, which is not
13 actually our time.

14 Q Would you have any disagreement with the statement that
15 UTC time is four hours ahead of east coast time?

16 A I believe it's before.

17 Q Yes.

18 A Yes.

19 Q Four hours ahead of east coast time, right?

20 A Yes, that's correct. Yes, sir.

21 Q So that would put that conversation at what time?

22 A On 4:30.

23 Q And---

24 A 11:00, 11:00ish at night.

25 Q 11:00PM on May 1st?

Savanna Williams - Cross-examination
By Mr. Johnson

1 A No, on April 30th.

2 Q So, what about the next conversation?

3 Do you see anywhere in there where it says April the
4 30th?

5 A Just on Page 1 or through --?

6 Q I think they're three pages.

7 A None show April 30th, but if they are transferred out
8 of UTC, they would show April 30th.

9 Q So, do you have any records that -- well, you got this
10 from Facebook, right?

11 A Yes, sir.

12 Q All right. So, you had an opportunity to review these
13 records before Court today?

14 A Yes, sir.

15 Q Do you recall Miss Toney being asked if the young man
16 washed her car while she was at work?

17 A If I asked her that?

18 Q Yes. I'm, I'm sorry. In your interview process a few
19 years ago.

20 A I, I believe I did.

21 Q Do you recall what her answer was?

22 A I think she stated she washed the vehicle.

23 Q And she washed it in, in, in Greenwood with her
24 boyfriend, right?

25 A Yes, sir.

Savanna Williams - Cross-examination
By Mr. Johnson

1 Q Now there's been some discussion previously that there
2 was a warrant for the arrest of Derrick Curry at the time
3 that this happened, right?

4 A Yes, sir.

5 Q And it was for the crime of what?

6 A Armed robbery.

7 Q Has that warrant been recalled?

8 A Not to my knowledge, no.

9 Q So that warrant is still an active warrant?

10 A It's still active.

11 Q Do you have a death certificate for Mr. Curry?

12 A No.

13 Q So, in essence, if he were to be encountered by law
14 enforcement, they would see that he has an active warrant?

15 A Yes, sir.

16 Q And he would be taken into custody---

17 A Yes, sir.

18 Q ---pursuant to that warrant?

19 A Yes, sir.

20 Q We heard evidence that he was -- had a, an assault
21 rifle at some point that day, right?

22 A Yes, sir.

23 Q And that was in, in the book bag?

24 A Yes, sir.

25 Q Based on your experience in being in law enforcement

Savanna Williams - Cross-examination
By Mr. Johnson

1 for -- since 2012, nine years I believe Ms. Charbonneau
2 stated, don't you find it odd for someone to walk around
3 with an AR15 on Monday afternoon at noon?

4 A No, sir.

5 Q You don't find that odd?

6 A No, sir.

7 Q Okay. Were there off-the-record conversations with
8 Miss Toney as a part of this interview?

9 A Only right before the interview to speak with
10 Mr. Screen and her. That would be it.

11 Q What about after the interview?
12 weren't there some off-the-record conversations?

13 A Not, not that I recall. This states that it's
14 Lieutenant Flurry and it says oh, which I can get the
15 details when we get off-the-record.

16 Q So, there were off-the-record conversations after the
17 interview at some point in time, right?

18 A It seems so, yes, sir.

19 Q You have no reason to doubt the voracity or the
20 untruthfulness of this transcript provided to defense
21 counsel from the State?

22 A No, sir.

23 Q Thank you.

24 (Pause.)

25 Q I don't have anything further. Thank you.

Savanna Williams - Cross-examination
By Mr. Thompson

1 THE COURT: Mr. Thompson.

2 MR. THOMPSON: Your Honor, may it please the Court?

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. THOMPSON:

6 Q Detective Williams, just -- you were here yesterday
7 during Miss Toney's testimony?

8 A Yes.

9 Q Correct?

10 A Yes, sir.

11 Q And you heard her say that, that, A, of all this, that
12 there was this murder plot at the theater, correct?

13 A Yes, sir.

14 Q And that she said she didn't have anything to do with
15 it but that both Mr. Curry, and there's another guy, they
16 were riding in her car with a whole pile of crystal
17 methamphetamine, correct?

18 A In the gist of it, yes.

19 Q Okay. And Mr. Curry is also somebody who, from
20 evidence that's been put in, I believe it's State's No. 106,
21 and some of these (indiscernible), he, he both walks around
22 and rides around in cars with this, this assault rifle in a
23 bag, right?

24 A Yes, sir.

25 Q In your experience as a detective for Aiken County

Savanna Williams - Cross-examination
By Mr. Thompson

1 Sheriff's Office, do people that trade in or carry around
2 large quantities of crystal methamphetamine, are, are those
3 transactions done in cash or are they done with bank cards
4 and credit cards?

5 A Cash and then cash that you can not see physically.

6 Q Okay. Primarily invisible transactions?

7 A Yes, sir.

8 Q Do you know or have any -- were there any search
9 warrants issued or do you know of any banking or credit card
10 information related to Mr. Curry before he's allegedly
11 killed?

12 A I, I was informed that he had no bank accounts.

13 Q No bank accounts?

14 A No bank accounts.

15 Q No credit cards.

16 So the fact that he doesn't have any credit union
17 reports in the last two years is frankly he probably didn't
18 have any credit union reports in the two years prior to all
19 this allegedly happening, correct?

20 SOLICITOR CHARBONNEAU: I would object to probably.
21 Improper question.

22 MR. THOMPSON: I'll withdraw.

23 SOLICITOR CHARBONNEAU: Calls for speculation.

24 MR. THOMPSON: I'll withdraw.

25 You're not aware of any credit card or banking

Savanna Williams - Cross-examination
By Mr. Thompson

1 information, any electronic information at all, related to
2 Mr. Curry either after or before?

3 You're not, you're not aware of any of that type of
4 information?

5 A No.

6 Q Okay. And I believe you, you stated earlier that he,
7 at the time, was wanted for armed robbery and, in fact,
8 there's an active warrant.

9 He still is wanted for armed robbery, correct?

10 A Yes, sir.

11 Q You can catch a powerful large amount of time for armed
12 robbery, correct?

13 SOLICITOR CHARBONNEAU: Objection. Relevance.

14 THE COURT: The objection's overruled.

15 Yes or no.

16 THE WITNESS: Yes.

17 Q Possibly could get up to 30 years in prison for armed
18 robbery?

19 A Possibly.

20 Q In your -- in, in your professional opinion as a
21 detective, that'd be a powerful motive to disappear?

22 A It could be.

23 Q Miss Toney, she met with the authorities on several
24 occasions?

25 A Yes, sir.

Savanna Williams - Cross-examination
By Mr. Thompson

1 Q She met with her lawyer, correct?

2 A Yes, sir.

3 Q To help shepherd her statements and possibly remind her
4 of things?

5 SOLICITOR CHARBONNEAU: Objection.

6 THE COURT: Sustained.

7 Q She was not being interrogated?

8 A Was she---

9 Q Correct?

10 A ---being interrogated?

11 Q Sure. I'll, I'll, I'll do that question now.

12 A I---

13 Q Was she being interrogated or did she voluntarily speak
14 with the police department?

15 A She voluntarily wished to speak with us but, yes, we
16 did obtain the statements from her.

17 Q Okay. You testified earlier that, that you were, at,
18 at times, had to meet with her because, and I'll quote, "you
19 received new information."

20 A Yes, sir.

21 Q This is a polite way of saying you found stuff that was
22 perhaps different or in addition to what she told you the
23 first time and you needed to speak with her again?

24 A No, sir, what I did was I followed the evidence in this
25 case.

Savanna Williams - Cross-examination
By Mr. Thompson

1 Q This, this murder plot a day before the alleged
2 incident that we're -- that the jury's looking into for
3 today, this would be a big piece of information, correct?

4 A It could be, yes.

5 Q But you did not have a chance to investigate that,
6 correct?

7 A No, sir.

8 Q Because you only found out about that when?

9 A A week or so ago.

10 Q But did you question or interrogate Mr. Elijah Sloan?

11 A I did not.

12 Q To your knowledge did anyone in the department question
13 or interrogate Mr. Elijah Sloan?

14 A No, sir.

15 Q The, the physical evidence in this case, State's
16 Exhibit 94 through 101, the pictures from the search
17 warrant, I believe it's Green Street, those are not from Mr.
18 Dixon's house, correct?

19 A No, sir.

20 Q Item 67 and 106 and 107, the guns and the backpack and
21 everything, those are not from Mr. Dixon's house?

22 A No.

23 Q But he voluntarily gave a DNA sample?

24 A Yes, sir.

25 Q There are -- all of these DNA swabs, there are no DNA

Savanna Williams - Cross-examination
By Mr. Thompson

1 swabs that show Mr. Dixon's DNA anywhere in this case,
2 correct?

3 A Correct.

4 Q No fingerprints of Mr. Dixon on any of the items of
5 evidence anywhere in this case or any of the locations in
6 this case, correct?

7 A Correct.

8 Q I -- and I want you to correct me if I'm, if I'm wrong,
9 I believe the only, the only physical pieces of evidence in
10 this case, related to Mr. Dixon, there's a -- like the front
11 page of a credit card and, and I apologize. I don't
12 remember the actual item number off the top of my head.

13 Do you know?

14 SOLICITOR CHARBONNEAU: which one?

15 MR. THOMPSON: The, the credit card.

16 SOLICITOR CHARBONNEAU: 92.

17 MR. THOMPSON: 92.

18 (Pause.)

19 Q State's 92, this credit card correspondence, it looks
20 like maybe something that comes like with a credit card or
21 as part of a credit card bill.

22 Did you do any search warrants or any -- get any
23 information at all about whether or not anything had been
24 bought or whether this credit card is related to this case
25 at all?

Savanna Williams - Cross-examination
By Mr. Thompson

1 A There's not enough information on the sheet of paper
2 for that to have occurred.

3 Q Okay. All right. So, we don't, we don't really know?

4 A No, sir.

5 Q Some other than it's, it's at this other gentleman's
6 house, that probably means they know each other, other than
7 that, that piece of paper really doesn't stand for anything
8 else?

9 A Yes, sir.

10 Q Okay. When you searched Mr. Dixon's home, and I
11 realize I think you earlier stated that you weren't actually
12 part of that search, right?

13 A Yes, sir, I was not a part of that search.

14 Q Okay. But you're aware of what happened during the
15 search and what was found?

16 A Yes.

17 Q Okay. And the only -- they, they find the phones at,
18 at Mr. Dixon's home.

19 A Yes.

20 Q Correct?

21 Several phones?

22 A Yes.

23 Q Correct?

24 A Yes.

25 Q They find a phone in the room that he's probably

Savanna Williams - Cross-examination
By Mr. Thompson

1 sleeping in, correct?

2 A I'm, I'm not sure about that.

3 Q But none of those phones are actually related to this
4 case whatsoever. The only phone that actually was of
5 interest to the police is his mother's phone.

6 Right?

7 A There were numerous seized from the home but yes.

8 Q Right.

9 But the only information we have that's helpful for the
10 case is from his mother's phone?

11 A Yes.

12 Q Okay. And the only thing in his mother's phone --
13 there are -- they're several messages in the -- in his
14 mother's phone about him talking back and forth with his
15 mother but those don't have anything to do with the case,
16 right?

17 A There's a text message I think on May 1st where he
18 sends his mother asking if they're any funny cars that start
19 driving around to let him know.

20 Q Okay. All right. But other than that, there are no
21 other messages related to the case other than asking about
22 are there any funny cars around -- driving around her house?

23 A Yes.

24 Q Okay. And -- well, I'll stop there.

25 There's no other physical evidence though that's found

Savanna Williams - Cross-examination
By Mr. Thompson

1 in Mr. Dixon's home that's even remotely related to the
2 case---

3 A There---

4 Q ---other than what we just talked about?

5 A Not in the home, no.

6 Q Okay. This, this telephone data that, that we're
7 probably about to talk about in great detail, you, you
8 mentioned -- okay. On my telephone, I represent to you that
9 I track my children.

10 Okay. They know about it. It's all cool. But I, I
11 can tell you pretty close to exactly where they are right
12 now.

13 That's not the kind of location information that we're
14 talking about in this case, right?

15 A Depending but no, it's not an application base, no.

16 Q Mostly we're talking about large areas that, that
17 phones are, are in?

18 A You're talking about the cell phone tower to the next
19 cell phone tower---

20 Q Okay.

21 A ---and sectors between those, yes.

22 Q And essentially you, you have these towers kind of
23 triangulating a little bit and you can kind of tell a, a
24 general geographical area that's -- that a phone is in but
25 not much more than that?

Savanna Williams - Cross-examination
By Mr. Thompson

1 A Yes, they're -- you can triangulate and then there's
2 also something called NELOS which can actually give you a
3 pinpoint with a radius as to that is in the vicinity of that
4 radius.

5 Q And, and those radiuses though, they're a lot of
6 factors that affect them and they can be anywhere from a
7 couple hundred yards to possibly a couple square miles?

8 A Yes. Normally they give you the radius within the --.

9 Q So, if, if we were looking at yours and my phone right
10 now, I'll represent to you that my office is about two or
11 three blocks from here.

12 A Uh-huh. (Affirmative).

13 Q We probably wouldn't be able to tell -- we'd be able to
14 tell that I was near you and your phone but we wouldn't be
15 able to tell whether I was here in the room with you or
16 whether you were here in the courthouse and I was over at my
17 office two or three blocks away?

18 A Depending. I don't know how many cell phone towers
19 actually within---

20 Q Okay.

21 A Normally the, the denser the area gets the more towers
22 that will be present.

23 Q Fair enough. Fair enough.

24 Depending on the placement of the towers and, and I, I,
25 I understand that that -- that greatly affects the question.

Savanna Williams - Cross-examination
By Mr. Thompson

1 A Yes, sir.

2 Q But depending on the placement of the towers, I might
3 be able to be as far away as the Department of Motor
4 Vehicles or down at the Chinese Restaurant getting wanton
5 soup for lunch or I, I wouldn't necessarily have to be
6 standing right beside you in order for our phones to both be
7 in these areas that we're talking about?

8 A It's possible, yes.

9 Q Fair enough.

10 I don't believe I have any -- well, beg, beg the
11 Court's indulgence.

12 (Pause.)

13 Q And just in case I forgot to ask you this, there --
14 you're not aware of any fingerprint evidence connecting Mr.
15 Dixon with any of this -- any of these events, correct?

16 A No, sir.

17 MR. THOMPSON: I have no further questions.

18 THE COURT: Any redirect?

19 SOLICITOR CHARBONNEAU: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY SOLICITOR CHARBONNEAU:

22 Q Mr. Johnson asked you to look at the first statement
23 that Shaniyah Toney gave you, Page 22, Lines 8 through 11.
24 I don't think you were able to answer it fully.

25 When Shaniyah Toney -- on that first statement on May

Savanna Williams - Cross-examination
By Mr. Thompson

1 10th, 2019, did she ever say that Derrick Curry was alive?

2 A No.

3 Q What did she say?

4 A She said I am not sure but there was a lot of blood.

5 Q And this, this crime happened during work or school
6 hours?

7 A Yes, ma'am.

8 Q On a Tuesday?

9 A (WHEREUPON, there was no audible response.)

10 Q The neighborhood canvass that you talked about and the
11 traffic cams, you attempted to get information, correct?

12 A Yes, ma'am.

13 Q You were asked by opposing counsel, as far as Christian
14 Barnwell's home, if you got any items of evidence from
15 there.

16 Did you see signs of a fire outside?

17 A Yes.

18 Q Did you collect the red bag that's in evidence?

19 A Yes.

20 Q Did you get Sha'Kel Dixon's credit card statement from
21 that home?

22 A Yes.

23 Q And did you get Altashaun Bacon's paystub from that
24 home?

25 A Yes.

Savanna Williams - Cross-examination
By Mr. Thompson

1 Q Did you attempt to get -- did you check with IHOP to
2 see if they had any surveillance outside the building?

3 A I did.

4 Q Did they have outside surveillance?

5 A No, they only had interior cameras.

6 Q When Shaniyah Toney told us that she was working, based
7 on the Facebook records that you got, are you able to tell
8 whether she connected to the WiFi at IHOP?

9 A Yes, on her Cellebrite report from the extraction of
10 her cell phone, it showed that she was using the WiFi at the
11 IHOP.

12 Q So, so when she said she was at work she was --

13 A Yes.

14 Q -- according to her phone?

15 A Yes.

16 Q When opposing counsel asked you about whether Derrick
17 Curry picked up Shaniyah Toney from work, based on the cell
18 phone records that are in evidence, are you able -- were you
19 able to determine that Sha'Kel Dixon and Denzell Jackson
20 phones are traveling to I -- to the IHOP area to pick her up
21 at about the time that Shaniyah Toney said they picked her
22 up?

23 A Yes.

24 Q As far as deleted messages, if Miss Toney had testified
25 that she was afraid of both of these defendants, that they

Savanna Williams - Cross-examination
By Mr. Thompson

1 were reading her text messages and telling her what to say,
2 if they told her to delete her messages, would they be on
3 her records or would they be gone?

4 A Facebook, or Cellebrite, or either?

5 Q Facebook. She was using her Facebook message.

6 A Facebook, they're not gonna retain any deleted
7 messages.

8 Q Were there messages between Shaniyah Toney and Denzell
9 Jackson on 5/1/19?

10 A Yes, I believe so.

11 Q And were there messages between Shaniyah Toney and
12 Sha'Kel Dixon on 5/1/2019?

13 A I'm unsure if it's Facebook messages.

14 Q How about on the text message?

15 A Yes.

16 Q Opposing counsel was asking you what things were not
17 corroborated from Shaniyah Toney's statement.

18 When you go to the crime scene, does it corroborate
19 what Shaniyah Toney told you about where it happened?

20 A In every detail.

21 Q Were you -- did you find projectiles indicating that a,
22 a shooting took place?

23 A Yes.

24 Q Did you find a lot of quantity of blood where she said?

25 A Yes.

Savanna Williams - Cross-examination
By Mr. Thompson

1 Q Did you also obtain blood in the trunk of her car where
2 she said Derrick Curry's body was taken?

3 A We did.

4 Q Did you recover blood in the trunk of Altashaun Bacon's
5 trunk of his car where she said they transferred his body?

6 A We did.

7 Q Did the cell phone records show that Derrick Curry --
8 that Derrick Curry's phone, Sha'Kel Dixon, and Denzell
9 Jackson's phones were traveling together after he was
10 murdered on the day of 4/30/2019 in too far -- the early
11 morning hours of 5/1/2019 like Shaniyah Toney said?

12 A Yes, they mirror each other for hours.

13 Q And if someone is standing in the room talking to the
14 other person, that's not gonna show on Facebook accounts, is
15 it?

16 A What do you mean?

17 Q If someone's talking live -- I'm talking to you live,
18 our Facebook account is not gonna show us talking, correct?

19 A No.

20 Q And our cell phone records are not gonna talk --

21 A No.

22 Q -- not gonna show?

23 When -- the first time you talked to Shaniyah Toney,
24 does she tell you about the pink tote?

25 A She did, yes.

Savanna Williams - Cross-examination
By Mr. Thompson

1 Q And she said specifically that pink tote was what
2 Derrick Curry's body was put in?

3 A Yes.

4 Q And did you actually find pink totes in the garage at
5 Nokesville Circle?

6 A We did.

7 Q Opposing counsel asked you if Derrick Curry was -- fit
8 in the tote.

9 Did Shaniyah Toney tell you that he was hanging out of
10 that tote?

11 A She did. She stated that yesterday.

12 Q Opposing counsel asked you why you didn't charge
13 Shaniyah Toney.

14 When she spoke to you, was she afraid -- did she tell
15 you she was afraid of these two defendants?

16 A She did.

17 Q And did she tell you that they threatened her to stop
18 crying or they would kill her too?

19 A Yes.

20 Q Did she tell you they both had guns?

21 A Yes.

22 Q Did she tell you they were with her?

23 A Yes.

24 Q Did she tell you they had her car?

25 A Yes.

Savanna Williams - Cross-examination
By Mr. Thompson

1 Q Did she tell you that they were telling her what to
2 text and what to say to Kenya Bush?

3 A Yes.

4 Q Did she tell you that they were reading her texts to
5 verify and make sure she told them what they, they wanted
6 her to say?

7 A Yes.

8 Q Opposing counsel asked about Derrick Curry's
9 outstanding warrant.

10 Was it outstanding before April 30th, 2019?

11 A It was.

12 Q Do you know how long it was?

13 A A few months. I was actually the investigator on that
14 case.

15 Q In the three statements that Shaniyah Toney gave you,
16 does she change her story to you?

17 A She does not.

18 Q Does she just answer the questions, the additional
19 questions, that you have for her?

20 A Yes. As the case went along, I continued to learn more
21 following the evidence and I would obtain more questions for
22 her for clarification.

23 Q And based on your investigation and your information on
24 Miss Toney, is she a lawyer?

25 A No.

Savanna Williams - Recross examination
By Mr. Johnson

1 Q Is she a law enforcement officer?

2 A No.

3 Q So she's not an investigator?

4 A No.

5 Q Thank you.

6 Nothing further.

7 THE COURT: Mr. Johnson.

8 RECROSS EXAMINATION

9 BY MR. JOHNSON:

10 Q I believe you said that there were signs of a fire at
11 Mr. Barnwell's house?

12 A Yes, sir.

13 Q What were those signs of fire?

14 A There was just a fire pit with looked like charred very
15 small stuff within the fire.

16 Q But Shaniyah Toney said that fire was not in the fire
17 pit, correct?

18 A That's what -- that's the only one that we could
19 locate, yes.

20 Q I mean was she -- I mean when she was interrogated, she
21 said that the fire was in the front yard and not in the fire
22 pit.

23 Do you recall that?

24 A Yes, sir.

25 Q So, if the signs of fire had anything to do with this

Savanna Williams - Recross examination
By Mr. Johnson

1 case, that would of been something that you would document
2 with video or photographic evidence, correct?

3 A Yes, sir.

4 Q And that would of been something that you would of
5 notated in your written report, correct?

6 A Possibly, yes, sir.

7 Q well, if it had any significance, it would be in your,
8 your report, correct?

9 A Yes, sir.

10 Q But it's not, correct?

11 A No, sir.

12 Q Now, this pink tote, you were in here when we saw a, a
13 picture from I believe the Investigator Johnson measuring
14 the tote.

15 Do you remember that?

16 A Yes, sir.

17 Q was that tote ever tested?

18 A Tested --?

19 Q For any evidentiary value.

20 A Not to my knowledge. I'm not sure.

21 Q So no DNA swabs were secured from that tote?

22 A Not to my knowledge, no.

23 Q Now, you were just asked by Ms. Charbonneau about the
24 warrant and how long it had been in existence for Mr. Curry.

25 You indicated that you were the investigator on that

Savanna Williams - Recross examination
By Mr. Johnson

1 case?

2 A Yes, sir.

3 Q Tell us what the allegations are from that case.

4 SOLICITOR CHARBONNEAU: Objection. Irrelevant.

5 MR. JOHNSON: Your Honor, she opened the door to it.

6 SOLICITOR CHARBONNEAU: No, I did not.

7 THE COURT: Mr. Sanders (sic), is the warrant for armed
8 robbery?

9 MR. JOHNSON: Yes, sir.

10 THE COURT: The question is other, otherwise sustained.

11 MR. JOHNSON: I, I didn't hear.

12 THE COURT: Sustained.

13 Q How long had the warrant been in existence?

14 A Some months.

15 Q Some months?

16 A Yes.

17 Q And he didn't turn himself in?

18 A No, sir.

19 Q You're not able to tell us who picked up Shaniyah Toney
20 from the IHOP, are you?

21 A No, sir.

22 Q Thank you.

23 THE COURT: Mr. Thompson.

24 MR. THOMPSON: Your Honor, may it please the Court.
25 very briefly in, in redirect.

Savanna Williams - Recross examination
By Mr. Johnson

1 THE COURT: Recross.

2 MR. THOMPSON: Recross. I apologize, Your Honor.

3 RE CROSS EXAMINATION

4 BY MR. THOMPSON:

5 Q You were just asked just a moment ago about Miss
6 Toney's ability to make phone calls even while she's at IHOP
7 because she can do it over WiFi, right?

8 A Yes, sir.

9 Q Okay. But she can't call in late to work. She can't
10 call them before she gets to the WiFi.

11 Right?

12 A I, I don't know if she was utilizing WiFi at that time
13 or not.

14 Q Did, did you examine her phone in any of this material?

15 A I, I did but I, I don't recall if I remember seeing a
16 different WiFi other than the IHOP.

17 Q Okay. And the prosecution just got finished asking you
18 about how Miss Toney's allegations to you were that she
19 didn't say anything the night that all this happened because
20 she was with these folks that had guns and were making
21 threats to her, correct?

22 A Yes, sir.

23 Q And that's why she didn't go to the police, correct?

24 A Yes, sir.

25 Q Did she give you an explanation of why she didn't go to

Savanna Williams - Recross examination
By Mr. Johnson

1 the police after she got in her own car and drove to
2 Greenwood?

3 A No, sir.

4 Q Okay. Did she give you an explanation of why she felt
5 very comfortable even though she's living in the same area
6 and come and go talk to the police eight days later?

7 A No, sir, I think she testified yesterday it was -- she
8 was scared.

9 Q Okay. But she was un-scared enough to change her mind
10 and come and talk to the police, right?

11 A Yes, sir.

12 MR. THOMPSON: Okay. I have no further questions.

13 THE COURT: You may step down.

14 Ladies and gentlemen, we're gonna break one-half hour
15 for lunch. Lunch will be one half hour.

16 When you return, Ms. Sharie -- I'm sorry.

17 When you return, Juror Number 92, I'm appointing you to
18 serve as the foreperson of the jury. From this point
19 forward you will be the spokesperson for the jury, preside
20 over jury deliberations, and you'll take the front seat up
21 front, the foreperson's spot.

22 So we'll see y'all in one-half hour. Please do not
23 discuss the case.

24 (WHEREUPON, the following takes place outside the
25 presence of the jury.)

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 THE COURT: Yes, sir.

2 MR. THOMPSON: Your Honor, may it please the Court.

3 I'm -- I don't mind talking about this in open but I --

4 I've got a scheduling question to ask Your Honor and I can
5 do it either here or I can approach at your convenience.

6 THE COURT: Whatever your preference is.

7 MR. THOMPSON: If I -- if you wouldn't mind, fine with
8 me.

9 (WHEREUPON, a bench conference was held at this time.)

10 THE COURT: We'll reconvene in a half an hour.

11 (WHEREUPON, Court was in recess for the lunch hour.)

12 SOLICITOR HAMMACK: I don't know if Your Honor requires
13 them but the Clerk's Office staff is on the way as well.

14 (WHEREUPON, the following takes place within the
15 presence of the jury.)

16 THE COURT: Okay. The jury is back.

17 The next witness.

18 SOLICITOR HAMMACK: Thank you, Your Honor.

19 State calls Alex Schelble.

20 THE CLERK: Please raise your right-hand.

21 ALEXANDRA SCHELBLE, being first duly
22 sworn, testified as follows:

23 THE CLERK: Have a seat in the witness box. State your
24 full name for the Court spelling your last.

25 THE WITNESS: My name is Alexandra Schelble.

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 S-C-H-E-L-B-L-E.

2 MR. THOMPSON: And, Your Honor, I would object to this
3 whole line of questioning for the reasons I gave earlier and
4 would ask that we take this matter up outside the presence
5 of the jury.

6 THE COURT: The objection is noted.

7 MR. JOHNSON: And I would join in that objection as
8 well.

9 THE COURT: Only thing I know is the name thus far.
10 You may proceed.

11 DIRECT EXAMINATION

12 BY SOLICITOR HAMMACK:

13 Q Agent Schelble, what do you do for a living?

14 A I am a special agent with the South Carolina Law
15 Enforcement Division commonly known as, known as SLED. I'm
16 the missing persons coordinator and the statewide alerts
17 coordinator.

18 Q So as a missing persons coordinator and the state
19 alerts coordinator, what does that mean that you do everyday
20 in your job?

21 A SLED is an assisting agency and I assist local,
22 federal, and state law enforcement with missing person
23 investigations.

24 Q And you said that you're an assisting agency.

25 Is, is SLED a state agency?

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 A Yes, ma'am.

2 Q Do y'all have access to information in all the counties
3 of this state?

4 A Yes, ma'am.

5 Q Do you have access to information from other states?

6 A Yes, ma'am.

7 Q Do you have access to federal information?

8 A Yes.

9 Q So, missing persons and, and state alerts kind of sound
10 like two different things but it's -- explain, for example,
11 what state alerts means.

12 A So, the State of South Carolina has the AMBER alert,
13 the blue alert, and the endangered persons alert, and a
14 missing persons investigation could possibly reach to the,
15 the fact of aggravating an alert.

16 Q So, in this area or in this field, do you assist other
17 agencies when they ask you for help or do you initiate an
18 investigation on your own?

19 A When they ask for help we -- I assist.

20 Q And specifically do you help in trying to find people
21 that are missing?

22 A Yes, ma'am.

23 Q Were you asked to assist in finding anybody in this
24 case?

25 A Yes, ma'am.

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 Q who were you asked to attempt to find?

2 A Derrick Curry.

3 Q And when you were asked to try to find somebody, what
4 information is important for you in order to begin your
5 investigation?

6 A Their name, date of birth, any other information,
7 address, or social security number.

8 Q And did you receive the information for Derrick Curry,
9 that type of information in this case?

10 A Yes, ma'am.

11 Q And were you asked to not only try to find Derrick
12 Curry but to see -- well, let, let me ask you this.

13 Were you given any date range or important dates to
14 focus your search?

15 A Anything after his missing date of April 30th, 2019.

16 Q And when you get asked to try to find a missing person,
17 what types of information do you look for?

18 A We have multiple databases that search for utility
19 information, a licensing, licensing such as a --
20 recreational like hunting or fishing licenses, business,
21 professional like if you were a nurse or a barber. We also
22 have access to DMV information, insurance claims, NCIC
23 queries.

24 Q And when you say utility information, you're talking
25 about like water, power---

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 A The---

2 Q ---the types of things that, that people pay for to
3 live in a house?

4 A Yes, ma'am, and any address that's attached to those.

5 Q Okay. Did you mention -- you mentioned utilities and
6 licensing. You mentioned the DMV.

7 Did you check like phone information?

8 A Certain databases do have phone numbers that are
9 attached to, to the suspect or the individual that we're
10 looking for.

11 Q Did you mention insurance---

12 A Yes, ma'am.

13 Q ---claims?

14 So would that include if somebody was in a traffic
15 accident, like auto insurance?

16 A Yes, ma'am, it includes homeowners, renters,
17 automobiles, per -- workman's comp, personal injury.
18 Anything basically but life insurance.

19 Q How about police reports?

20 Do you check for police reports to see if law
21 enforcement has had any experience with a person that you're
22 looking for?

23 A Yes, ma'am.

24 Q What about flights or border patrol, any signs of
25 someone traveling?

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 A Yes, ma'am, we can search for that.

2 Q Do you check credit bureaus?

3 A That is -- that's, that's a part of the -- some of the
4 databases, yes, ma'am.

5 Q And that would be not just if somebody used their
6 credit card but if they tried to get an apartment or tried
7 to do anything where someone else would run their credit?

8 A Yes, ma'am.

9 Q Is that right?

10 A And -- yes, ma'am, and then any address attached to
11 that as well.

12 Q Now, this search that you do, is this limited to South
13 Carolina?

14 A No, ma'am.

15 Q Where all do you search?

16 A Nationwide.

17 Q Now, when you were asked to see if you could find any
18 activity on the part of Derrick Curry after April 30th,
19 2019, in the course of that, did you see any activity by
20 Derrick Curry before April 30th?

21 A On his DMV information he did renew, I can't remember
22 if it was his driver's license or just an ID, but he did go
23 in and renew a driver's license or ID at the DMV and filled
24 out the paperwork.

25 Q And that was before April 30th, 2019?

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 A Yes, ma'am, I believe it was February of 2019.

2 Q And during the course of your investigation, did you
3 check DMV records for any activity by Derrick Curry after
4 April 30th, 2019?

5 A Yes, ma'am.

6 MR. THOMPSON: Objection, Your Honor.

7 THE COURT: It's overruled.

8 Q And when you checked DMV records, what types of
9 activities could a person do that would leave a record at
10 the DMV?

11 A You can register for a driver's license or ID or CDL, a
12 change of address, registering a vehicle, traffic tickets.
13 I believe that's, that's all.

14 Q Was there any evidence that Derrick Curry registered a
15 vehicle after April 30th, 2019?

16 A No, ma'am.

17 Q Was there any evidence that Derrick Curry updated and
18 add -- or changed an address with the DMV after April 30th,
19 2019?

20 A No, ma'am.

21 Q Was there any evidence that Derrick Curry renewed a
22 driver's license or an ID card after April 30th, 2019?

23 A No, ma'am.

24 Q Was there any evidence that Derrick Curry paid to renew
25 a car tag after April 30th, 2019?

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 A No, ma'am.

2 Q Was there any evidence that Derrick Curry renewed or
3 updated his registration after April 30th, 2019?

4 A No, ma'am.

5 Q Was there any evidence that Derrick Curry renewed car
6 insurance after April 30th, 2019?

7 A No, ma'am.

8 Q Was there any evidence that Derrick Curry got a traffic
9 ticket after April 30th, 2019?

10 A No, ma'am.

11 Q Was there any evidence that Derrick Curry was in an
12 automobile accident after April 30th, 2019?

13 A No, ma'am.

14 Q In your search of the DMV records, was there any
15 evidence of any activity by Derrick Curry that would be
16 reported by the DMV after April 30th, 2019?

17 A No, ma'am.

18 Q Agent Schelble, you also stated that you look into
19 insurance claims and that includes car insurance, home
20 insurance, renters insurance, workman's comp insurance,
21 pretty much all insurance but life insurance.

22 Correct?

23 A Yes, ma'am.

24 Q In your -- did you review those types of records
25 looking for Derrick Curry in this case?

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 A Yes, ma'am.

2 Q And---

3 MR. THOMPSON: Object to relevance, Your Honor.

4 THE COURT: Objection's overruled.

5 Q And in looking at these records, Agent Schelble, was
6 there any evidence of any insurance claims, whether it be
7 auto, home, renters, workman's comp, any insurance claims at
8 all by Derrick Curry after April 30th, 2019?

9 A No, ma'am.

10 Q Agent Schelble, you also mentioned that you checked
11 credit bureaus to see if anybody has either done a credit
12 check on someone or whether someone has opened a credit
13 account.

14 Did you check credit bureaus in this case?

15 A The credit bureaus, they're attached to some of the
16 databases that we searched. So, if he would have, then it,
17 it would of been, been attached to his name and an address.

18 Q In the database that you searched?

19 A Yes, ma'am.

20 Q Was there any evidence of any utilities in Derrick
21 Curry's name after April 30th, 2019?

22 MR. THOMPSON: Object to relevance, Your Honor.

23 THE COURT: The objection's overruled.

24 A No, ma'am.

25 Q Was there any evidence of credit card activity or new

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 lines of credit by Derrick Curry after April 30th, 2019?

2 A No, ma'am.

3 Q Was there any evidence of Derrick Curry trying to get
4 a loan after April 30th, 2019?

5 A No, ma'am.

6 Q Was there any evidence that an apartment complex or a
7 job or any other company ran a credit check on Derrick Curry
8 after April 30th, 2019?

9 MR. THOMPSON: Object to relevance, Your Honor.

10 THE COURT: Overruled.

11 A No, ma'am.

12 Q Agent Schelble, were you able to determine if Derrick
13 Curry took an international flight after April 30th, 2019?

14 MR. THOMPSON: Object to relevance, Your Honor.

15 THE COURT: Overruled.

16 A He did not.

17 Q Within limits of the information you have as far as
18 border patrol, with what you could search, was there any
19 evidence that Derrick Curry crossed the border and left the
20 United States after April 30th, 2019?

21 MR. THOMPSON: Object to relevance, Your Honor.

22 THE COURT: Overruled.

23 A No, ma'am.

24 Q Agent Schelble, do you also conduct what's called a
25 offline query?

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 A I request it from the FBI, yes, ma'am.

2 Q And can you tell the, the jury generally what an
3 offline query is?

4 A So, if a law enforcement agency was to run information
5 on an individual for a traffic stop or suspicious persons,
6 suspicious vehicle, and also for investigative purposes, we
7 can request a certain date for that person's information and
8 you get the information back on what agencies ran that
9 individual.

10 Q And when you do this offline query, are you able to
11 distinguish whether a person's information has been run by a
12 law enforcement agency because they're actually seen and
13 with that person versus just looking for them?

14 A Well, you have to verify it with the agency. You have
15 to reach out to them and, and ask them why they ran it.

16 Q Did you request an offline query from the FBI in this
17 case?

18 A Yes, ma'am.

19 Q And had Derrick Curry's name and information been run
20 by a law enforcement agency?

21 A Yes, ma'am.

22 Q And when did -- tell me, in this case, did you check
23 with those law enforcement agencies to see why they had run
24 his name?

25 A Yes, ma'am, it was for investigator purposes. It was

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 never because they were physically out with him.

2 Q So, this was, again, just more people looking for
3 Derrick Curry, not somebody that has actually seen or found
4 or heard from him?

5 A Yes, ma'am, that's correct.

6 Q Agent Schelble, do you do anything with fingerprints?

7 A No, ma'am. Well, I, I know a little bit about it but
8 not physically do anything with fingerprints.

9 Q well, tell me, as it relates to -- do you know what
10 NCIC is?

11 A Yes, ma'am.

12 Q What is NCIC?

13 A The National Center -- National Crime Information
14 Center.

15 Q And I'm not trying to quiz you, but NCIC, does that
16 contain various people's information?

17 A Yes, ma'am.

18 Q And typically does that also link people's fingerprints
19 to their information?

20 A Yes, ma'am, if, if the individual is run, the
21 fingerprints come back to their FBI number and their SID
22 number.

23 Q And if somebody's fingerprints are linked to their
24 name, if they use a different name somewhere else, does that
25 change their fingerprints?

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 A No, ma'am.

2 Q So, if somebody uses a different name somewhere else,
3 and their fingerprints are run, will it link back to their
4 real name?

5 A Yes, ma'am.

6 Q Will it---

7 A It will add that as an alias.

8 Q Any evidence at all from NCIC that Derrick Curry had
9 used a different name somewhere else?

10 A No, ma'am.

11 Q Agent Schelble, is there any database or information
12 area that records unidentified remains?

13 A Yes, ma'am.

14 Q And is that information available so that even as time
15 goes on the hope is that those remains can ultimately be
16 identified?

17 A Yes, ma'am.

18 Q And did you make efforts to look to see if there were
19 any unidentified remains matching the general
20 characteristics of Derrick Curry?

21 A Yes, ma'am, I checked the database and also ran an
22 offline search for that as well.

23 Q And when you did that, what were your results?

24 A Nothing that matched it.

25 MR. THOMPSON: Object to relevance, Your Honor.

Alexandra Schelble - Direct examination
By Solicitor Hammack

1 THE COURT: It's overruled.

2 A Nothing that matched Derrick Curry's information.

3 Q Agent Schelble, did you ever find Derrick Curry?

4 A No, ma'am.

5 Q Is that usual in your line of work?

6 A No, ma'am.

7 Q Is that because, in a modern age with technology, it's
8 pretty impossible to live without being noted in some way?

9 A Yes, ma'am.

10 Q And, Agent Schelble, in the course of your
11 investigation and your nationwide search, did you find any
12 indication of life for Derrick Curry after April 30th,
13 2019?

14 MR. THOMPSON: Object to relevance.

15 MR. JOHNSON: Objection, Your Honor.

16 MR. THOMPSON: And object to burden shifting.

17 MR. JOHNSON: That goes to the ultimate issue that's in
18 the purview of the jury.

19 THE COURT: All right. I overrule the objection.

20 Q Agent Schelble, I'll ask you did you find any
21 indication of life for Derrick Curry after April 30th,
22 2019, in your nationwide search?

23 A No, ma'am, I did not.

24 Q I don't have any further questions for you at this
25 time.

Alexandra Schelble - Cross-examination
By Mr. Johnson

1 THE COURT: Cross-examination.

2 CROSS-EXAMINATION

3 BY MR. JOHNSON:

4 Q How you doing?

5 A Good.

6 How are you?

7 Q Agent Schelble, did you conduct an inquiry with regard
8 to the activity of Mr. Curry prior to April 30th, 2019?

9 Is that a part of your process?

10 A I did not verify anything before. I did receive
11 information, like I said, from the DMV that was right before
12 that caught my eye. But anything with the NCIC queries or
13 anything like that I did not verify.

14 Q What about his financial footprint?

15 Did you have any en -- did you have any information
16 about whether he had a bank account?

17 A No, ma'am. I mean no, sir. Sorry.

18 Q So that is not a part of your process as well to---

19 A The financials?

20 Q Yes.

21 A Like search warrants for bank accounts or -- no.

22 Q Well, did you find any lines of credit prior to
23 April 30th of 2019 under the name of Derrick Curry?

24 A I did not look for that.

25 Q Do you know if Mr. Curry owned any property?

Alexandra Schelble - Cross-examination
By Mr. Johnson

1 A Owned -- I know he -- his name was attached to an
2 address but I'm not sure if he was the owner. I, I don't
3 recall.

4 Q Do you know if he's a -- if he's ever had a passport or
5 anything of that nature?

6 A He's had an ID. I'm not sure about a passport or no.
7 Yeah, he did not have a passport.

8 Q So, would you agree that it is difficult to trace a
9 person if they don't have a job, they don't have a passport,
10 they don't have any -- they don't have a bank account?
11 wouldn't that make it more difficult?

12 A In those aspects, yes, sir. That's the type of things
13 you're looking for.

14 Q Do you know if he has ever registered a vehicle?

15 A A vehicle I'm not sure but he did have an ID or a
16 driver's license.

17 Q But you mentioned that there was no vehicle registered
18 after April 30th of 2019, correct?

19 A That's correct.

20 Q But we don't know if there was ever a vehicle
21 registered to Mr. Curry based on your testimony, correct?

22 A I don't. I -- no, that's correct.

23 Q And I think you were asked as well has he tried to
24 renew a driver's license.

25 Do you recall that question being asked of you just

Alexandra Schelble - Cross-examination
By Mr. Johnson

1 now?

2 A If he did?

3 Q (WHEREUPON, there was no audible response.)

4 A Yes.

5 Q And I believe you said that his last interaction with
6 the DMV was February of 2019?

7 A I believe it was February.

8 Q So, if it were, in fact, a driver's license, that was
9 to be a valid driver's license, correct?

10 A If it was ID. I believe it was a year. A driver's
11 license I believe is two years.

12 Q Do you know if, if he ever had car insurance prior to
13 this date or not?

14 A I do not know that.

15 Q So, as far as your concern, when does your agency look
16 to see whether a death certificate has been produced?

17 A That was -- that request was made by my lieutenant and
18 she went to the -- DHEC but they -- the way they search
19 their database, it -- they couldn't, within their realm,
20 but I'm not sure how their database works, but they, you
21 know, couldn't search his name with the way that we were
22 asking.

23 Q And so you don't have any information that there's been
24 a death certificate for Mr. Curry that's been presented by
25 the state of South Carolina?

Alexandra Schelble - Cross-examination
By Mr. Johnson

1 A I do not.

2 Q So, is your file still open with regard to Mr. Curry
3 and trying to find his whereabouts?

4 A I, I don't have open files. I don't know what you
5 mean.

6 Q I mean are you---

7 A Am I still currently searching for him?

8 Q Yes.

9 A No, after I searched everything and there was nothing
10 for April 30th, my search was complete unless I get asked
11 again.

12 Q Okay. And when's the last time that you conducted the
13 search?

14 A Recently. Probably two weeks, two weeks, or a month
15 ago.

16 Q well, were, were you able to obtain any information as
17 to whether Mr. Curry had any professional licensing or
18 anything of that nature?

19 A Not after April 30th, 2019.

20 Q Do you know if he had any before?

21 A I do not know. I, I didn't search for that.

22 Q what about a job?

23 Do you have any information prior to April 30th
24 whether he had employment?

25 A I do not. My focus was on after April 30th, 2019.

Alexandra Schelble - Cross-examination
By Mr. Johnson

1 Q So essentially you can't testify as to what kind of
2 digital or professional footprint Mr. Curry had prior to
3 April 30th of 2019?

4 A I can tell you that he did have an address but it
5 wasn't recent or it wasn't after April 30th, 2019.

6 Q So, besides an address, do you have any -- anything
7 else regarding Mr. Curry prior to April 30th, 2019, that
8 would indicate he had a footprint that would be captured by
9 your resources?

10 A He, he was captured on the resources. I just -- my
11 focus wasn't on before April 30th. So I, I don't recall
12 what I saw but he -- I mean he did have addresses and I did
13 find his name in the databases.

14 Q And so do you ever go back in time to see if, if
15 patterns have changed with an individual that is now thought
16 to be missing?

17 Is that ever a part of your analysis?

18 A If that's the request that the agency has asked me to
19 do I could of if that's something specifically that they're
20 looking for.

21 Q Were you ever asked by the State of South Carolina to
22 look for any information on Derrick Curry's footprint prior
23 to April 30th---

24 A No, sir.

25 Q ---2019?

Alexandra Schelble - Cross-examination
By Mr. Thompson

1 A No, sir.

2 Q Thank you.

3 THE COURT: Mr. Thompson.

4 MR. THOMPSON: Your Honor, may it please the Court?

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. THOMPSON:

8 Q You mentioned all these databases I think by a name or
9 two?

10 A So certain databases search for multiple things. So I
11 was just given a general synopsis of what the databases do
12 search for.

13 Q It's a lot?

14 A Yes, sir.

15 Q Okay. All these things, the only records that you had
16 prior to all this are either from DMV or police records with
17 him being arrested, correct?

18 A Or the databases that check for the utilities, and the
19 licensing, and --.

20 Q Did he come up in any of the utility databases?

21 A Not after April 30th, 2019, no, sir.

22 Q Did he come up before April 30th?

23 A I don't recall. I, I was only looking for that
24 specific date and after.

25 Q Okay. But it wouldn't surprise you that he didn't have

Alexandra Schelble - Cross-examination
By Mr. Thompson

1 any utilities in his name before then?

2 A Well, surprise -- oh, I didn't know him. I --.

3 Q All right. Your, your search doesn't trace cash,
4 right?

5 A No, sir.

6 Q People that are living a cash existence wouldn't show
7 up on any of these things?

8 A That's correct.

9 Q Doesn't trace the fake IDs?

10 A No, sir, I don't believe so.

11 Q Frankly, this is kind of -- for the lack of a better
12 word, you're kind of the, the grid?

13 People that are trying to be off the grid wouldn't be
14 in these types of databases that you're talking about?

15 A It's very -- not common but --.

16 Q Not common.

17 A If they were of no financials or vehicles, that is
18 correct.

19 Q But if someone was trying to disappear, if they were
20 like wanted for armed robbery and wanted by the police, it
21 wouldn't be impossible for them to not be on any of these
22 databases you're talking about?

23 A It's hard to do but you, you that---

24 Q But not impossible.

25 A Yeah, you could.

Alexandra Schelble - Cross-examination
By Mr. Thompson

1 Q Your search is only this country, isn't it?

2 A No, I don't believe so. It's---

3 Q You testified earlier that, that, that these were
4 national databases?

5 A So, with Puerto Rico and Guam.

6 Q Okay. So this country and other U.S. territories?

7 A Yes, sir.

8 Q Okay. It doesn't cover Mexico?

9 A I think the border patrol might have -- we, we
10 requested information from them. I'm not sure what they
11 have.

12 Q What---

13 A So, I can't testify to that but --.

14 Q What -- I, I wasn't gonna do this. I'll go ahead and
15 do this one.

16 The border patrol, do you have a database that lists
17 every person that's coming across the U.S. Mexico border on
18 a daily basis?

19 A No, sir.

20 Q No.

21 And probably nobody can even accurately calculate that
22 number, correct?

23 A I'm not sure.

24 Q Okay. Your, your database would only capture a border
25 crossing from somebody who identified themselves to border

Alexandra Schelble - Redirect examination
By Solicitor Hammack

1 patrol at a border crossing in their own name?

2 A That's correct.

3 MR. THOMPSON: Okay. I have no further questions.

4 Thank you.

5 THE COURT: Any redirect?

6 REDIRECT EXAMINATION

7 BY SOLICITOR HAMMACK:

8 Q Agent Schelble, I don't have a map in front of me but
9 generally where is Mexico from here?

10 A South I believe.

11 Q Can you throw a rock and hit Mexico from here?

12 A You can not.

13 Q You think you could walk it?

14 A Probably not.

15 Q Think it'd probably take a while to walk from here to
16 Mexico?

17 A I would believe so.

18 Q How about driving a car from here to Mexico?

19 A Probably take a long time.

20 Q Think you could do it on one tank of gas?

21 A No.

22 Q So if you were driving a car to Mexico, you'd probably
23 have to stop at a gas station and, and get gas?

24 A Yes, ma'am.

25 Q Probably need to eat?

Alexandra Schelble - Redirect examination
By Solicitor Hammack

1 A Yes.

2 Q Buy something to drink?

3 A Absolutely.

4 MR. JOHNSON: Your Honor, I would object to this line
5 of questioning from Ms. Hammack.

6 THE COURT: The objection's sustained.

7 Q Agent Schelble, Mr. Thompson was asking you if it's
8 possible to live off the grid.

9 In your experience, are you able to find most people
10 that you were asked to find?

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

12 Q And, Agent Schelble, you were asked a lot about if you
13 found anything prior to April 30th, 2019.

14 Do law enforcement agencies ask you to find people that
15 aren't missing or aren't dead?

16 A No.

17 Q Thank you.

18 THE COURT: Anything further?

19 MR. JOHNSON: In response to that question though.

20 RE CROSS EXAMINATION

21 BY MR. JOHNSON:

22 Q But if you are directed or asked by an agency to go
23 back in time, you do have that capability, correct?

24 A That's correct.

25 Q But in this case you were not asked to go back prior to

Alexandra Schelble - Recross examination
By Mr. Thompson

1 April 30th, 2019, for any information or footprint of
2 Derrick Curry, correct?

3 A That's correct.

4 Q So you don't really have anything to compare the lack
5 of information that you have now versus prior to April
6 30th, correct?

7 A Oh, that's correct.

8 Q Thank you.

9 MR. THOMPSON: And very briefly.

10 RECROSS EXAMINATION

11 BY MR. THOMPSON:

12 Q The last question you were asked by the prosecutor.

13 Missing or dead, it's entirely possible that you would
14 be looking for people that are not dead but are missing?

15 A That's correct.

16 Q Okay. And some folks are missing for quite some time?

17 A Sometimes.

18 MR. THOMPSON: No further questions.

19 THE COURT: You may step down.

20 THE WITNESS: Thank you.

21 THE COURT: You may call your next witness.

22 SOLICITOR CHARBONNEAU: Chad Smith.

23 THE CLERK: Place your left-hand on the Bible and raise
24 your right.

25 CHAD SMITH, being first duly sworn,

Chad Smith - Direct examination
By Solicitor Charbonneau

1 testified as follows:

2 THE CLERK: Have a seat in the witness box. State your
3 full name for the Court and spell your last please.

4 SOLICITOR HAMMACK: And, Your Honor, as this witness is
5 taking his seat, may Agent Schelble be released?

6 THE COURT: Anytime the witness steps off the stand
7 they're released.

8 THE WITNESS: My name -- excuse me. My name, my name
9 is Chad Smith. S-M-I-T-H.

10 DIRECT EXAMINATION

11 BY SOLICITOR CHARBONNEAU:

12 Q And, Mr. Smith, you can take that off of your face
13 there. You're surrounded by plexi -- plexiglass. The jury
14 is all the way to the back. I need you to keep up your
15 voice and speak into the microphone.

16 A Yes, ma'am.

17 Q Mr. Smith, where do you work?

18 A I work at the South Carolina Law Enforcement Division.
19 Specifically I work in the firearms department at SLED's
20 forensic services laboratory in Columbia.

21 Q And what is your job title?

22 A I am a firearm and tool mark examiner.

23 Q And as a firearm and tool mark examiner, just describe
24 to us generally what that -- what your job duties are.

25 A Well, my main responsibilities are the examination of

Chad Smith - Direct examination
By Solicitor Charbonneau

1 firearms, ammunition, ammunition components such as bullets
2 or cartridge cases.

3 I also do serial number restorations on firearms that
4 have had their serial numbers obliterated and I also examine
5 and compare tools such as crowbars, wrenches, pliers,
6 things, things like that, and also tool mark evidence.

7 Q How long have you worked for SLED?

8 A It will be 13 years this November.

9 Q And please tell us just briefly your education and
10 training.

11 A Well, I attended Clemson University where I earned a
12 bachelor's of science degree in biological sciences and then
13 I worked for Clemson University for a number of years before
14 coming onboard with SLED. And when I started at SLED, I
15 began my training as a firearms and tool mark examiner in
16 the firearms department.

17 That training program is an in-house program. It lasts
18 several years. It is operated by the Court qualified
19 examiners of the firearms department. It involves extensive
20 reading and studying. They're multiple examinations and
21 testing given during that, during that time. Also attended
22 various classes and courses as well as toured several
23 firearm and tool manufacturing facilities.

24 Later in the training I helped the other examiners with
25 their casework, and then, at the end of the training period,

Chad Smith - Direct examination
By Solicitor Charbonneau

1 I received a comprehensive multipart examination, which I
2 successfully completed, and then I began to receive my own
3 casework.

4 Q And in the 13 years you've been with SLED, do you have
5 an estimate of how many firearms, tool mark cases you've
6 been involved in?

7 A Several hundred cases I've been involved with.

8 Q And do you continue your training and education to stay
9 current in your field?

10 A Yes, ma'am. I'm also a member of an organization,
11 professional organization, called AFTE, A-F-T-E. It's the
12 Association for Firearm and Tool Mark Examiners. It's a
13 worldwide organization that -- and they host annual training
14 symposium every year and then we try to send several
15 examiners to that training when the -- as the budget allows.

16 Q Have you ever testified as an expert in the field of
17 firearm, tool mark identification in Court before?

18 A Yes, ma'am.

19 Q Approximately, approximately how many times?

20 A Over 75 times. That includes General Sessions Court in
21 the State of South Carolina, as well as United States
22 Federal Court, and a coroner's inquest.

23 SOLICITOR CHARBONNEAU: At this time the State offers
24 Chad Smith as an expert in the field of firearms and tool
25 mark identification.

Chad Smith - Direct examination
By Solicitor Charbonneau

1 THE COURT: What says the defense?

2 MR. JOHNSON: No objection on that in this case.

3 MR. THOMPSON: No objection, Your Honor.

4 THE COURT: He's so qualified.

5 Ladies and gentlemen, a person who by virtue of
6 education, training, or experience is qualified to and in a
7 fashion they can offer opinions that will assist the jury
8 and do so if qualified as an expert. And this witness is so
9 qualified in the expert firearms and tool markings, tool
10 markings.

11 SOLICITOR CHARBONNEAU: Thank you.

12 Were you sent items of evidence with Case Number
13 L1910370 involving Denzell Jackson and Sha'Kel Dixon?

14 A Yes, ma'am.

15 Q And that L19 number, that's actually SLED's case
16 number?

17 A Correct. That's the SLED lab case number as opposed to
18 an agency who submits evidence to SLED. They would have
19 their own casework or case number. When it comes to SLED,
20 the evidence comes to SLED for examination, it's given a
21 separate laboratory case number.

22 Q Did you perform examinations and comparisons on the
23 items of evidence that you received in this case?

24 A Yes, ma'am.

25 Q Can you tell us, as far as the firearms section, which

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By Solicitor Charbonneau

1 types of evidence did you receive and review?

2 A I received two pieces of evidence. One was a, a fired
3 bullet that was recovered as well as a semiautomatic pistol,
4 a Glock brand 9-millimeter Luger caliber pistol, and it came
5 with, with a magazine. And those were the two pieces of
6 evidence that were submitted.

7 Q I'm gonna show you State's Evidence No. 22 and 107.

8 If you would, take a look. These are already in
9 evidence, 22, the projectile from the wall at the head of
10 the bed, and No. 107, the Glock 9-millimeter found at ■■■
11 Green Street.

12 Are those the two items of evidence that you received
13 in this case?

14 A Yes, ma'am. State's Exhibit 22 is the fired bullet
15 that was submitted for examination.

16 And, ladies and gentlemen, while I'm handling this
17 firearm, I'm making sure it is safe to handle. If it hasn't
18 been said before, it is safe to handle. There's a firearm
19 safety lock going through the action so it can't be loaded
20 or fired.

21 State's Exhibit 107 is the Glock pistol as well as the
22 magazine that was submitted.

23 Q And when you receive it, can you describe how you
24 receive it?

25 A The firearm itself was received in this cardboard box.

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1 It was taped. The, the firearm or the, excuse me, the fired
2 projectile was submitted in a evidence tape sealed little
3 envelope and it was in a, a larger packaging when it was
4 re -- submitted.

5 When I return evidence, I usually like to return it to
6 what's called court packaging so we can see what's inside
7 the envelope instead of having to repackage it in the
8 envelope and take open the envelope to see what's inside.
9 We just put it in a small Ziploc bag with the original
10 packaging so we can see the bullet and its packaging.

11 Q And was it properly sealed and in proper markings when
12 you received it at SLED from Aiken County Sheriff's Office?

13 A Yes, ma'am. The box itself had been previously sealed
14 with evidence tape. When I received it, it just had some
15 packing tape on it but it had been previously sealed with
16 the evidence tape. And then the bullet itself was properly
17 sealed as well.

18 Q If it wasn't properly sealed, either one of those
19 items, would you go forward?

20 Would you test them anyway or will you make a note of
21 that and stop right there?

22 A I can make a note of it in my case file. Make sure
23 that, depending on, you know, what, what the problem is, I
24 received the evidence straight from our evidence control
25 department. So there was not much chance for it to go from

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1 any -- anywhere else.

2 Depending on again what, what sort of issue there was,
3 I could of contact Aiken County, let them know, but I would
4 definitely at least note it in my case file.

5 Q And did that take place in this case?

6 A Yes, ma'am.

7 Q Everything was fine?

8 A Correct.

9 Q Did you bring a demonstration of a live round with you?

10 A Yes, ma'am.

11 Q Could you explain to the jury the different parts of a
12 cartridge?

13 A Would you like for me to come down further or --?

14 Q If you're comfortable, yeah.

15 Your Honor, is that all right with you?

16 THE COURT: Yes.

17 (WHEREUPON, the witness comes down from the stand.)

18 A So this is a model of what a cartridge is. It's an
19 unfired round of ammunition. So a lot of people just call
20 it a bullet but technically that's, that's not correct. The
21 bullet is just a portion of the content. The bullet is the
22 actual projectile itself. It comes, you know, down the
23 barrel out to its target.

24 So, we've got all these parts or do -- you got the
25 cartridge case, which is basically a container for all the

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1 other parts. The cartridge case, inside of a cartridge case
2 you have gun powder and then the bullet, projectile, would
3 be at the top of a cartridge. The bottom of the cartridge
4 is called a primer. So this little gray portion here, it's
5 called the primer.

6 That's what struck the firing pin of the firearm which
7 causes a -- basically a small controlled explosion. It
8 ignites the gunpowder. The gas inside the cartridge case
9 builds up, forces the bullet out of the cartridge case, and
10 then down the barrel.

11 So -- and, in this case, a semiautomatic pistol, when
12 this cartridge is fired, you've got a bullet going down the
13 barrel and you've got a fired cartridge case that is
14 extracted by the barrel and ejected out of the firearm. So
15 you have two pieces left over and this -- the model of the
16 bullet itself shows basically a fired bullet.

17 We've got some little grooves here on the bullet and
18 that corresponds to what's called rifling. Rifling is
19 something that's placed in the barrel of the firearm to give
20 a bullet a spin, a rotary motion, so that, as it leaves the
21 barrel, it's slow spinning, and it creates a -- stability.
22 It's like a football quarterback throwing, you know, a
23 football. He wants a nice tight spiral to give it just
24 in -- you would see. It's the same thing for a bullet.

25 So -- and this is a -- this would demonstrate a model

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1 of what the inside of a rifle barrel looks like. You've got
2 these grooves here and then you've got what's called a land
3 which is basically -- well, the portion that engages the
4 rifling itself and causes the bullet to spin so that you've
5 got lands and grooves and what's left in, in the, in the
6 barrel itself.

7 So the lands mark the barrel -- I mean, excuse me, the
8 bullet as it's fired down the barrel.

9 How, how far---

10 Q That's --.

11 A How far do you want me to go with this?

12 Q That's good. Thank you.

13 A (WHEREUPON, the witness returns to the stand.)

14 Q But I will say one more thing about the, the rifling.
15 So different manufacturers specify what kind of rifling they
16 want when they make their barrels.

17 The rifling can have a right-hand twist. It can have a
18 left-hand twist. They set the number of land and grooves
19 when they make the barrel, and, also, there's several types
20 of rifling within the -- that they can produce.

21 Additionally, there's, there's, there's two kinds of
22 rifling. There's conventional rifling and there's polygonal
23 rifling.

24 Conventional rifling means that the -- your lands here,
25 this upper portions, have sharp edges that, that can bend

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1 into the, the bullet as it's, as it's going out the barrel.
2 The polygonal rifling basically has rounded -- like -- so
3 the not quite a sharp on the edges. It doesn't leave quite
4 such a pronounced indentations in the bullet.

5 Recently manufacturer Glock has come up with -- it's
6 called the GMB barrel. That means Glock marks, markman's
7 barrel. It's basically a hybrid polygonal and convention
8 mark, or, excuse me, conventional rifling. So, it's got the
9 lands that are kind of rounded but on the edges it's got
10 the -- we call them rails, which is basically two sharper
11 portions kind of get in, get into the bullet as it travels
12 down the barrel.

13 So, that type of rifling, the GMB, is really only
14 specific to Glock, newer type Glock pistols. Older type
15 Glocks have the polygonal only rifling whereas the newer
16 type models have that GMB rifling.

17 Q Thank you. Please have a seat.

18 (WHEREUPON, the witness returns to the stand.)

19 Q When you received State's No. 22, the projectile, and
20 state's 107, the Glock 9-millimeter, can you tell us, first
21 of all, was the Glock, No. 107, was that in working order?

22 A Yes, ma'am, I examined the pistol, made sure there was
23 no obvious signs of damage or any sort of problems that
24 would cause malfunctions prior to shooting. Then when I
25 test fire the pistol it was in working order.

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1 And how we test fire most of our firearms in our
2 laboratory, especially pistols, is we have a water tank
3 that's a vertical water tank and then we shoot down into the
4 tank. The water slows down the bullet to where -- and it
5 doesn't add any markings that we would use for our, for our
6 examinations.

7 we've got a -- the bottom of the tank is sort of funnel
8 shaped. We've got a metal cup that's on a chain that sits
9 down in that bottom of that funnel that collects the bullets
10 so we can just pull up on a chain and then retrieve the
11 bullet from that cup. The cartridge case goes into -- we
12 set up a little box on the top of the tank that the
13 cartridge case is ejected into. So then we have our test
14 fires that we can compare to evidence bullets and cartridge
15 cases but the firearm was in working order.

16 Q And, in this case, in State's 107, you've described the
17 differences in the rifling inside the barrel.

18 was this a older model Glock or did it have the GMB
19 barrel that you've talked about?

20 A This is the newer model Glock. It's a Gen 5, stands
21 for Generation 5, Glock. The previous generations have
22 the -- again the, the straight polygonal type rifling. But
23 this is a Generation 5 Model 19 and it did have the GMB or
24 Glock markman's barrel.

25 Q And with that type of barrel and the rifling, does it

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1 leave specific marks that if you have a pristine projectile
2 that you're able to compare?

3 A Correct. We can look at a bullet and, depending on the
4 damage that's, you know, done that are -- the shape of the
5 bullet that's -- that we receive, we can usually tell some
6 sort of rifling specifications on it, whether the -- it's
7 polygonal, conventional, or, or now the GMB. Most of the
8 time we can tell if it's a right-hand twist barrel or a
9 left-hand twist and, and then, depending on if the bullet's
10 in tact or if it's -- we just get pieces of bullets, we can
11 try to count the number of lands and grooves.

12 Q In looking at State's 22, were you able to determine,
13 with your testing, what caliber bullet the projectile was?

14 A Yes, ma'am, it's most consistent with being loaded into
15 a, a 9-millimeter Luger cartridge and how we can determine
16 caliber usually is dependent on -- again, a lot depends on
17 the, the shape or the conditions of the bullet.

18 State's Exhibit 22, as I received it, it was, it was
19 beat up. It was dented and kind of misshapen but it was
20 mostly in tact. And so we can weigh it and we can try to
21 get a diameter of the base of the bullet and, and also just
22 a -- the characteristics of the bullet help kind of
23 determine what sort of caliber it could be.

24 So all that goes to, together to -- then I was able to
25 determine that it was most consistent with being a

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1 9-millimeter Luger.

2 Q Are you able to tell whether it had the right or left
3 twist, if it was shot from a gun with a light -- left or
4 right twist?

5 A Yes, ma'am. I determined it was a right, right twist.
6 It had six land and grooves and it also had the
7 characteristics of being fired from, from a GMB barrel.

8 Q Is that the -- what you said the newer aged Glock gun?

9 A Correct. Within the last couple of years Glock has
10 transitioned to using that, that GMB or Glock Marksman
11 Barrel. Again, the previous older models have a different
12 type of rifling, have just the polygonal, but we can tell,
13 you know, if it's, if -- if it's got the GMB, it leaves a, a
14 very distinct look on it and, again, this bullet had that.

15 Q The projectile that you got, are you able to say
16 whether it was a hollow point or a full metal jacket?

17 A The type of bullet it was was it was a full metal
18 jacket. That's a, a class of bullet or type of bullet and
19 all that really means is the bullet itself can be, can be
20 made up of, of different, different pieces. You've got a
21 core, which is usually a softer material lead, is, is a
22 common core material and it can have a jacket, which is a
23 outer material, which is a harder material. Usually it's
24 some sort of copper alloy. It can be like a steel alloy or,
25 or, or really any -- there's a number of, a number of

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1 different alloys that can be used.

2 But, in the full metal jacket sense, basically all that
3 means is the jacket covers all the core except for the base.
4 The base is left open so you see the lead part. And so I
5 was able to determine that this was a full metal jacket type
6 bullet.

7 Q Based on the fact that you were able to tell it was
8 full metal jacket, that the projectile was a 9-millimeter
9 projectile, that the rifling was a right twist, that it had
10 six lands and grooves, is all that consistent with Item 107,
11 the gun?

12 A Yes, ma'am. Now, now the type of bullet, that doesn't
13 really have anything to do with -- as far as, you know, full
14 metal jacket or a hollow point. All those can be fired out
15 of that particular gun.

16 But the other characteristics, as far as having the,
17 the general rifling characteristics, the caliber, the type
18 of rifling, the GMB rifling, the number of lands and
19 grooves, the, the direction of twist being right-hand, all
20 that is consistent with State's Exhibit 107. That pistol
21 had those characteristics as well as, as the fired bullet.

22 Q So because of the damage to the projectile, and please
23 correct me if I'm not saying this right, the, the
24 9-millimeter Glock in evidence, 107, is the, is the right
25 type of gun but you can not say it was specifically the gun

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By Solicitor Charbonneau

1 because of the damage to the projectile?

2 A That's correct. A further examination we can do is, if
3 a bullet meets the requirements, if it has the same class
4 characteristics as what a submitted firearm has, we can go
5 further to try to determine if that bullet was fired by that
6 gun and how we can do that is the rifling leaves little,
7 little individual markings, little -- we call them
8 striations but usually -- but all they are is a -- smaller
9 scratches on the bullet, the micro -- microscopic level.

10 And so we can tell that, depending on what kind of
11 markings are on, on, on a bullet, whether or not it was
12 fired by or made -- may be able to tell whether or not it
13 was fired by a particular gun. In this instance, that
14 bullet, since it had been -- it traveled through a wall,
15 that damaged the bullet and kind of eroded the individual
16 characteristics, those fine markings that we would need to
17 make a, you know, a further examination.

18 So, I couldn't tell for sure if it was fired by that
19 particular gun or another similar type Glock gun. It had
20 the same type of rifling but I couldn't say if it was fired
21 by that particular gun.

22 Q And on the opposite side of that, did you come across
23 any evidence that State 107 was not the gun?

24 A Correct. All the characteristics of that bullet
25 matched the characteristics of the gun. I just can't say it

Chad Smith - Cross-examination
By Mr. Johnson

1 was that particular gun.

2 Q Thank you.

3 Nothing further.

4 THE COURT: By the defense.

5 CROSS-EXAMINATION

6 BY MR. JOHNSON:

7 Q How you doing, Mr. Smith?

8 A Fine. Thank you.

9 Q So you conducted an examination of -- that you were
10 just talking about with Ms. Charbonneau on or about
11 November 16th of 2016.

12 Does that sound about right?

13 A The -- as to when my examination started?

14 Is that correct what you're asking or --?

15 Q I'm just looking at the report and---

16 A Oh, okay. The report, the report was issued, correct,
17 November 16th, 2020. So my examinations would of been
18 shortly there before.

19 Q And other than this one report, you didn't produce any
20 other reports associated with this, with this case, correct?

21 A well, I did issue another report comparing that gun
22 with evidence from another case that they wanted compared to
23 and how that was generated was we put the firearm into a
24 database. We take test cartridge cases and put them in a
25 database and it is called IBIS.

Chad Smith - Cross-examination
By Mr. Johnson

1 Q Let me stop you right there.

2 A Sure.

3 Q Let me stop you right there please.

4 with regard to this case in particular, you were not
5 able to determine whether the firearm that you have as
6 State's Exhibit 107 fired the projectile that we were just
7 talking about, correct?

8 A Correct. I could not tell. It, it could of fired it
9 but, then again, it could of been another firearm with that
10 similar rifling characteristics.

11 Q And I believe that your report -- do you have a copy of
12 your --

13 A Yes, sir.

14 Q -- report?

15 I believe that -- and tell me if this is accurate for
16 the third bullet point -- can you just read that for us?

17 A Yes, sir. The results of comparisons with Item 5,
18 which is State's Exhibit 22, that's the bullet, and test
19 bullets fired by the Item 9 pistol, which, again, that's
20 state's Exhibit 107, were inconclusive due to damage and
21 insufficient individual identifying characteristics. It
22 could not be determined whether Item 5 was fired by the Item
23 9 pistol or by another firearm with similar rifling
24 characteristics.

25 Q And you also note that there was a error in Item 9?

Chad Smith - Cross-examination
By Mr. Johnson

1 A Yes, sir. As Item 9 was submitted, the model number of
2 the model designation of that pistol was incorrect or not
3 completely listed on the submission paperwork, and then the
4 serial number, must of been some typos or something in the
5 serial number as it was listed. And so I just pointed that
6 out in my report.

7 Q Okay. And so that -- the serial number being
8 transcribed, that would of been done by a local law
9 enforcement agency?

10 A Correct. As -- when Aiken County submitted the
11 firearm, on that submission paperwork, they just put some
12 incorrect information. I could tell it was still the same
13 firearm just -- they just had the, the serial number and the
14 model designation, the model designation was incomplete, and
15 then the serial number was just a tad off.

16 Q would it be fair to say Glock is a well known
17 manufacturer of firearms?

18 A Yes, sir.

19 Q Is it fair to say that it's probably the most well
20 known in the U.S.?

21 A One of them. Throughout the world exactly -- for sure.

22 Q Throughout the world.

23 Smith & Wesson are, are two of the most well known?

24 A Those, those are two big companies. That is correct.

25 Q And so Glock is actually used by a lot of law

Chad Smith - Cross-examination
By Mr. Johnson

1 enforcement agencies as well, correct?

2 A Yes, sir.

3 Q And so, by virtue of it being a, a popular gun, do you
4 test those type of guns quite often?

5 A We see Glocks quite a bit.

6 Q So, it's not abnormal for a Glock to have been
7 associated with a particular individual, correct?

8 A Could, could you rephrase the question?

9 Q I will.

10 I mean so, so what we can agree on is that Glock is not
11 some exotic manufacturer that you don't come across often?

12 A Correct. Yes. We see Glocks weekly.

13 Q And so at the end of the day, based on your expertise
14 and experience, your conclusion in this case is that you
15 were not able to conclude that the projectile was fired from
16 the Glock in question in this case?

17 A Correct.

18 Q Thank you.

19 No further questions, Your Honor.

20 THE COURT: Mr. Thompson.

21 MR. THOMPSON: I don't think I have any questions, Your
22 Honor.

23 THE COURT: Any redirect?

24 SOLICITOR CHARBONNEAU: No, sir.

25 THE COURT: Thank you, sir. You may step down.

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 THE WITNESS: Thank you, Your Honor.

2 Call your next witness.

3 SOLICITOR HAMMACK: State calls Adrienne Hefney.

4 THE COURT: Oh, I'm sorry. Get yourself down.

5 THE WITNESS: Yes, sir.

6 SOLICITOR HAMMACK: Agent Hefney, I'm sorry. Got to
7 break it down here real fast.

8 THE CLERK: I'm sorry. Come over here and raise your
9 right-hand.

10 ADRIENNE HEFNEY, being first duly
11 sworn, testified as follows:

12 THE CLERK: Have a seat in the witness box. State your
13 full name for the Court and spell your last. Watch your
14 step please.

15 THE WITNESS: Adrienne Hefney. H-E-F-N-E-Y.

16 DIRECT EXAMINATION

17 BY SOLICITOR HAMMACK:

18 Q And, Agent Hefney, what do you do for a living?

19 A I'm a forensic DNA analyst with the South Carolina Law
20 Enforcement Division more commonly known as SLED.

21 Q And how long have you been doing that?

22 A In November it will be 24 years.

23 Q And specifically what is it that you do at SLED?

24 A Well, as a forensic DNA analyst, we compare unknown
25 items or unknown biological -- unknown evidence items that

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 contain biological evidence to known items, which would be
2 known standards such as a Buccal swab from the inside of
3 your cheek or a blood standard from your vein and compare it
4 to the evidence.

5 Q So, do you take a, a known DNA profile and compare it
6 to a substance to try to identify the source of that
7 substance?

8 A That is correct.

9 Q And did you have to undergo any educational training in
10 order to be able to do that?

11 A Absolutely.

12 Q Can you tell the jury what's your educational
13 background for that?

14 A I have a bachelor of science degree in biology from the
15 University of South Carolina. I also have a masters of
16 business administration from Winthrop University. I was
17 trained on-the-job by Court qualified analysts. And also I
18 have taken postgraduate courses in the field of molecular
19 biology, genetics, and population statistics.

20 Q And, in that training, is that both classroom and
21 practical training?

22 A That's correct but it's mostly practical.

23 Q And practical means you learn cause you have to do it,
24 you physically do it?

25 A On-the-job, yes, ma'am.

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 Q And, in doing that, do you also try to stay informed of
2 updates or trends in your field by continuing your
3 education?

4 A Yes, ma'am, we have to do at least eight hours of
5 continuing education each year by attending a con --
6 conference or symposium or doing web training or something
7 of the sort.

8 Q And, Agent Hefney, is this your first time testifying
9 in Court?

10 A It is not.

11 Q About how many times have you testified before?

12 A Roughly about 86, 87 times.

13 Q And have you been qualified as an expert here in South
14 Carolina before?

15 A I have.

16 Q And about how many times have you been qualified as an
17 expert?

18 A About that same amount, 86, 87 times in state, federal,
19 and civil court.

20 Q And in state, federal, and civil court, were you
21 qualified as an expert in forensic DNA analysis?

22 A That is correct.

23 Q And, as you stated, that is the field that you spent
24 largely three decades in?

25 A Yes.

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 SOLICITOR HAMMACK: Your Honor, at this time we would
2 tender Agent Hefney as an expert in forensic DNA analysis.

3 THE COURT: What says the defense?

4 MR. JOHNSON: No objection, Your Honor.

5 MR. THOMPSON: No objection, Your Honor.

6 THE COURT: She is so qualified.

7 Q Agent Hefney, you stated that you take a, a known
8 standard --

9 A Uh-huh. (Affirmative).

10 Q -- and compare it to an unknown or an item that you
11 don't know who it came from.

12 Is that right?

13 A That's correct. Evidence or question evidence where we
14 don't know where it came from, it was left behind at a crime
15 scene, as long as it contains biological sample, and we
16 compare it to a known standard where we know the origin of
17 that. And, in some cases, like this one, we couldn't get a
18 known standard.

19 Q Well, when we're talking about a known standard, can
20 you tell the jury what do you mean by a known standard?

21 A You know where it comes from. So, usually with the
22 persons involved in a case, we'll receive a known standard,
23 which is a swab from the inside of your cheek or a blood
24 standard, from those involved in the case.

25 Q And, as you stated, you take DNA where you know where

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 it came from and you compare it to evidence that we don't
2 know where it came from.

3 Is that correct?

4 A That is correct.

5 Q Now, every piece of evidence that you're given from law
6 enforcement, are you able to determine the presence of DNA
7 on every piece of evidence you've ever been given?

8 A No, I am not.

9 Q Super generally third grade education level, what is
10 DNA?

11 A Okay. DNA stands for deoxyribonucleic acid and it's
12 just a chemical substance that's found in certain cells of
13 our bodies that makes us who we are. Now, a lot of our DNA
14 is the same because it's the DNA that code for us being
15 human beings and giving us two arms, and two legs, and a
16 nose, and eyes. However, you look across this courtroom, we
17 know our DNA is different because we receive it -- half of
18 it from our mother and half of it from our father and no two
19 people will have the same DNA with the exception of
20 identical twins.

21 And that's what we use as a Court in forensic DNA
22 analysis, this fact that no people two people will have the
23 same DNA profile, and that it will differ from everyone
24 except identical twins.

25 Q So, if every person has DNA, what types of substances

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 leave DNA behind on an inanimate object?

2 A Blood, semen, saliva, hair root, skin cells, bone,
3 tissue are some of the few samples that we've gotten DNA
4 profiles from.

5 Q So when you receive an item of evidence from law
6 enforcement, are you looking for the presence of that blood,
7 semen, saliva, items like that that would contain a person's
8 DNA?

9 A That is correct.

10 Q Agent Hefney, when you examine an item of evidence,
11 even when you find the presence of DNA, are you always able
12 to identify that DNA?

13 A Not all the time.

14 Q And what are some of the reasons why you would not be
15 able to always identify DNA?

16 A It may be very little DNA present there to where we
17 don't have enough to develop an adequate DNA profile. It
18 might also be a lot of DNA there where we have too many
19 profiles to be able to make an in -- a distinguishable
20 mixture or a distinguishable profile.

21 Q And when you say mixture, I think you explained this to
22 the jury but I want to be certain they understand, does that
23 mean more than one person has left DNA behind?

24 A That is correct.

25 Q And when more than one person leaves DNA behind, is it

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 difficult or impossible to always be able to separate the
2 two and determine who is who?

3 A In the past it was more difficult than it is now. With
4 the computer program that we or software program that we
5 bought online a few years ago, that helps us distinguish
6 mixtures.

7 Q So, with the advancement of science, we're able to, to,
8 and I say we, I'm not at all, but are you better able to
9 distinguish mixtures when more than one source of DNA is
10 found on an item?

11 A That is correct.

12 Q Now, Agent Hefney, do you go out and find items to
13 analyze or are you asked to assist other law enforcement
14 agencies?

15 A The items are brought to us by other law enforcement
16 agencies.

17 Q And were you brought items from another law enforcement
18 agency to examine in this case?

19 A That is correct.

20 Q Agent Hefney, when you received these items to analyze,
21 do you -- were you asked to compare them to any known
22 standards for anyone?

23 A That is correct. I was.

24 Q And do you recall who you were asked to compare their
25 known standards to the items you received?

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 A Yes, the persons involved in the case and also the
2 parents of the missing person because remember what I said
3 about the known standard we would be able to compare to
4 unknown items left behind at a crime scene. In this case we
5 were unable to get a known standard because no body was ever
6 found.

7 So, in that case, which we will go to what's known as
8 an alternate known standard and it's simply a substitute for
9 the known standard in certain cases. Typically that would
10 be a toothbrush, razor, something that just that person
11 typically uses that we're able to use as a known standard or
12 an alternate known standard.

13 In this case we didn't have that. Initially we had
14 standards from the victim's mother and the victim's father
15 that we were able to compare as well. And, in addition, we
16 received buccal swabs from some of the subjects involved in
17 the case and that would be Sha'kel Dixon, Denzell Jackson,
18 Altashaun Bacon, and Christian Barnwell. And eventually we
19 were able to develop an alternate known DNA profile for
20 Derrick Curry.

21 SOLICITOR HAMMACK: May I see State's 88, 89?

22 Agent Hefney, I'm showing you what's already been
23 entered as State's Exhibits 88 and 89.

24 will you take a look at these and see if you recognize
25 them?

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 A Uh-huh. (Affirmative).

2 Okay. State's Exhibit 88 is our Item Number 18 and I
3 do not -- this is a -- I'm sorry. It's a buccal swab from
4 Kenya Bush.

5 Q Yes.

6 A Right there.

7 Q And then State's 89.

8 A I'm sorry. State's Exhibit 89 is our Item Number 6 and
9 it's a known standard for Victor Curry.

10 Q And are those the parents of Derrick Curry in this
11 case?

12 A That is correct.

13 Q And you stated you did not have a known standard for
14 Derrick Curry, right?

15 A Correct.

16 Q So you stated that you had to develop a standard for
17 him to be able to compare it to some items that you
18 received.

19 Were you ultimately able to develop an alternative
20 known standard for Derrick Curry to compare to other
21 evidence in this case?

22 A I was.

23 Q And, Agent Hefney, you also mentioned some other known
24 standards that you received and I'm gonna show you what's
25 already been entered as State's 102, 103, 104, and 105.

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 Are those the other known standards that you received
2 for comparison in this case?

3 A Yes, I -- this is Item 26, a buccal swab from Denzell
4 Jackson. Item 25, buccal swabs from Sha'kel Dixon. Item
5 27, buccal swabs from Altashaun Bacon. And, lastly, Item 28
6 is buccal, buccal swabs from Christian Barnwell.

7 Q Thank you, Agent Hefney.

8 A Uh-huh. (Affirmative).

9 Q Now I want to shift to some of the items than you were
10 asked to examine in this case and we've been using different
11 numbers. The State puts stickers on things and, and numbers
12 in here in courts that we can identify them.

13 But when you're examining evidence, do you associate
14 your own numbers to keep track of things?

15 A Our item numbers, yes.

16 Q And that's how you refer to an item?

17 A That is correct.

18 Q I want to direct your attention to what you have noted
19 as Item 2.1.

20 A Uh-huh. (Affirmative).

21 Q What is that item for you?

22 A Item 2.1 is described as a cutting from cuttings from
23 carpet and padding from front bedroom floor at Marker Number
24 1.

25 Q So, it says cutting from cuttings from carpet in

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By Solicitor Hammack

1 padding.

2 If SLED receives a really big item to analyze, do y'all
3 analyze that whole thing or do you take a piece to analyze?

4 A A representative sample is taken from the larger item.

5 Q And did you take a representative sample from this
6 piece of carpet or pieces of carpet and padding to test in
7 this case?

8 A Our evidence processing technician I believe she, she
9 took a representative sample.

10 Q And that's what you examined in Item 2.1?

11 A That is correct.

12 Q And, Agent Hefney, you mentioned that sometimes you can
13 locate the presence of DNA, sometimes you can't, and that
14 sometimes, when you do locate the presence of DNA, sometimes
15 it can be identifying, sometimes it can't.

16 were you able to determine if there was identifiable
17 DNA on this cutting from the carpet and padding in this
18 case?

19 A Yes, I was able to develop a DNA profile that was
20 suitable for comparison.

21 Q And that's from the carpet and padding from front
22 bedroom floor at Marker Number 1?

23 Is that how it was described to you?

24 A Yes.

25 Q And since you were able to determine a DNA profile

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By Solicitor Hammack

1 suitable for comparison, what -- which known standards did
2 you compare to that DNA from the carpet and padding from the
3 bedroom floor?

4 A I compared every standard that we received for this.

5 Q And were you able to come to a conclusion regarding
6 your analysis of this item?

7 A I was.

8 Q And is that conclusion to a reasonable degree of
9 scientific certainty?

10 A Yes. And I can read it directly from my report if you
11 like.

12 Q Yes, ma'am, I would.

13 A Okay.

14 Q What was your conclusion?

15 A Okay. A DNA profile suitable for comparison was
16 developed from Item 2.1, cutting from cuttings from carpet
17 and padding from front bedroom at Marker Number 4.
18 Likelihood ratios for this profile were calculated using
19 STRmix and let me explain. I'm gonna stop right there and
20 explain.

21 STRmix is the program that we brought online maybe
22 about two or three years ago that helps us to now be able to
23 interpret mixtures that were before unable to interpret
24 because of whether they're low level or certain
25 characteristics they have or criteria they had to meet

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By Solicitor Hammack

1 before. And if it didn't meet all that criteria, we would
2 not be able to give it a statistical weight and, in turn, we
3 would be throwing out valuable information.

4 The advancements in DNA brought this program online and
5 now we are able to enter mixture profiles or single source
6 profiles into this program and develop what we call a
7 likelihood ratio, and I'm also gonna explain each likelihood
8 ratio compares two things.

9 One is known as HP. HP stands for prosecutor's
10 hypothesis and it compares it against HD, which stands for
11 defense hypothesis. This, by any means, doesn't mean this
12 is this prosecutor's hypothesis or this defense team
13 hypothesis. It's just in general that in any Court
14 television shows you'll see whoever on trial, the prosecutor
15 will say this person is the one who committed the crime
16 whereas the defense will say anyone other than this person
17 is the one who committed the crime.

18 So when I start reading this, it will, it will make a
19 little bit more sense and proposition set one reads as
20 follows:

21 The DNA profile was interpreted as a mixture
22 originating from two individuals. The HP, or the
23 prosecutor's hypothesis, is Derrick Curry and an
24 unidentified, unrelated individual contributed to the
25 mixture. The HD, or the defense hypothesis, is that two

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1 unidentified, unrelated individuals contributed to the
2 mixture.

3 Now, my result is a comparison because there wasn't an
4 alternate -- there wasn't a known standard for Derrick
5 Curry. I went through several items, a toothbrush, a --
6 underwear, socks, et cetera, clothing items, trying to find
7 a profile that was single source in his. I was unable to
8 develop a single source alternate known profile in -- but I
9 was able to develop to where he was the major contributor to
10 one of the items of clothing, which, in particular, it
11 was -- I took a swab from the interior right and left pocket
12 of blue jeans that he was said to have worn, and this is
13 gonna be used as the alternate known standard to do our
14 comparisons.

15 And the, the -- it was a mixture of four people on the
16 pockets of those jeans. However, the STRmix program breaks
17 it down as to how these proportions vary with the mixture.
18 So, he was an 86 percent contributor, which means he was a
19 major contributor to this, and every -- the other 14 percent
20 were split amongst three people, and because I had his
21 parent's profile, I was able to determine yes, this is
22 Derrick Curry's profile because I compared it to his mom and
23 dad. I saw that half came from each. So, all that
24 background information and now I can read the result on the
25 report.

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By Solicitor Hammack

1 If the DNA profile developed from Item
2 L1910370-30.3-4P(86) is from Derrick Curry, then the DNA
3 profile is approximately 14-octillion times more likely if
4 Derrick Curry and an unidentified, unrelated individual
5 contributed to the mixture than if two unidentified
6 unrelated individuals contributed to the mixture.

7 Q I have a couple of followup questions for you based on
8 what you've said.

9 A Okay.

10 Q First, when you were reading what item you examined,
11 you mentioned Marker Number 4 but on your report -- I just
12 want to make sure we're on the same page. We're looking
13 at---

14 A It's Marker Number 1. I'm sorry.

15 Q Okay. Just, just wanted to make sure.

16 You also mentioned that the DNA profile was a mixture
17 originating from two individuals. So you found the presence
18 of DNA from two different people in this carpet.

19 Is that correct?

20 A That is correct.

21 Q And so in looking at this proposition set, you stated
22 that your -- your results is that it's about 14-octillion
23 times more likely that Derrick Curry and someone else were
24 the two contributors of the DNA on this carpet than two
25 random other people contributed to this DNA?

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By Solicitor Hammack

1 A That is correct.

2 Q All right. When you make conclusions, Ageny Hefney, do
3 you have a scale of support as far as the strength of your,
4 of your answer?

5 A We do.

6 Q And the highest strength on that scale or the highest
7 amount on that scale of likelihood, is that what you call
8 very strong support?

9 A That is correct. Anything over a million likelihood
10 ratio is very strong -- considered very strong support.

11 Q So, if anything over 1-million is very strong support,
12 how much more than 1-million is 14-octillion?

13 A Let's say 1-million is like a one followed by six zeros
14 and this is a one followed by 27 zeros.

15 Q So---

16 A So that's at least four times.

17 Q So very, very, very, very strong support?

18 A You could say that.

19 Q Agent Hefney, I want to now shift your attention to
20 another item that you examined.

21 A Uh-huh. (Affirmative).

22 Can I ask -- say one more thing on that one item,
23 proposition set two, I didn't finish. I didn't read that
24 one.

25 Q Yes, that's---

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By Solicitor Hammack

1 A And that's where---

2 Q ---in the outline, right?

3 A ---I compared everyone else --

4 Q Yes.

5 A -- to this one item and we call that the person of
6 interest. That means everyone else that was submitted to me
7 I compared to that one.

8 So, the person of interest, an, an unidentified,
9 unrelated individual contributed to the mixture and that --
10 or the HD was two unidentified, unrelated individuals
11 contributed to the mixture, and, in that case, Sha'kel Dixon
12 Denzell Jackson, Altashaun Bacon, and Christian Barnwell are
13 excluded as contributors under the listed propositions.
14 That's it.

15 Q So as far as the substance that was on the carpet that
16 you examine --

17 A Uh-huh. (Affirmative).

18 Q -- Sha'kel Dixon didn't leave behind that substance,
19 Denzell Jackson didn't leave behind that substance,
20 Altashaun Bacon didn't leave behind that substance, and
21 Christian Barnwell didn't leave behind a substance on that
22 carpet?

23 A That is correct.

24 Q But the likelihood that Derrick Curry did is that
25 14-octillion number?

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By Solicitor Hammack

1 A That is correct.

2 Q Agent Hefney, is it okay if we move on to another item?

3 A Okay. Yes.

4 Q I want to bring your attention to what you've marked as
5 Item 3 in your report.

6 A Okay.

7 Q Can you tell the jury what that item was that you
8 examined?

9 A It's described as swabs from concrete at Marker 1.

10 Q And were you able to determine what the source of DNA
11 was in that item?

12 A That presumptive testing for blood was positive.

13 Q So, in looking at the swab from the concrete at Marker
14 1, we have a presumptive positive test for blood and you
15 mentioned that blood is, is one of the places where you can
16 potentially get DNA.

17 Did you -- were you able to identify the presence of
18 DNA from this blood?

19 A I was not. There was a partial DNA profile developed,
20 and due to the limited information obtained, this profile --
21 this DNA profile is not suitable for comparison.

22 Q So you just weren't able to obtain enough information
23 to identify the DNA from that blood?

24 A Or to do a comparison, yes. Right.

25 Q Okay. Now, Agent Hefney, I want to bring your

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By Solicitor Hammack

1 attention to another item that you examined in this case and
2 that's going to be what you list as Item 12.

3 A Okay.

4 Q And what item was that?

5 A Swab from exterior surface of Glock 9-millimeter pistol
6 and in parenthesis I have the number A0067488.

7 Q And that A number, is that the classification from a
8 law enforcement agency that submitted that item?

9 A That's correct.

10 Q And, Agent Hefney, I'm showing you what's already been
11 entered as State's Exhibit 18.

12 Can you take a look at that and see if you recognize
13 it?

14 A Uh-huh. (Affirmative).

15 Yes, this is Item 12 which is described off swab from
16 Glock 9-millimeter pistol Model 19, serial number, and then
17 the A number that I, I said before.

18 Q And did you compare that swab from the Glock
19 9-millimeter pistol with the known standards that you had in
20 this case?

21 A I did.

22 Q And were you able to come to a conclusion -- well,
23 before I ask you that, were you able to identify the
24 presence of DNA on that Glock 19 pistol swab?

25 A Yes, I was.

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By Solicitor Hammack

1 Q And when I say Glock 19, I mean Glock 9-millimeter?

2 A Millimeter, uh-huh. (Affirmative).

3 Q That DNA that you were able to locate on that gun or on
4 that swab of that gun, were you able to identify the DNA in
5 that case?

6 A Yes, and I'll agree it was several proposition sets---

7 Q Okay. I'm, I'm sorry. Let me just ask you---

8 A Okay.

9 Q ---one follow-up question.

10 A Sure.

11 Q The conclusion you came to regarding this swab, was
12 that to a reasonable degree of scientific certainty,
13 certainty?

14 A We -- yes.

15 Q Okay. Would any conclusion you come to, would, would
16 you voice that conclusion if it wasn't?

17 A No, and it's, it's what I read from my report, yes.

18 Q Okay. And what was that conclusion?

19 A Okay. Proposition set one -- well, first a DNA profile
20 suitable for comparison was developed and likelihood ratios
21 were calculated using STRmix.

22 Proposition Set 1, it -- this DNA profile was
23 interpreted as a mixture originating from three individuals.
24 The hi -- the prosecutor's hypothesis that Denzell Jackson
25 and two unidentified, unrelated individuals contributed to

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1 the mixture, and the defense hypothesis would be three
2 unidentified, unrelated individuals contributed to the
3 mixture. The DNA profile is approximately 5-quadrillion
4 times more likely if Denzell Jackson and two unidentified,
5 unrelated individuals contributed to the mixture than if
6 three unidentified, unrelated individuals contributed to the
7 mixture. In the named proposition set, Christian Barnwell
8 was compared.

9 So, the hi -- prosecutor's hypothesis that Christian
10 Barnwell and two unidentified, unrelated individuals
11 contributed to the mixture, or the defense hypothesis, three
12 unidentified, unrelated individuals contributed to the
13 mixture. The DNA profile is approximately five times more
14 likely if three unidentified, unrelated individuals
15 contributed to the mixture than if Christian Barnwell and
16 two unidentified, unrelated individuals contributed to the
17 mixture.

18 And then in Proposition Set 3, the person of interest
19 is prosecutor's hypothesis. So, this is where everyone else
20 was compared. The person of interest in two unidentified,
21 unrelated individuals contributed to the mixture, and the
22 defense hypothesis is that three unidentified, unrelated
23 individuals contributed to the mixture.

24 If the DNA profile developed from Item L19-30 point --
25 L1910370-30.3-4P 86 is from Derrick Curry, then Derrick

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1 Curry, Sha'kel Dixon, and Altashaun Bacon are excluded as
2 contributors to the mixture on the listed propositions.

3 Q So, working backwards through those propositions that
4 you listed, the swab of this Glock 9-millimeter pistol that
5 generated DNA, that DNA did not belong to Derrick Curry?

6 A That is correct.

7 Q Is that correct?

8 A He was excluded.

9 Q And that DNA did not belong to Sha'kel Dixon?

10 A That is correct.

11 Q And that DNA did not belong to Altashaun Bacon?

12 A That is correct.

13 Q Again working backwards, you mentioned Christian
14 Barnwell and you said that the DNA profile is approximately
15 five times more likely if three unidentified, unrelated
16 individuals contributed than if Christian Barnwell and two
17 other random people contributed.

18 Going back to that scale --

19 A Uh-huh. (Affirmative).

20 Q -- that you have of the strength of this information,
21 where does five fall in line on that?

22 A Okay. Five would fall at moderate support per defense
23 hypothesis in this because it is where the HD is a supported
24 proposition. And so that falls from two to 99 and that for
25 five is moderate support for the HD. So, it's supporting

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By Solicitor Hammack

1 that three unidentified, unrelated individuals contributed
2 to this instead of Christian Barnwell and two.

3 Q So, it's slightly more likely than three random people
4 contributed to this DNA than Christian Barnwell and some
5 other people?

6 A That is correct.

7 Q Now, going back to that first conclusion that you
8 arrived at regarding this item --

9 A Uh-huh. (Affirmative).

10 Q -- you stated that the DNA profile is approximately
11 5-quadrillion times more likely if Denzell Jackson and two
12 unidentified, unrelated individuals contributed than if
13 three random people contributed.

14 Is that on that scale of 1-million being very strong
15 support?

16 A That is correct.

17 Q And how much more than 1-million is 5-quadrillion?

18 A Let's see. 5-quadrillion is a -- well, five followed
19 by 15 zeros and, again, 1-million will be a one followed by
20 six. So, it's about two times more likely or two
21 millionfold times more likely that Denzell Jackson and two
22 unidentified, unrelated individuals contributed to the
23 mixture than if three unidentified, unrelated individuals
24 contributed to the mixture.

25 Q So, on your scale, that, that quadrillion being

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By Solicitor Hammack

1 2-million fold more than 1-million, is that very strong
2 support that Denzell Jackson's DNA was on this gun?

3 A That's correct cause anything over a million is very
4 strong support.

5 Q And just while we're talking about quadrillions and
6 octillions, how many people actually live on earth?

7 A About 7.8-billion.

8 Q And I'm not a math person by any means, but octillions
9 and quadrillions, is that more than billions?

10 A That is correct.

11 Q So more than the population of the earth?

12 A Correct.

13 THE COURT: And, Madam Solicitor, we're gonna break now
14 for the day and resume at 9:30 tomorrow morning.

15 Ladies and gentlemen of the jury, I'll -- you'll -- you
16 are excused for the day. We need you back at 9:30 tomorrow
17 morning.

18 I'm speaking to the jury and the jury only.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: Speaking to the audience, we have a mask
22 requirement. That mask requirement is for all -- everyone
23 sitting -- seated in the audience and I notice about eight
24 people who have their mask underneath their noses. You have
25 to wear your mask above your noses.

1 Fortunately I don't have to wear one. I'm here behind
2 the Plexiglas and away from everyone. But many of you are
3 close to people who you don't know who are very
4 uncomfortable with your -- you not wearing your mask
5 properly. So, hopefully we will do better tomorrow.

6 And, with that, we'll have the family members leave
7 and -- first and others wait about five minutes and then you
8 can check out of as well.

9

10 (WHEREUPON, Court was in recess for the evening.)

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1 Thursday, August 19th, 2021

2

3 THE COURT: All right. Anything before the jury comes
4 in?

5 SOLICITOR CHARBONNEAU: Not from the State, Your Honor.

6 MR. JOHNSON: No, sir, Your Honor.

7 MR. THOMPSON: Not from Mr. Dixon.

8 THE COURT: Bring them on.

9 You can take your -- resume your seat here.

10 (WHEREUPON, the witness returns to the stand.)

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE COURT: Okay. The jury's back.

14 Madam Forelady, how's the jury doing?

15 THE FORELADY: Very well, Your Honor.

16 THE COURT: Very good.

17 We're pressing on with day number four and this is --
18 this is day number four, isn't it?

19 SOLICITOR HAMMACK: Yes, sir.

20 THE COURT: Okay. You may proceed.

21 SOLICITOR HAMMACK: Thank you, Your Honor.

22 CONTINUED DIRECT EXAMINATION

23 BY SOLICITOR HAMMACK:

24 Q Good morning, Agent Hefney.

25 A Good morning.

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 Q Before we move forward, I want to go back for a couple
2 of things that we've talked about yesterday afternoon before
3 the conclusion of Court.

4 The first item that we talked about yesterday was
5 State's Exhibit 23 and it's your Item 2.1.

6 A Uh-huh. (Affirmative).

7 Q When we talked about that item, you indicated that you
8 were able to get DNA from that item.

9 The DNA you obtained from that item, do you know what
10 substance it came from?

11 A I do. I have a, a worksheet from our serologist and
12 she indicated that the presumptive testing for blood was
13 positive on that item.

14 Q So the cutting from the carpet and the padding that you
15 examined and the DNA you collected from came from blood
16 specifically?

17 A That is correct. It could be blood with some skin
18 cells or something underneath but yes, ma'am.

19 Q Okay.

20 A Blood was indicated on there.

21 Q I'm, I'm glad you said that. I want to ask you about
22 blood versus skin cells.

23 A Uh-huh. (Affirmative).

24 Q When you're attempting to identify DNA, are there some
25 substances that are easier than others to extract DNA from?

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By Solicitor Hammack

1 A Absolutely. Blood and saliva and semen are the
2 easiest. We get into what's called touch DNA and that is
3 skin cells that are shed from an individual onto the item
4 that is swabbed, is swabbed.

5 Q And is touch DNA more difficult to try to get an
6 identifiable DNA?

7 A It is.

8 Q And, Agent Hefney, you spoke yesterday about different
9 mixtures where more than one DNA is present.

10 If you had a large amount of a so -- DNA source like
11 blood or saliva versus those skin cells, can the DNA from
12 that blood overwhelm any other present DNA?

13 A Yes, it can.

14 Q So, even if you don't find other DNA, does that mean
15 that nobody else was ever there?

16 A No, it doesn't. It just means that it could be masked,
17 the overwhelming presence of the major contributor from
18 that.

19 Q And, at the same time, if you don't find DNA on an
20 object, does that mean that nobody in the history of the
21 world has ever touched it or handled it or been there?

22 A No, it could just be how it was swabbed, whether you
23 swabbed the right spot as to whether you get DNA present or
24 not.

25 Q Agent Hefney, when we were talking about likelihood

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 ratios yesterday, and we were talking about a million being
2 very strong support --

3 A Uh-huh. (Affirmative).

4 Q -- and you were giving us numbers such as 14-octillion
5 as it related to Derrick Curry's DNA and that blood on the
6 carpet, and then you gave us numbers such as 5-quadrillion
7 regarding Denzell Jackson's DNA on that Glock 9-millimeter
8 pistol you listed as Item 12, do you have an analogy for the
9 jury to understand likelihood ratios?

10 A A lot of times I think a likelihood ratios as an
11 example. You have two kids in a house and a plate of
12 cookies on the table and all of a sudden the kids are
13 gone -- the cookies are gone. You have a five year old
14 child and say a less than one year old that can't walk and
15 can't climb yet. But all of a sudden these cookies are
16 missing from the table.

17 So, who's the most likely to have gotten the cookies,
18 the five year old that can walk and talk and climb and
19 always eating cookies or the one year old who doesn't quite,
20 or before one, doesn't quite have teeth, can't walk yet, and
21 can't climb to get the cookies?

22 That's how we think about likelihood ratios. Given
23 those scenario, given the evidence, what is the most likely
24 to have happened in the case, and that's where every time I
25 give a likelihood ratio, it is saying this is more likely to

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 have happened than this based on the evidence that we have
2 and the evidence being the DNA profile.

3 Q Thank you, Agent Hefney.

4 I want to move forward to some new items today that we
5 didn't reach yesterday, and I want to talk about your Item
6 15 and what's been entered into evidence as State's Exhibit
7 65. And, Agent Hefney I'm showing you what's been admitted
8 as State's 65.

9 Do you recognize that?

10 A Yes, this is swab from the top trunk weather seal to
11 the right of the third brake light, and I recognize it with
12 my initials and date on the back seal as well.

13 Q And is that an item that you -- you said you saw your
14 initials on it.

15 So, is that an item that you examined in this case?

16 A Yes.

17 Q And when you examined this item, were you able to
18 determine if there was a source of potential DNA?

19 A Yes, this is item -- our Item 16 as indicated on this
20 written on the envelope and it's swabbed from top trunk
21 weather seal and there was -- presumptive testing was
22 positive for blood on this.

23 Q And once you saw that there was presumptive positive
24 blood on that top trunk weather seal, did you attempt to
25 extract a DNA profile from that blood?

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 A I did.

2 Q And were you able to obtain a DNA profile from this
3 blood?

4 A I was.

5 Q When we've been talking about these other items, you've
6 been talking about mixtures where there was the presence or
7 more than one DNA or more than one person's DNA, was this a
8 mixture?

9 A It was not. This was a single source profile, which
10 means there was one contributor.

11 Q And, when you examined this, were you able to identify
12 that one contributor of that blood to the trunk---

13 A I was.

14 Q ---top weather seal?

15 A I was.

16 Q And whose D -- who was the contributor to that DNA?

17 A If the DNA profile developed from Item L1930 --
18 L191037030.34P86 is from Derrick Curry, then the DNA profile
19 is approximately 28-octillion times more likely if Derrick
20 Curry contributed the profile than any identified, unrelated
21 individual.

22 Q So, when we're talking about cookies and a five year
23 old versus a baby, and, and what you've just told the jury,
24 it's approximately 28-octillion times more likely than this
25 is Derrick Curry's blood on this trunk than if it was

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 somebody random?

2 Is that---

3 A That is correct.

4 Q Okay. Agent Hefney, I want to show you what's been
5 entered into evidence as State's 66.

6 Can you take a look at State's 66 for me?

7 A Uh-huh. (Affirmative).

8 This is our Item 15. It is swabs from the inside trunk
9 near the driver's side brake light.

10 Q And because you have an item number for that, does that
11 mean that you examined this item as well?

12 A That is correct.

13 Q And were you able to determine if there was a source of
14 potential DNA located on that swab?

15 A Yes.

16 Q What was it?

17 A Okay. Again, if the -- and I'm gonna say alternate
18 known standard instead of reading this whole item number and
19 the contribution.

20 Q Well, Agent Hefney, let me stop you real quick.

21 A Okay.

22 Q First do you, do you know what substance it was?

23 A It was presumptive test positive for blood.

24 Q Okay. So, we're talking about blood again.

25 Now, if you can tell the jury what your results were?

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 A All right. If the DNA profile developed from the
2 alternate known standard is from Derrick Curry, then the DNA
3 profile's approximately 28-octillion times more likely if
4 Derrick Curry contributed the profile than if an
5 unidentified, unrelated individual contributed the profile.

6 Q And so, again, this is very strong support that this is
7 Derrick Curry's blood on this item?

8 A That is correct.

9 Q Before we move on to some more swabs, I do want to ask
10 you about your Item 13.

11 A Okay.

12 Q And your Item 13, what was that of?

13 A It is described as a swab of exterior surface of an
14 Anderson Manufacturing multi caliber rifle and it has a
15 serial number behind it.

16 Q And did you examine the swab of this Anderson Arms
17 rifle?

18 A I did.

19 Q And were you able to determine if there was DNA on it?

20 A There was DNA on it but the DNA profile developed was a
21 mixture of at least five individuals, and due to the
22 complexity of this mixture, this DNA profile is not suitable
23 for interpretation.

24 Q So, you attempted to obtain DNA off of the Anderson
25 Arms rifle but there was just so much that you couldn't tell

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 whose was whose?

2 A Yes, our policy at SLED is we do not interpret DNA
3 mixtures over four persons and this was at least five
4 people. And so we didn't interpret it or it's not suitable
5 for comparison in that respect.

6 Q So this was different than the Glock 9-millimeter where
7 you were able to get DNA?

8 A That is correct.

9 Q Now I want to move forward to some more car swabs and I
10 want, I want to look at your Item 19 and State's Exhibit 86.

11 A Okay. Thank you.

12 Q And because you have an item number assigned to that,
13 does that mean that you tested this item?

14 A Yes.

15 Q And were you able to determine if there was a source of
16 potential DNA on this item?

17 A I was. It was a mixture.

18 Q And can you tell the jury what you were able, able to
19 determine on this item as it relates to Derrick Curry?

20 A Okay. As it relates to Derrick Curry, the DNA profile
21 was interpreted as a mixture originating from two
22 individuals. Derrick Curry and an unidentified, unrelated
23 individual contributed to the mixture versus the alternate
24 hypothesis or two unidentified, unrelated individuals
25 contributed to the mixture.

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 If the DNA profile developed from the alternate known
2 standard is from Derrick Curry, then the DNA profile is
3 almost 3.4-sextillion times more likely if Derrick Curry and
4 an unidentified, unrelated individual contributed to the
5 mixture than if two unidentified, unrelated individuals
6 contributed to the mixture.

7 Q And, again, that's -- is 3.4-sextillion times more
8 likely this is Derrick Curry's DNA on this trunk than some
9 random other person?

10 A That is correct.

11 Q And you told us yesterday how many people live on
12 planet earth.

13 A Yes, I did. It was about 7.8-billion.

14 Q And sextillion versus billion is a lot, lot more?

15 A I would say yes. That's definitely a lot.

16 Q Now, Agent Hefney, I want to bring your attention to
17 what was your Item 20 and State's 84 and what is that item?

18 A This item is a swab from the trunk passenger side
19 weatherstrip.

20 Q And did you examine that item for potential DNA?

21 A I did.

22 Q And were you able to identify the presence of DNA on
23 that item?

24 A I was.

25 Q And what was your findings as it relates to this DNA

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 and Derrick Curry?

2 A Okay. The DNA profile was interpreted as a mixture
3 originating from three individuals. The two comparisons
4 were Derrick Curry and two unidentified, unrelated
5 individuals versus three unidentified, unrelated
6 individuals. If the DNA profile developed from the
7 alternate known standard is from Derrick Curry, then the
8 DNA's profile approximately 8.7-octillion times more likely
9 if Derrick Curry and two unidentified, unrelated individuals
10 contributed to the mixture than if three unidentified
11 unrelated individuals contributed to the mixture.

12 Q And in, in reading that again, what you're saying is
13 that it's 8.7-octillion, not billion, or 1-million, or
14 anything like that, but 8.7-octillion more times more likely
15 that this is Derrick Curry's DNA on this trunk weatherstrip?

16 A Yes, than any unidentified -- any other three
17 unidentified, unrelated individuals.

18 Q Okay. Give me just a moment, Agent Hefney.

19 (Pause.)

20 Q And, Agent Hefney, just very briefly.

21 At the beginning of your testimony this morning we
22 talked about the fact that or you testified that blood or
23 semen or saliva is a stronger source of DNA and can mask
24 touch DNA if there's a, a good amount of it.

25 A Uh-huh. (Affirmative).

Adrienne Hefney - Direct examination
By Solicitor Hammack

1 Q And we talked about the absence of DNA not necessarily
2 meaning that somebody wasn't there.

3 Are there steps that someone can take to avoid leaving
4 their DNA on an item they've touched or a place they've
5 been?

6 A Yes.

7 Q What are some of those things that somebody can do to
8 prevent or to stop themselves from leave -- leaving DNA?

9 A They can wear gloves. They can wipe it down
10 afterwards. Wiping down, you still may get a trace amount
11 of DNA but it can eliminate the majority of it.

12 Q So, doing things like cleaning a place or wearing
13 gloves can keep you from leaving your DNA?

14 A That is correct.

15 Q Thank you, Agent Hefney. I don't have any further
16 questions for you at this time. Please answer any questions
17 the defense may have.

18 A Uh-huh. (Affirmative).

19 THE COURT: Mr. Johnson.

20 MR. JOHNSON: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. JOHNSON:

23 Q Morning.

24 A Good morning.

25 Q I'm just gonna go through a few items. Some of which

Adrienne Hefney - Cross-examination
By Mr. Johnson

1 were not discussed.

2 A Okay.

3 Q Let's go in chronological order.

4 okay?

5 A Okay.

6 Q Your convenience.

7 So, let's start with Item 2.1 that was referred to by
8 the State regarding the cuttings from the carpet.

9 You do list two proposition sets under that item, is
10 that correct, like you discussed?

11 A That is correct.

12 Q And I believe that under the proposition set two, do
13 you see where I am at the bottom of Page 3 of 14?

14 A Uh-huh. (Affirmative).

15 Q You indicate that, under this proposition set, Denzell
16 Jackson, among others, are excluded as contributors to the
17 mixture.

18 Do you see where I'm talking about?

19 A That is correct.

20 Q Can you talk more about that with regard to what causes
21 you to be able to make that conclusion under this
22 proposition set?

23 A Absolutely. So, when I did the comparison of this
24 carpet cutting, I compared it to each of the standards that
25 I received and that's what generates a proposition set.

Adrienne Hefney - Cross-examination
By Mr. Johnson

1 In proposition set one, I compared Derrick Curry's
2 standard cause it was presumptive tested positive for blood.
3 I compared Derrick Curry's. He -- and already given the
4 results for that in proposition set one.

5 The other proposition set was two where I compared the
6 person of interest which means all the other standards
7 submitted in the case, and, in this case, and I'll read
8 directly from the report, the person of interest and an
9 unidentified, unrelated individual contributed to the
10 mixture because there was a mixture of two individuals, and
11 then the alternate hypothesis or the defense hypothesis
12 would be two unidentified, unrelated individuals contribute
13 to the mixture, and the result was Sha'Kel Dixon, Denzell
14 Jackson, Altashaun Bacon, and Christian Barnwell are
15 excluded as contributors to the mixture on the listed
16 propositions.

17 Q And with regard to touch DNA like you were asked, you,
18 you said that it's possible that another substance can mask
19 that touch, touch DNA, right?

20 A Yes, sir, especially when you have blood present. It
21 typically -- that's where you're gonna get your stronger
22 amount of DNA from.

23 Q But you're not saying that you have information that
24 that occurred in this case, correct?

25 A With this item I do have information that blood -- a

Adrienne Hefney - Cross-examination
By Mr. Johnson

1 presumptive testing positive blood was with the -- our
2 serologist did that report.

3 Q Let me restate --

4 A Okay.

5 Q -- the question.

6 You're not saying that there was touch DNA that you
7 found that was masked by blood---

8 A Oh, no.

9 Q ---in this case?

10 A No, sir.

11 Q Okay. So, what you are referring to about the touch
12 DNA with Ms. Hammack was generally speaking it is possible
13 for it to be masked by other substances?

14 A That is correct.

15 Q But not specifically in this case did you find evidence
16 of that, correct?

17 A When -- this item, yes, sir. No, sir.

18 Q All right. So let's go to Item 3, the concrete marker
19 or, or the swab from the concrete at Marker 1.

20 Do you see where I'm talking about?

21 A I do.

22 Q Now that was based on your results. You indicated that
23 was not a profile suitable for comparison.

24 Is that accurate?

25 A Yes, sir, it was a partial profile that was developed,

Adrienne Hefney - Cross-examination
By Mr. Johnson

1 and due to the limited information obtained, this DNA
2 profile was not suitable for comparison.

3 Q All right. And let's go to Item 7.1. It's on Page 6.

4 A Okay.

5 Q All right. And that is a -- well, what is that item
6 that you were testing?

7 A Okay. It's described as a swab from interior and
8 tongue of brown Timberland boot.

9 Q And were you able to make a conclusion on this item?

10 A I was not. This DNA profile developed is a mixture of
11 at least five individuals, and due to the complexity of this
12 mixture, this DNA profile's not suitable for comparison.

13 Q If we can go down to next item, Item 12?

14 A Uh-huh. (Affirmative).

15 Q What is that item?

16 A 12?

17 Q 12.

18 A Uh-huh. (Affirmative).

19 I'm there.

20 Q Is that the 9-millimeter Glock pistol?

21 A Yes, sir, it's swab -- it's described as swab of
22 exterior surface of Glock 9-millimeter pistol.

23 Q Now, I know there was some discussions about the DNA of
24 Mr. Jackson being on that item.

25 Was it at -- was it a good sample that you would say

Adrienne Hefney - Cross-examination
By Mr. Johnson

1 was optimal for testing purposes?

2 A It gave a DNA profile. It was suitable for comparison.
3 So, it was optimal in that respect and I was able to compare
4 it.

5 Q But it wasn't eligible for entry into the CODIS bank,
6 the CODIS database, correct?

7 A That's correct. But that could be due to a variety of
8 reasons cause, when we enter things into CODIS, it depends
9 on how it was collected. If a gun was taken off of a
10 person, then that would not qualify it to go into CODIS.

11 Q And so can you explain to the jury what is CODIS?

12 A CODIS is the combined DNA index system and what that is
13 it's a national database where we put forensic samples and
14 also convicted offenders are also in there. So, when we
15 have a DNA profile of an unknown origin say or sometimes of
16 a known origin that comes from a category that is allowable
17 to go into CODIS, we would put it in there and our database
18 department will run a search a few times a week, and you
19 could see if it hits against someone that's in the database.

20 So -- but certain things -- like if we were to have
21 say -- a victim's profile would never go into CODIS. Say if
22 the victim's profile was found on a suspect's shirt, that
23 wouldn't be eligible to be entered.

24 But say if the suspect's profile was found on the
25 victim's shirt, then that is eligible for entry because you

Adrienne Hefney - Cross-examination
By Mr. Johnson

1 would not expect it to be there. And so it would get
2 entered and searched. But it has to meet a certain criteria
3 mandated by the FBI for us to enter it and this did not.

4 Q Thank you for that.

5 A Uh-huh. (Affirmative).

6 Q Let's go to Item 13 please.

7 Is that the, the -- an Anderson multi caliber rifle?

8 A Uh-huh. (Affirmative).

9 Q And this was not a -- suitable for a -- for comparison
10 based on your report, correct?

11 A That is correct cause it was a mixture of at least five
12 individuals and our cutoff is at four.

13 Q And let's go to Item 14.

14 A Uh-huh. (Affirmative).

15 Q Can you tell us the results of that item?

16 A Sure. Item 14 is described as a swab of exterior
17 surface of a Del-Ton Incorporated 5.56 rifle and in that
18 case a, a DNA profile suitable for comparison was developed.
19 The DNA profile was interpreted as a mixture originating
20 from four individuals. A person of interest and three
21 unidentified, unrelated individuals contributed to the
22 mixture versus four unidentified, unrelated individuals
23 contributed to the mixture.

24 In reading direct from my report, if the DNA profile
25 developed from the alternate known standard of Derrick

Adrienne Hefney - Cross-examination
By Mr. Johnson

1 Curry, then Derrick Curry, Sha'Keel Dixon, Denzell Jackson,
2 Altashaun Bacon, and Christian Barnwell are excluded as
3 contributors to the mixture on the listed propositions.

4 Q Thank you.

5 Now, with regard to the Item 15, the swab from the
6 inside of the trunk near the driver's brake light, you see
7 where I'm referring to?

8 A Yes, sir.

9 Q Under -- well, can you go through when you are making a
10 determination as to if anyone has been excluded under any of
11 these propositions please for the jury?

12 A Yes, sir. But this was a single source profile. So
13 that just means one contributor. So it was just compared to
14 Derrick Curry.

15 Q And so, based on this particular item, you were not
16 able to develop a second profile.

17 Is that accurate to say?

18 A It was a single person. So it was, it was presumptive
19 tested positive from blood. It was found inside of the
20 trunk near the brake light and I could visually see it was,
21 was one person. So, we just compared Derrick Curry.

22 Q Understand.

23 I want to skip down to Item 17 at this point on Page 9.

24 A Okay. I'm there.

25 Q And what is that item?

Adrienne Hefney - Cross-examination
By Mr. Johnson

1 A That is a swab from scraping in tire interior of black
2 in color cloth glove.

3 Q And can you go through the results that you came to for
4 that item please?

5 A Yes, sir, a DNA profile suitable for comparison was
6 developed and likelihood ratios were calculated using
7 STRmix. The proposition said the DNA profile, it was
8 interpreted as a mixture originating from four individuals.
9 The person of interest and three unidentified, unrelated
10 individuals contributed to the mixture versus four
11 unidentified, unrelated individuals contributed to the
12 mixture.

13 And my result is if the DNA profile developed from the
14 alternate known standard of -- is from Derrick Curry, then
15 Derrick Curry, Sha'Kel Dixon, Denzell Jackson, Altashaun
16 Bacon, and Christian Barnwell are excluded as contributors
17 to the mixture under the listed propositions.

18 Q Thank you.

19 A Uh-huh. (Affirmative).

20 Q Did you receive a DNA profile for Shaniyah Toney in
21 this case?

22 A No, sir. No. I received standards from only those
23 listed on Page 1, Derrick Curry mother, Ms. Kenya Bush,
24 Derrick Curry's father, Mr. Victor Curry, another swab from
25 Ms. Kenya Bush, buccal swabs from Sha'Kel Dixon, Denzell

Adrienne Hefney - Cross-examination
By Mr. Johnson

1 Jackson, Altashaun Bacon, and Christian Barnwell, and then
2 an alternate known standard for Derrick Curry.

3 Q Then you also didn't receive one for an individual by
4 the name of Elijah Sloan, correct, cause he---

5 A No, that's correct.

6 Q You would of did one, one that day, right?

7 A Yes, sir.

8 Q Thank you.

9 A Uh-huh. (Affirmative).

10 THE COURT: Mr. Thompson.

11 MR. THOMPSON: Your Honor, may it please the Court?

12 THE COURT: Yes. Yes.

13 CROSS-EXAMINATION

14 BY MR. THOMPSON:

15 Q Agent Hefney, your tests detect DNA but they don't
16 necessarily detect how much material may or may not be
17 there, correct?

18 A Not exactly. We have -- we -- when we're developing a
19 DNA profile, once we do the extraction to get the DNA from
20 the substrate it was deposited on, our next step is to do
21 what we call a quantitation step --

22 Q Right.

23 A -- and a quantitation will tell us how much DNA we
24 have. And, based on that, we'll decide whether we need to
25 concentrate it to get a DNA profile or dilute it to get a

Adrienne Hefney - Cross-examination
By Mr. Thompson

1 DNA profile. And so that step does tell you how much --

2 Q Right.

3 A -- DNA in a sense -- in essence.

4 Q But you're talking about laboratory amounts, correct?

5 A That is correct.

6 Q Okay. You're not -- you're not prepared to testify as
7 to, for instance, how much blood was found in the carpet in
8 the room or how much blood in terms of milliliters or ounces
9 or gallons or anything that was found in the car?

10 You're not prepared to testify about that?

11 A No, we can make assumptions based off -- our serologist
12 will see the bigger items. But as a DNA analyst, I just
13 receive cuttings and swabs from it.

14 Q Right.

15 And your test also doesn't tell us, for instance, when
16 something happened?

17 A That is correct.

18 Q Correct?

19 A It doesn't tell -- it -- DNA tests can not tell how
20 long a sample has been there.

21 Q Right.

22 So, basically your testimony from what yesterday and
23 today is that, and I understand there's all kinds of
24 statistical stuff that you, you use when you analyze this,
25 but basically Derrick Curry's blood is in the carpet in

Adrienne Hefney - Cross-examination
By Mr. Thompson

1 Shaniyah Toney's room, correct?

2 A What I read for the carpet stain, yes, that was Derrick
3 Curry.

4 Q All right.

5 A Item 2.1.

6 Q Yes, ma'am.

7 And Derrick Curry's blood and DNA is in the car,
8 correct?

9 A That is correct.

10 Q All right. But Mr. Dixon's DNA is not in Miss Toney's
11 room?

12 A Okay. I -- Miss, Miss Toney, I'm not sure who that is.
13 Are you referring to---

14 Q The carpet stain.

15 A The carpet stain on Marker 1.

16 Q Yes.

17 A Okay.

18 Q Mr., Mr. Dixon's DNA is not in, in the carpet stain
19 that you tested?

20 A No, in proposition set two he was one of the persons of
21 interest and he was excluded.

22 Q And Mr. Dixon's DNA is not in the DNA you tested from
23 the car?

24 A Okay. Let me go to that. That car starts at Item 15
25 and that was a single source of -- for Mr. Curry. So, not

Adrienne Hefney - Cross-examination
By Mr. Thompson

1 on Item 15. Item 16 was also a single source from Mr.
2 Curry. So that will be correct for those two items.

3 Q Okay. Mr. Dixon's DNA is not on the pistol?

4 A Well, there's one more item from the swabs from the
5 trunk bumper ledge from the car.

6 Q Right.

7 A That's Item 19 and this was a mixture of two and I did
8 compare -- Mr. Dixon, where is he?

9 Q Okay.

10 A And it was more -- with his proposition set, which is
11 one on Page 10, Sha'kel Dixon, an unidentified, unrelated
12 individual, versus two unidentified, unrelated individuals
13 and, in this one, the likelihood ratio was the DNA profile
14 is approximately three times more likely if it was two
15 unidentified versus Mr. Dixon and an unidentified.

16 Q So when we're doing all these---

17 A So that's correct.

18 Q ---statistics, it's more likely than he's not one of
19 the DNAs?

20 A That's correct.

21 Q Correct?

22 A It's more likely that it's someone else.

23 Q His DNA's -- Mr. Dixon's DNA is not found on the
24 pistol, correct?

25 A Okay. What item number -- can you refer to item

Adrienne Hefney - Cross-examination
By Mr. Thompson

1 numbers so --.

2 Q Yes, ma'am, I can.

3 A Thank you.

4 Q I believe it's Number 12.

5 A Okay. For Item 12, Mr. Dixon is listed in proposition
6 set three, which addresses the person of interest and two
7 identified, unrelated individuals versus three unidentified,
8 unrelated individuals and he is excluded as a contributor
9 under the listed propositions.

10 Q So Mr. Dixon's was not on the pistol?

11 A That is correct.

12 Q Okay. And I'll, I'll, for reference purposes, I'm
13 gonna be talking about Item 4.1 next.

14 A 4.1.

15 Q A couple of pages before that.

16 A Mr. Dixon's DNA is not on this piece of paper that's
17 hiding this bullet in Miss Toney's room, correct?

18 Q Okay.

19 A It is five times more likely than three unidentified,
20 unrelated individuals contributed to the mixture than if
21 Sha'kel Dixon contributed -- Sha'kel Dixon and two
22 unidentified, unrelated individuals contributed.

23 Q Right.

24 So---

25 A And if you refer back to the last page with the verbal

Adrienne Hefney - Cross-examination
By Mr. Thompson

1 scale, that will tell you the likelihood of how he was in
2 there---

3 Q Right.

4 A ---which is more likely there's somebody else other
5 than him---

6 Q Am I understanding---

7 A ---moderate support for it.

8 Q ---the probabilities of all the things you're, you're,
9 you're testifying about, but the, the answer is though he's
10 probably not---

11 A Probably not---

12 Q ---the DNA?

13 A ---right. I can't say he's excluded.

14 Q Right. Right.

15 A What I can say is more likely that it's someone else.

16 Q Just like even if it's like an octillion thing, you
17 can't swear that it's a certain person's DNA, but
18 statistically it's proven that it, but statistically Sha'kel
19 Dixon's DNA is not on the paper in the wall?

20 A That is correct.

21 Q Okay. Give me just a second. I'm gonna get you
22 another item.

23 (Pause.)

24 Q We're talking about Item 13 next.

25 A Okay.

Adrienne Hefney - Cross-examination
By Mr. Thompson

1 Q I understand you had a problem with the test. You
2 couldn't necessarily run the test but my question to you on
3 Item Number 13 is gonna be that you did not detect any of
4 Mr. Dixon's DNA on the multi caliber assault rifle?

5 A The, the DNA profile that was developed from Item 13
6 was a mixture of at least five individuals. So, it
7 wasn't -- due to that complexity, I did not make a
8 comparison---

9 Q And you can't---

10 A ---at all.

11 Q So you can't testify that his DNA is on the assault
12 rifle?

13 A Or I can't testify whether it was or wasn't cause I
14 didn't do a comparison.

15 Q Fair enough. Fair enough.

16 The 5.56 rifle, you can't testify that Mr. Dixon's
17 DNA's on the 5.56 rifle either, correct?

18 A That is Item 14 and is -- he was lumped into the person
19 of interest and three unidentified, unrelated individuals
20 versus four. And, in that instance, Sha'kel Dixon, along
21 with Derrick Curry, Denzell Jackson, Altashaun Bacon, and
22 Christian Barnwell were excluded.

23 Q Okay. And we didn't test Miss Toney's DNA in any of
24 this stuff at all?

25 A Her standard was not submitted, no, sir.

Adrienne Hefney - Cross-examination
By Mr. Thompson

1 Q Okay. Well, we didn't test Mr. Elijah Stone's (sic)
2 DNA in any of this stuff at all?

3 A His standard was not submitted.

4 Q I have no further questions. Please answer any more
5 questions---

6 THE COURT: Redirect.

7 SOLICITOR HAMMACK: No, Your Honor.

8 THE COURT: Thank you. You may step down.

9 THE WITNESS: Okay.

10 THE COURT: Call your next witness.

11 SOLICITOR CHARBONNEAU: Regina Sailer.

12 THE CLERK: Place your left-hand on the Bible and raise
13 your right.

14 REGINA SAILER, being first duly
15 sworn, testified as follows:

16 THE CLERK: Have a seat in the witness box. State your
17 full name for the Court and spell your last. Watch your
18 step.

19 THE WITNESS: Regina Sailer. S-A-I-L-E-R.

20 DIRECT EXAMINATION

21 BY SOLICITOR CHARBONNEAU:

22 Q Good morning.

23 A Good morning.

24 Q Will you please tell us where you work?

25 A I work for the Bureau of Alcohol, Tobacco, Firearms and

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 Explosives.

2 Q That -- what is the acronym for that?

3 A ATF.

4 Q And what is your educational please?

5 A I have a bachelor's degree in criminal justice and a
6 master's degree in public management.

7 Q What is your job title at ATF?

8 A I am an intelligence research specialist.

9 Q Can you tell us what you do or in that job?

10 A Yeah, I utilize law enforcement and open source
11 databases and I research targets of criminal investigations.
12 In addition to that, I conduct phone analysis.

13 Q What do you do as far as phone analysis?

14 A I utilize phone records, call detail records from the
15 carriers, and I put them on a map to have them easier to
16 understand and illustrate where a particular phone is at a
17 given time.

18 Q Were you asked to get involved in the case involving
19 Denzell Jackson, Sha'Kel Dixon, Altashaun Bacon, and
20 Christian Barnwell?

21 A Yes, ma'am.

22 Q And how do you -- how do you originally get involved?

23 A In this particular case I was contacted by Investigator
24 Williams and asked for assistance.

25 Q First of all, as far as you said database searches,

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 what do you have access to through your job as an analyst?

2 A Oh, numerous law enforcement databases to include
3 databases called TLO, Accurint, CLEAR, some license plate
4 reader databases, insurance claim databases, as well as cell
5 phone mapping databases.

6 Q How long have you worked for ATF?

7 A Seventeen years.

8 Q And can you even estimate how many cases you have been
9 involved in in your 17 years with ATF?

10 A I would, I would estimate hundreds---

11 Q All right.

12 A ---if not more.

13 Q Okay. So starting in this case as far as the database
14 query, what is it that you are looking for?

15 A In this particular case with the phone records?

16 Q And with the database query.

17 A Oh.

18 Q We'll start with that.

19 A Oh, okay. The -- we -- I queried -- I was asked to
20 query Derrick Curry in several databases to see if he had
21 any updated records.

22 Q And what was the date that you were given to start
23 from?

24 A I, I was aware -- I believe it was April 30th, 2019.

25 Q When you were given Derrick Curry's name, are you also

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 given bio information such as social security number, date
2 of birth, that type of thing?

3 A Yes, ma'am.

4 Q When you queried in this case, were you able to
5 ascertain any activity for Derrick Curry subsequent to
6 April 30th, 2019?

7 A No, ma'am.

8 Q Going to the cell phone records, can you tell us what
9 were -- you were given in this case?

10 A Originally I was given cell phone records for Derrick
11 Curry that came from AT&T.

12 Q I'm showing you what's been marked into evidence as
13 State's Exhibit 108.

14 were those the, the cell phone records of Derrick Curry
15 that you received?

16 A Yes, ma'am.

17 Q So what information do you take off of this cell phone
18 records that helps you in your analysis?

19 A I am the end user of a software program called Pen-Link
20 or PLX. So when I am sent these cell phone records, I take
21 the entire set of raw data and I dump it into the software
22 to make it a little more user friendly.

23 Q And when you are dumping it into the software, are you
24 changing any of the raw data that was provided by the cell
25 phone carrier?

Regina Sailer - Direct examination
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1 A No, ma'am, it goes in straight from the carrier.

2 Q And as far as the -- you said there's mapping.

3 what is it that we'll see?

4 A We are gonna see two types of maps in the PowerPoint
5 that we'll look at. We are gonna see maps when a phone --
6 when a cell phone is utilized to make a call, a text, or any
7 sort of data it connects to a cell phone tower. The cell
8 phone companies will give us the location of that cell phone
9 tower as well as the sector which is the site of the tower
10 that is being utilized during a given time.

11 So, we will see those records and they will be
12 indicated in the PowerPoint and then where the pie is
13 shaped, like a piece of pie, not a whole pie.

14 We're also gonna see records from AT&T. They are
15 called NELOS records. They're provided directly from AT&T
16 and those are location records of the phone that aren't
17 related to any given phone call, text, or data. They're
18 just random times when AT&T so calls pings the phone and
19 tell us a latitude and longitude in a meter radius of where
20 that phone is at that given time. Those will be indicated
21 by circles on the PowerPoint.

22 Q Okay. So, when you're looking at the raw data, the
23 cell phone records, they are giving you -- they're able to
24 give you information of when calls or texts or data is
25 actually used on the phone, incoming or outgoing?

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1 A Correct.

2 Q The NELOS is the phone company just kind of sending up
3 a message out there saying where's, where's our phone and
4 they are able to tell?

5 A Yes.

6 Q And that is, is not connected to use of the phone?

7 A Correct.

8 Q As far as the towers themselves, can you explain to us
9 the area that they cover?

10 A Generally speaking a cell phone tower covers a
11 circle -- a rough circle area. So you can picture a big
12 tower, the circle coverage around it, and then that circle
13 we are gonna divide into pieces of pies, which are called
14 sectors, and they're roughly 120 degrees of the 360 degree
15 circle.

16 Q So, if this pie area is where the phone is, we can't
17 say it's standing, standing right here but it's in a
18 particular area?

19 A It should be in that area, yes, ma'am.

20 Q Okay. So the first records you get is Derrick Curry's
21 you said?

22 A Yes, ma'am.

23 Q And what was the purpose of having his records at that
24 time?

25 A I believe, at that time, Investigator Williams was

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1 attempting to locate, locate his body.

2 (WHEREUPON, the PowerPoint was marked as State's
3 Exhibit No. 112 for identification purposes only at this
4 time.)

5 Q I'm showing you, showing you what's been marked as
6 State's Exhibit 112.

7 If you would take a look at that please?

8 A Yes, ma'am.

9 Q And do you recognize it?

10 A Yes, this is a PowerPoint presentation I put together.

11 Q Okay. And is 112 an, an accurate depiction of
12 pinpoints of time from Derrick Curry's records that you
13 received from AT&T?

14 A Yes, ma'am.

15 SOLICITOR CHARBONNEAU: At this time I'd move State's
16 Exhibit 112 into evidence.

17 MR. JOHNSON: No objection, Your Honor.

18 MR. THOMPSON: No objection, Your Honor.

19 THE COURT: It's admitted.

20 (WHEREUPON, State's Exhibit No. 112 was received into
21 evidence at this time.)

22 (WHEREUPON, a PowerPoint was marked as State's Exhibit
23 No. 114 for identification purposes only at this time.)

24 Q And, if you would, State's Exhibit 114, is this the
25 exact PowerPoint that you just talked about only it's on

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1 disk form?

2 A Yes, ma'am.

3 SOLICITOR CHARBONNEAU: At this time I'd move State's
4 Exhibit 114 into evidence.

5 MR. JOHNSON: No objection.

6 MR. THOMPSON: No objection, Your Honor.

7 THE COURT: It's admitted.

8 (WHEREUPON, State's Exhibit No. 114 was received into
9 evidence at this time.)

10 SOLICITOR CHARBONNEAU: Your Honor, may we publish?

11 THE COURT: Yes.

12 Q while we're setting up, another question that I have.

13 On the road map from AT&T, when it shows a phone call,
14 what is the other information that it gives you?

15 A There will be location information. It will -- lat and
16 long -- lat -- latitude and longitude of the cell tower. It
17 will have whether it is a text, a phone call, or a data
18 usage, and it will have incoming or outgoing if it relates
19 to a text or a phone call.

20 Q will it have the date that the activity was?

21 A Date and time, yes, ma'am.

22 Q The time that's listed on the records, is it the right
23 time for our timezone?

24 A No, it is UTC time, which is the Universal Coordinated
25 Time and it -- we need to convert that to local time.

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1 Q Okay. When you put together your PowerPoint in State's
2 Exhibit 112, have you converted the time from UTC to our
3 timezone?

4 A Yes, ma'am, everything is in local time.

5 Q Okay. So let's start with, and I'm gonna go back here
6 so I can see as well, State's 114 -- 112, the first slide.

7 Can you tell us what we're looking at?

8 A Yes, ma'am, these are just the phone numbers, the
9 carrier, and the individual we have associated with those
10 telephone, the listing of those three phones I was looking
11 at.

12 Q Okay. We can go to Slide 2.

13 A Yes, right here is just a location, a mapping of
14 pertinent areas I was asked to pay special attention to.

15 Q And what areas were that?

16 A We had McDonald's located at 3604 Richland Avenue West
17 in Aiken. We have a Mr. Christian Barnwell's residence
18 located at [REDACTED] Whiskey Road. We have a Cornerstone crime
19 scene. Unfortunately in front of me I just have the
20 latitude and longitude. I don't have the physical address.
21 I was also given [REDACTED] Green Street in New Ellenton and the
22 Savannah River site.

23 Q Okay. Going to Slide 3 please.

24 A Yes, this---

25 Q What does this slide show?

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1 A Yes, this is the last time Mr. Derrick Curry made an
2 outgoing phonecall. It is the tower and sector which were
3 utilized during that time, which was 1:01PM eastern time on
4 April 30th, 2019.

5 Q Okay. And how do you know this is the last time that
6 he has an outgoing activity on his phone?

7 A The phone records indicate this is the last time he --
8 his phone made an outgoing phone call.

9 Q And, again, where we are looking, his phone is located
10 somewhere in the purple pie shape that we see on slide 3?

11 A Yes, ma'am.

12 Q And the information that you have put in the box to
13 the -- that's pointing to that pie shape, can you tell us
14 what that information is?

15 A Yes, that is information pulled directly from the cell
16 phone carrier records which indicate the time, the, the
17 dates, and whose phone number was involved.

18 Q And are you able -- it says range of three miles.
19 what does that mean?

20 A That is a default range of how big the coverage area of
21 that particular cell phone tower is. In this area, that's
22 just a default that we use, three miles. If we were in a
23 big city, say New York City, the default range might be a
24 quarter mile, half a mile. But in this sort of environment,
25 the default range is, is pretty standard to be three miles.

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1 Q Are you talking about say big tall buildings getting in
2 the way as opposed to wide open spaces?

3 A Correct.

4 Q Slide 4 please.

5 What do we have here?

6 A Yes, this is slide of 3:07PM of Mr. Derrick Curry's
7 phone -- oops. I'm sorry. I'm sorry.

8 Is that 1:51PM?

9 I'm sorry.

10 Q 13:57.

11 A Okay.

12 Q Yes.

13 A Okay. I'm sorry. I was -- got on the wrong page.

14 This is the location of Mr. Derrick Curry's phone at 1:51PM
15 on April 30th, 2019. Right now, at that time, he is in the
16 vicinity of McDonald's.

17 Q And that's the McDonald's on Richland Avenue?

18 A Yes, ma'am.

19 Q Slide 5 please.

20 A Yes, this slide we have at 3:07PM, the location of Mr.
21 Derrick Curry's phone, and it is in the vicinity of the
22 Cornerstone crime scene.

23 Q And just so we're clear, the times that are listed here
24 is in military time?

25 A Yes. So it says 15:07:52, which translates into

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1 3:07PM.

2 Q Thank you.

3 Slide 6.

4 A Slide 6 is the location of Mr. Curry's phone at 4:09PM,
5 which puts it in the vicinity of [REDACTED] Green Street.

6 Q And why -- what other hour reading this -- we are
7 looking at a pink circle.

8 Is that Mr. Curry's phone area?

9 A Yes, that would be -- his phone should be located
10 within that circled area.

11 Q And then the red marker is the, the address of [REDACTED]
12 Green Street?

13 A Yes, ma'am.

14 Q Going to Slide 7 please.

15 A Slide 7 is the location of Mr. Curry's phone at 5:04PM
16 and it puts it in the vicinity of Christian Barnwell's
17 residence.

18 Q Again, the pink circle is Derrick -- where Derrick
19 Curry's phone is somewhere in there?

20 A Yes, ma'am.

21 Q And the red marker is where Christian Barnwell's
22 residence is?

23 A Yes, ma'am.

24 Q Slide 8.

25 A Slide 8 is five -- it's actually just a -- oh, I'm

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1 sorry. It's a different page. Several minutes later,
2 5:09PM, Mr. Curry's phone is in the location of the
3 Cornerstone crime scene.

4 Q Just for clarification, the pink circle, that's where
5 Derrick Curry's phone is somewhere in that area?

6 A Yes, ma'am.

7 Q And the smaller red circle is where Nokesville Circle
8 crime scene is?

9 A Yes.

10 Q Slide 9.

11 A Slide 9 is approximately -- is at 5:14PM and Mr.
12 Curry's phone is -- it's traveled a little bit. It's in the
13 vicinity of the Aiken Mall area.

14 Q And that is inside the pink circle that we see?

15 A Yes, sir.

16 Q And as a point of reference, you put on here it's north
17 of the Cornerstone crime scene at Nokesville Circle?

18 A Yes, ma'am.

19 Q Slide 10.

20 A Slide 10 is at 5:17PM. Mr. Curry's phone is within
21 that circle which encompasses the Cornerstone crime scene.

22 Q Now, when you give us these times, does that mean that
23 Derrick Curry is using his phone?

24 A No, in these particular records, we're using NELOS data
25 and it is not related to a phone call, text, or data. It is

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1 just when the cell phone company pings the location of that
2 telephone at a given time.

3 Q And how do we know---

4 A So he's---

5 Q ---when it's NELOS information?

6 A On these visual records it will be a circle shaped.

7 Q Okay. So all of these slides so far have been NELOS
8 pings?

9 A If it is circled, yes.

10 Q Okay. It is circled. Okay.

11 A And then you'll see in the little box, you'll see at
12 the very bottom there's a meter radius. This one says 2,500
13 meters. That's another indication that it is been -- it's
14 NELOS data.

15 Q When we have meter---

16 A Radius.

17 Q Meter radius?

18 A Yes, ma'am.

19 Q Okay. So on 10, the defendant -- Derrick Curry's phone
20 is pinging in -- somewhere inside the pink circle?

21 A Yes, sir.

22 Q And inside that pink circle is also the Nokesville, the
23 Nokesville Circle crime scene area?

24 A Yes, ma'am.

25 Q And slide 11 please.

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1 A Slide 11 is at 6:51PM. Derrick Curry's phone is
2 pinging in that location of the circle and -- which covers
3 ■ Green Street.

4 Q And, again, this is NELOS information. It is the phone
5 company looking for the phone.

6 A Yes, ma'am.

7 Q Not activated.
8 Slide 12 please.

9 A Slide 12 is that last NELOS ping with a radius for Mr.
10 Curry and this occurred at, I'm sorry, it -- what -- I can't
11 read the time.

12 Q 9:03?

13 A 9:03PM eastern time on April 30th, 2019.

14 Q So, based on the records that you received, the last
15 time that this phone has -- is being pinged by the company
16 is on 9:30, I'm sorry, 4/30/2019 at 9:03PM?

17 A Yes.

18 Q If the phone -- what happens when -- the, the next time
19 that the company would try to ping this phone and it's not
20 pinging, what does that mean?

21 A Either the phone has been turned off, the phone has
22 been destroyed, the phone is no longer functioning.

23 Q And, again, you're looking at inside the pink circle.

24 That's the last that we see activity on Derrick Curry's
25 phone?

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1 A Yes, ma'am.

2 Q And within that area is ■■■ Green Street and just on
3 the tip of Savannah River site?

4 A Yes, ma'am.

5 Q So just so I'm clear, the only slide where we have
6 activity that Derrick Curry actually did on his phone is
7 slide 3 when you said his last outgoing phone call at
8 1:01PM?

9 A Yes, ma'am.

10 Q All of the slides after that is just the company
11 looking -- pinging for the phone?

12 A Yes, ma'am.

13 Q Thank you.

14 THE COURT: Madam Forelady, members of the jury, I'll
15 have you go to the jury room. Please do not discuss the
16 case.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury.)

19 THE COURT: And earlier this week I requested that I be
20 provided copies of exhibits so that I could follow the
21 evidence. I have taken a break so the State can comply with
22 that request.

23 SOLICITOR CHARBONNEAU: Yes, Your Honor.

24 THE COURT: So we'll be in recess for 10 minutes.
25 Please do not discuss your testimony.

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1 (WHEREUPON, a short recess was taken at this time.)

2 (WHEREUPON, a PowerPoint was marked as State's Exhibit
3 No. 115 for identification purposes only at this time.)

4 SOLICITOR CHARBONNEAU: I've handed up the PowerPoint
5 that we just played as well as the McDonald's video from
6 yesterday or the day before, and I also handed up the
7 PowerPoint with State's 115 that I'm about to go into.

8 THE COURT: And I use the ven -- the word before
9 breaking that I'd requested it and the judge normally don't
10 request. Judge's order. But I use the term request
11 deliberately.

12 Now, the -- I understand from the court reporter there
13 are problems with maintaining exhibits and people not
14 cooperating with the system of organization that exists with
15 exhibits. I understand from the jurors that they can't hear
16 the witness, the witness.

17 They're eight microphones in this courtroom and some of
18 the jurors in the back can not hear. Either you -- the
19 person doing the questioning or the person testifying, they
20 can't hear sufficiently for them to not complain about it
21 because they just did.

22 So, with that in mind, we will proceed and, Madam
23 witness, you need to speak louder and into whichever mic,
24 and in addition to all of that, in-between the testimony by
25 witnesses, our safety protocol as approved by the Court

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1 indicated that there's to be sanitation in-between
2 witnesses. We were on a roll for a period of time changing
3 those covers after every witness.

4 Ms. -- Madam Clerk.

5 THE CLERK: Your Honor, I will take care of that.

6 THE COURT: All right. And/or Lysol spray in-between
7 witnesses for everyone's safety.

8 And, with that, we'll bring the jury.

9 Tell me which one is this again.

10 Tell me that.

11 SOLICITOR CHARBONNEAU: Judge, you have three up there,
12 McDonald's video that was entered into evidence yesterday or
13 the day before.

14 THE COURT: What's coming up?

15 SOLICITOR CHARBONNEAU: 115 which is the three phone
16 PowerPoint.

17 THE COURT: Okay.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE COURT: You may proceed.

21 SOLICITOR CHARBONNEAU: Thank you, Your Honor.

22 CONTINUED DIRECT EXAMINATION

23 BY SOLICITOR CHARBONNEAU:

24 Q Ms. Sailer, I'm gonna show you State's Exhibit 9 -- 109
25 that's in evidence and do you recognize these records?

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1 A Yes, ma'am.

2 Q Are those the cell phone records you were provided in
3 regards to Denzell Jackson's phone number?

4 A Yes, ma'am.

5 Q And what's the phone number?

6 A Denzell Jackson's phone number is a Verizon phone
7 number [REDACTED].

8 Q Now, he has a different carrier than Derrick Curry?

9 A Yes, ma'am.

10 Q Will he have the NELOS pinpointing that AT&T does?

11 A He will not.

12 Q And is that because of the carrier?

13 A Yes.

14 Q And showing you State's Exhibit 110 that's already in
15 evidence.

16 were those the records provided to you for Sha'kel
17 Dixon's phone number?

18 A Yes, ma'am.

19 Q And what is Sha'kel Dixon's phone number?

20 A [REDACTED].

21 Q And he -- because it's AT&T, he will have NELOS --

22 A Yes, ma'am.

23 Q -- precision point from the carrier?

24 A Yes.

25 Q What did you do in regards to the records that you

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By Solicitor Charbonneau

1 received in relation to Derrick Curry's phone, Sha'kel
2 Dixon, and Denzell Jackson's phone?

3 A I dropped them directly into the software that we use
4 to visualize the records called Pen-Link PLX.

5 Q The same that you did with Derrick Curry's phone alone?

6 A Yes, ma'am.

7 Q And did you create a PowerPoint based on pertinent
8 times involved in this case?

9 A Yes, ma'am.

10 (WHEREUPON, the PowerPoint was marked as State's
11 Exhibit No. 133 for identification purposes only at this
12 time.)

13 Q I'm showing you what's been marked as State's Exhibit
14 113.

15 Do you recognize it?

16 A Yes, ma'am.

17 Q And what is it?

18 A This is the PowerPoint I created for Mr. Dixon and
19 Mr. Jackson and Mr. Curry's cell phones.

20 Q And is that based on the raw data received from the
21 cell phone companies?

22 A Yes, ma'am.

23 Q No changes to that?

24 A No changes at all.

25 Q And is it a fair and accurate depiction of your

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By Solicitor Charbonneau

1 PowerPoint?

2 A Yes.

3 Q And I'm showing you State's Exhibit 115.

4 Is this the same PowerPoint just on the disk?

5 A Yes, ma'am.

6 SOLICITOR CHARBONNEAU: At this time the State would
7 move State's Exhibit 113 and 115 into evidence.

8 MR. JOHNSON: No objection, Your Honor.

9 MR. THOMPSON: No objection, Your Honor.

10 THE COURT: They are admitted.

11 (WHEREUPON, State's Exhibit Nos. 113 and 115 were
12 received into evidence at this time.)

13 SOLICITOR CHARBONNEAU: Your Honor, may I publish?

14 THE COURT: Yes.

15 SOLICITOR CHARBONNEAU: Madam Clerk, are you able to
16 hear me?

17 THE CLERK: Yes.

18 SOLICITOR CHARBONNEAU: Thank you. Court reporter, I'm
19 sorry.

20 Agent Sailer, does -- just to clarify again, we're
21 looking at the cell phone records.

22 Did you have to convert the time?

23 A Yes, ma'am, the software converts it to local time.

24 So, all the times we'll look at in this PowerPoint are local
25 time.

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By Solicitor Charbonneau

1 Q And it will be in military time but the correct time?

2 A Yes, ma'am.

3 Q And any adjustment that you have to make to dates?

4 A No.

5 Q Starting with your PowerPoint, the first slide, can you
6 please describe to us what we are looking at here?

7 A Yes, this is the NELOS ping data from Mr. Curry's phone
8 at 1:51PM on April 30th, 2019.

9 Q Is his phone located somewhere inside that blue circle?

10 A Yes, ma'am.

11 Q And tell us where it is in relation to what that red
12 circle represents.

13 A The red circle is the Mc -- McDonald's.

14 Q So, his phone is in the McDonald's area?

15 A Yes, ma'am.

16 Q State -- slide 2 please.

17 A Slide 2 is Mr. Curry's phone at 1:51PM again at
18 McDonald's.

19 Q Now this time it's in a pie shape?

20 A This is a pie shape because it is taking off the cell
21 phone records in which he used some data.

22 Q So, Mr. Curry's actually using his phone here?

23 A It's tough to tell whether his phone is just pulling
24 data. Maybe somebody messaged him on a, a messaging app or
25 Facebook or if he's actively sending somebody a message.

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By Solicitor Charbonneau

1 Q All right. At 1:51PM, is that past the last time that
2 you had an outgoing phone call or text?

3 A Yes, I believe it was.

4 Q And I'm sorry.

5 The red dot where -- that's inside the pie of where
6 Derrick Curry's phone is --?

7 A Is McDonald's.

8 Q Going to Slide 3 please.

9 what do you have here?

10 A Slide 3 we have Sha'Kel Dixon's phone at 1:57PM and it
11 is located near the Cornerstone crime scene.

12 Q Now, is this information from his phone being used or
13 is it the NELOS where they're tracking his phone?

14 A This is when his phone is being utilized. He is making
15 or receiving a phonecall at that time.

16 Q And what is the red dot indicated slightly at the
17 bottom of the pie shape?

18 A This is -- that is the Cornerstone crime scene or the
19 one beneath it?

20 Q Yes.

21 A The one beneath it is Christian Barnwell's residence.

22 Q So, the, the Nokesville Circle crime scene is inside
23 the pie shape of Sha'Kel Dixon's phone and Christian
24 Barnwell's is just below it?

25 A Yes, ma'am.

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By Solicitor Charbonneau

1 Q If we do not see activity from another phone, can you
2 just tell us, tell us why that may be?

3 A In this particular case we don't have another person's
4 phone on here because nobody made or received a phone call
5 that was mappable during that time.

6 Q So, if I have my phone on me, and I'm with him, but I'm
7 not using it and nobody's contacting me, if -- it won't show
8 up?

9 A Yes, ma'am.

10 Q Next slide please, Number 4.

11 A This is just a zoomed in view of the previous slide.
12 It just kind of clarifies the fact that the phone is in the
13 vicinity of the Cornerstone crime scene and not -- above
14 Christian Barnwell's residence.

15 Q And within that pie shape, you have Sha'kel Dixon box,
16 and it's pointing to a particular area but that's not --
17 we're not saying it's specifically in that spot?

18 It's somewhere in the pie?

19 A Yes, that defaults just to the center of the piece of
20 pie. So, that box will always be in the center regardless
21 to where the phone is at the -- at a given time.

22 Q Slide 5 please.

23 A Slide 5 is Sha'kel Dixon's phone at 2:23PM on
24 April 30th and it is in the vicinity of the Cornerstone
25 crime scene.

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By Solicitor Charbonneau

1 Q Are you able to pick a time and look for the phone at
2 that time or do you have to rely on the records showing that
3 an activity happened at a particular time?

4 A The latter. I look for activity actually happening
5 that would initiate a location.

6 Q So we have Sha'kel Dixon's phone inside the yellow
7 circle?

8 A Yes, ma'am.

9 Q And the Cornerstone crime scene is indicated by the red
10 circle?

11 A Yes, ma'am.

12 Q Going to Slide 6 please.

13 A Slide 6 is Mr. Curry's phone at 2:23PM and he is still
14 in the vicinity of McDonald's.

15 Q Just so we're clear, Derrick Curry's phone is in the
16 blue outlined circle?

17 A Yes, ma'am.

18 Q And McDonald's is the red circle?

19 A Yes, ma'am.

20 Q Slide 7 please.

21 A We have Mr. Curry's phone at 2:44PM on April 30th and
22 it is in the vicinity of the Cornerstone crime scene.

23 Q Is this NELOS information?

24 A No, this is cell tower and sector information based off
25 of a data usage.

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By Solicitor Charbonneau

1 Q Okay. So if this is 2:44PM, does that mean this is
2 incoming information?

3 A I am not sure without looking at the data if it's
4 incoming or outgoing but it is a data usage. So, data was
5 coming or re -- being received to his phone or coming off of
6 his phone.

7 Q On the earlier PowerPoint, you told us that the last
8 outgoing call or text was 1:01PM?

9 A Yes, ma'am.

10 Q Was that based on the records you received?

11 A Yes, ma'am.

12 Q So, if we have activity here at 2:44PM, what does that
13 say?

14 A That is data. So this is -- this cell tower and sector
15 is obtained from data being sent or received to his cell
16 phone at that time.

17 Q So he's using his phone?

18 A He could be using it or somebody could be sending him a
19 message and to -- for it to be received, the cell company is
20 tracking the location of the tower and the sector.

21 Q Slide 8 please.

22 A This is a visual image of Mr. Curry's phone and Sha'kel
23 Dixon's phone. Mr. Dixon's phone is at 2:46PM as well as
24 Mr. Curry's.

25 Q And it just so happens that the phones are caught at

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By Solicitor Charbonneau

1 the same time?

2 A Yes, ma'am.

3 Q Is Mr. Dixon's phone in the blue pie shape?

4 A Yes, ma'am.

5 Q And is Derrick Curry's phone in the yellow orangy
6 circle?

7 A Yes, ma'am.

8 Q And what area of interest is inside both of those
9 phones?

10 A The Cornerstone crime scene.

11 Q What does it mean to you when you have overlapping
12 between where Sha'kel Dixon's phone may be and Derrick
13 Curry's phone may be?

14 A I would assess that most likely those phones are
15 located in the overlap area, which is part of the
16 Cornerstone crime scene.

17 Q And the Derrick Curry information, is that NELOS
18 information or activity on the phone?

19 A That is NELOS information.

20 Q And, Mr. Dixon, does he have NELOS?

21 A Mr. Dixon has AT&T. We do have some NELOS data but
22 this is pulled from cell phone records which would of been
23 either a call, text, or data being used by his phone.

24 Q In -- coming in or going out?

25 A Yes, ma'am.

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 Q Okay. Slide 9.

2 Can you explain to us what we have here.

3 A Yes, this is Mr. Curry's phone at 3:50PM and Sha'Kel
4 Dixon's phone at 3:50PM.

5 Q And, again, just a coincidence that they happened at --
6 the phones will have activity at the same time?

7 A Yes.

8 Q For clarification, is Sha'Kel Dixon's phone somewhere
9 in-between the yellow orangy pie shape?

10 A Yes, ma'am.

11 Q And is Derrick Curry's phone inside the greenish blue
12 circle?

13 A Yes, ma'am.

14 Q What is indicated at the red marker?

15 A The Cornerstone crime, Cornerstone crime scene.

16 Q And when we have two phones overlapping, what is --
17 what does that tell you?

18 A Most likely those phones are within the overlap area
19 which encompasses the Cornerstone crime scene.

20 Q Slide 10 please.

21 A Slide 10 we have Denzell Jackson's phone at 3:56,
22 Derrick Curry's phone at 3:55, and Sha'Kel Dixon at 3:55PM
23 on April 30th.

24 Q And, again, explain why Denzell Jackson is a minute off
25 from the others.

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 A He just utilized his phone at a different time.

2 Q And when you say he utilized his phone, it could be
3 activity -- someone calling or texting him or he's --?

4 A Yes, I should say the phone was utilized at a different
5 time.

6 Q Okay. So, inside the bluish pie shape is who?

7 A That is Sha'kel Dixon.

8 Q Inside the pink circle is who?

9 A Derrick Curry.

10 Q And inside the yellowish orange pie shape?

11 A Denzell Jackson.

12 Q Do those three overlap?

13 A There is a small overlap area in-between the
14 Cornerstone crime scene and Christian Barnwell's residence.

15 Q And what does this represent to you?

16 A To me, I would look at this as if those people are
17 traveling -- those phones are traveling possibly from one
18 location to the next.

19 Q Slide 11.

20 A Slide 11 is Derrick Curry in the blue pie shaped at
21 4:02PM and Denzell Jackson at 3:56PM in the peachy pie
22 shaped.

23 Q Again, we have a little bit of a time difference
24 between the two just based on the activity of the phone
25 itself?

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 A Yes, ma'am.

2 Q And there is overlap?

3 A Yes. And that would cover Christian Barnwell's
4 residence.

5 Q slide 12 please.

6 A slide 12 is Sha'kel Dixon in the peach pie shaped at
7 4:04PM and Derrick Curry in the blue shape at 4:03PM.

8 Q Are those two are overlapping?

9 A There's some overlap as well.

10 Q And the red marker's indicate where?

11 A The top marker is Christian Barnwell's residence and
12 the one near the bottom is ■ Green Street.

13 Q There is a -- many difference in the records.
14 what does that indicate to you?

15 A so they could be traveling between those two locations
16 most likely.

17 Q slide 13 please.

18 A slide 13 we have Derrick Curry at 4:06PM and Sha'kel
19 Dixon at 4:05PM. Derrick Curry is the, the light colored
20 circle underneath.

21 Q And Sha'kel Dixon is the blue pie shaped?

22 A Yes, ma'am.

23 Q And what is the red marker?

24 A The red marker is ■ Green Street.

25 Q Are these phones overlapping?

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 A They are and it's very near [REDACTED] Green Street.

2 Q Slide 14.

3 A Is Derrick Curry in the blue circle at 4:12PM and
4 Sha'Kel Dixon at 4:13PM in the peach pie.

5 Q Are they overlapping?

6 A They are overlapping in-between Christian Barnwell's
7 residence and [REDACTED] Green Street.

8 Q And, again, if we don't have Denzell Jackson's phone,
9 what -- pinging at the same time, what does that indicate to
10 you?

11 A His phone was not being used during that time.

12 Q Slide 15 please.

13 A We have Denzell Jackson at 4:39 in the left color --
14 piece of pie, darker color, and then we Sha'Kel Dixon at
15 4:41PM, and then we have Derrick Curry at 4:47PM.

16 Q And because you only have two pie shapes up there, is
17 Derrick Curry and Sha'Kel Dixon actually pinging off the
18 same tower in the same sector?

19 A Yes, ma'am.

20 Q And there is some time lapse in-between the phone calls
21 --

22 A Yes.

23 Q -- or phone usage and that is again because?

24 A Just when the phone was used.

25 Q Incoming or outgoing?

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 A Incoming or outgoing.

2 Q And what is the red marker that overlaps the three
3 phones?

4 A The Cornerstone crime scene.

5 Q Slide 16 please.

6 A We have Derrick Curry's phone at 5:01PM and Sha'kel
7 Dixon's phone at 5:02PM.

8 Q Derrick Curry's is inside the peach color---

9 A Yes, ma'am.

10 Q ---pie shape?

11 A Yes, ma'am.

12 Q Sha'kel Dixon is inside the blue shaped pie shaped?

13 A Yes, ma'am.

14 Q And what is inside indicated in red?

15 A The Cornerstone crime scene.

16 Q These two phones overlap?

17 A Yes.

18 Q And they are both inside the Cornerstone crime scene,
19 Nokesville Circle address?

20 A Yes, ma'am.

21 Q Slide 17.

22 A We have Derrick Curry in the peach circle at 5:04PM.

23 we have Sha'kel Dixon in the blue circle at 5:05PM and we
24 have Denzell Jackson at 5:06PM in the pink pie shaped.

25 Q And do all three of these phones overlap?

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 A There is some over -- yes.

2 Q And where are they in-between or traveling to?

3 A In-between Christian Barnwell's residence and [REDACTED] Green
4 Street.

5 Q And, again, there's a slight difference in the times?

6 A Yes, just based on usage.

7 Q Slide 18 please.

8 A We have Derrick Curry in the peach circle at 5:09PM and
9 Sha'kel Dixon in the blue pie at 5:09PM.

10 Q These phones overlap?

11 A Yes, ma'am.

12 Q And what is the red marker?

13 A Cornerstone crime scene.

14 Q within the overlap of the two phones?

15 A Yes.

16 Q Slide 19 please.

17 A We have Derrick Curry's phone at 5:17PM within the blue
18 circle and Sha'kel Dixon in the peach circle at 5:20PM.

19 Q Slight change in time?

20 A Slight change. It's three minutes. There's some
21 overlap and it involves the Cornerstone crime scene.

22 Q And that is marked by the red circle?

23 A Yes, ma'am.

24 Q Slide 20.

25 A We have Sha'kel Dixon in the blue circle at 5:31PM and

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 Denzell Jackson in the peach pie at 5:34PM.

2 Q Those phones are overlapping?

3 A There is some overlapage (phonetic), yes.

4 Q Slight time change between the two phones --

5 A Yes.

6 Q -- based on usage, right?

7 A Correct.

8 Q And it's, and it's in the vicinity of what else?

9 A The [REDACTED] Green Street address.

10 Q Slide 21 please.

11 A We have Denzell Jackson in the blue pie at 6:24PM and
12 Sha'Kel Dixon at 6:25PM in the peach circle.

13 Q And those two phones are overlapping?

14 A Yes, ma'am.

15 Q A one minute time difference between the two phones?

16 A Yes, ma'am.

17 Q And in relation to what areas on the map?

18 A They are west of the Savannah River site and [REDACTED] Green
19 Street.

20 Q Slide 22 please.

21 A 22, we have Denzell Jackson in the peach pie at 6:29PM
22 and Sha'Kel Dixon in the blue pie at 6:30PM.

23 Q Those two phones are overlapping?

24 A Yes, ma'am.

25 Q And where are they in relation to the areas of

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 interest?

2 A They are still west of [REDACTED] Green Street and the
3 Savannah River site.

4 Q Slide 23 please.

5 A We have Sha'Kel Dixon in the blue pie at 6:38PM and
6 Denzell Jackson at 6:42PM in the peach pie.

7 Q Those phones are overlapping?

8 A There is, yes.

9 Q And they are in relation to what point of interest?

10 A They are near [REDACTED] Green Street at that time.

11 Q Slide 24 please.

12 A We have Denzell Jackson in the peach pie shape at
13 6:46PM. We have Derrick Curry in the larger pink circle at
14 6:51PM and Sha'Kel Dixon in the small, I believe is it blue
15 on your -- the small circle. I'm not sure what color you'd
16 call that at 6:53PM.

17 Q Is it the --?

18 A It's the small circle around the [REDACTED] Green Street
19 address.

20 Q Okay. So we're talking about the, the defendant,
21 right?

22 A Yeah, it's -- it looks a little different on your
23 screen than it does mine.

24 Q This one?

25 A Yes, that would be the circle.

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 Q Okay.

2 A So that is where Sha'kel Dixon's phone would be.

3 Q All three of those phones are overlapping?

4 A Yes, ma'am, at the [REDACTED] Green Street address.

5 Q Slide 25 please.

6 A We have Sha'kel Dixon's phone at 7:26PM in the peach
7 circle and we have Derrick Curry's phone at 7:26PM also in
8 the blue circle.

9 Q And those phones are almost completely on top of each
10 other?

11 A They are very close to being on top of each other.

12 Q And where are they in relation to the points of
13 interest?

14 A They are just north of [REDACTED] Green Street and south of
15 Christian Barnwell's residence.

16 Q Slide 26.

17 A We have Denzell Jackson's phone in the peach pie at
18 8:44PM and Sha'kel Dixon's phone in the blue circle at
19 8:44PM.

20 Q Those two phones are overlapping?

21 A Yes, ma'am.

22 Q In relation to the points of interest?

23 A They are west of [REDACTED] Green Street and just north of the
24 Savannah River site.

25 Q Slide 27 please.

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 A We have Sha'Kel Dixon's phone in the peach -- blue pie
2 area at 8:57PM and Derrick Curry's phone at 9:02PM in --
3 within the peach circle.

4 Q And those two phones are overlapping?

5 A Yes.

6 Q And they are in the area of what?

7 A Just north of the Savannah River site and west of [REDACTED]
8 Green Street.

9 Q And is that 278 that, that road that's going through
10 there?

11 A Yes, ma'am, it is.

12 Q Slide 28 please.

13 A This is Sha'Kel Dixon's phone at 11:33PM and it is over
14 in the vicinity of the Cornerstone crime scene.

15 Q And that's in the pink pie --

16 A Yes, ma'am.

17 Q -- shape?

18 And 29 please.

19 A We have Sha'Kel Dixon's phone in the blue circle at
20 11:34PM and Denzell Jackson's phone in the peach colored pie
21 at 11:35PM.

22 Q Those phones are overlapping almost completely?

23 A Yes. And it is covering the Christian Barnwell
24 residence.

25 Q Thank you.

Regina Sailer - Direct examination
By Solicitor Charbonneau

1 And just because I, I want to make sure I wasn't using
2 the wrong terminology, when you're looking at State's
3 Exhibit 113, the PowerPoint we just looked at, and you're
4 talking about Derrick Curry's phone after the 1:01PM time,
5 does that change your opinion about whether Derrick Curry
6 was using his phone outgoing after 1:01?

7 A No, I'm not sure if those are outgoing or incoming data
8 pings. They could be either and I do not know which, which
9 they are.

10 Q And based on your review of the cell phone records from
11 Derrick Curry, which can you say is clearly the last call or
12 text that his phone placed?

13 A Yes, it -- that is the one at 1:01---

14 Q One---

15 A ---PM.

16 SOLICITOR CHARBONNEAU: One moment, Your Honor.

17 (Pause.)

18 Q Thank you.

19 I have nothing further.

20 THE COURT: Mr. Johnson.

21 MR. JOHNSON: Thank you.

22 CROSS-EXAMINATION

23 BY MR. JOHNSON:

24 Q How you doing?

25 A Hi.

Regina Sailer - Cross-examination
By Mr. Johnson

1 Q So you were asked to review cell phone raw data that
2 you received but that you did not generate yourself,
3 correct?

4 A Yes, sir.

5 Q And you put that information into a database---

6 A A---

7 Q ---system?

8 A A software system, yes, sir.

9 Q A software system that then gave you these pinpoints
10 and general areas of, of interest.

11 Is that correct?

12 A Yes, sir.

13 Q And how many days did you go back from April 30th?

14 A I believe for Mr. Dixon and Mr. Jackson I only focused
15 on the 30th.

16 Q What about Mr. Curry?

17 A I know we -- there -- the, the records might have gone
18 back a little bit. The only thing I focused on was
19 April 30th and forward.

20 Q And so would it be fair to say you, you were not
21 available to pinpoint travel patterns prior to April 30th?

22 A I did not look at those, no, sir.

23 Q And so you can't tell us whether these phones being in
24 a general location was normal or abnormal based on these
25 individual's jobs, lives, travel, or anything like that,

Regina Sailer - Cross-examination
By Mr. Johnson

1 correct?

2 A That's correct, sir.

3 Q So what we have is just a snapshot of, of one day in
4 particular?

5 A Yes, sir.

6 Q Do you believe that you would of been able to establish
7 more of a pattern if you had more records?

8 A If I were asked to look at those records, generally
9 speaking we could establish a pattern, yes.

10 Q Now, let's talk about cell towers.

11 A Okay.

12 Q Now, is it fair to say that the distance between cell
13 phone towers varies by location like you said earlier?

14 A Yes, sir, urban, rural, city, mountains.

15 Q And so, in this particular case, were you able to
16 determine how many cell towers are in the locations that we
17 were just looking at on those slides?

18 A I did not specifically look at that, no, sir.

19 Q would it be fair to say that a phone may not always
20 connect to the nearest cell tower depending on variables?

21 A There are always variables that could, could adjust
22 that. But most generally speaking they would connect to the
23 nearest, which is -- would be the strongest cell tower.

24 Q And so what we are talking about is generally speaking,
25 right, cause this is not GPS location data, correct?

Regina Sailer - Cross-examination
By Mr. Johnson

1 A Correct.

2 Q And so would it be fair to say that some of the things
3 that effect which phone -- which cell tower a phone is, is
4 connected to would be possible how many other calls were
5 being made to that tower?

6 A Yes, sir, there would be a limit on how many phones
7 could be connecting to a certain tower at a certain time.

8 Q And if a phone is traveling, then the phone could be
9 passed off to another cell tower.

10 Is that correct?

11 A Yes, sir.

12 Q And that's not always the closest tower, correct?

13 A If they were traveling, it pro, pro -- most likely,
14 generally speaking, would connect to the closest -- next
15 closest cell tower whatever their route of travel would be.

16 Q And would an individual know if their cell phone signal
17 is being passed to another tower?

18 A No. No, sir.

19 Q And were you able to establish how many towers are in
20 New Ellenton, South Carolina?

21 A I did not look at that, no, sir.

22 Q So if a -- if it's a rural place, would it be fair to
23 say that, generally speaking, that location would not have
24 as many cell towers?

25 A Yes, sir.

Regina Sailer - Cross-examination
By Mr. Johnson

1 Q And so if a location does not have many cell towers, an
2 individual could be connected to a cell tower that may not
3 be in close proximity?

4 It may just be the closest or the only available cell
5 tower?

6 A You would still have to be within a reasonable distance
7 to a cell phone tower to connect. Otherwise your phone just
8 wouldn't work, and sometimes in rural areas, that is the
9 case.

10 Q And so is triangulation used here?

11 A No, sir.

12 Q All right. So let's talk about triangulation.

13 It -- isn't that a way to get a more accurate location
14 of a phone because you are using multiple cell towers to
15 kind of pinpoint the location?

16 A To be honest, that would probably be a question -- a
17 technical question that would need to be asked to a cell
18 phone carrier.

19 Q Okay. So that's not---

20 A I did not utilize any form of triangulation. I took
21 the raw data, which was provided from the cell phone
22 carrier, to create these visual maps.

23 Q And, and just to be clear, you didn't use or you didn't
24 see any GPS location as well on those slides that we just
25 saw, correct?

Regina Sailer - Cross-examination
By Mr. Johnson

1 A There were some pings which I'm sure if you would call
2 that GPS location.

3 Q Well, let me say it this way.

4 It appears that all of the location information was an
5 estimate and not a pinpoint --?

6 A It is the data provided to us from the cell phone
7 carrier. I, I, I can't speak to whether they're estimating.
8 I did not estimate. I took the raw data.

9 Q Were you told any information about the parties in this
10 case re -- regarding where they lived at --

11 A No, sir.

12 Q -- or how close or how far apart they lived from each
13 other --

14 A No, sir.

15 Q -- or if some of these shaded areas contained
16 frequently visited businesses?

17 A No, sir.

18 Q And so just because a phone is in the same shaded area
19 as another phone, as you stated, does not mean that those
20 individuals are together, correct?

21 A Since we were not there it is tough to say whether
22 those phones were together. The records would indicate they
23 were in close proximity to each other.

24 Q And so close proximity could be anything from a
25 shopping center, if, if you're at a car dealer, and another

Regina Sailer - Cross-examination
By Mr. Johnson

1 individual is at a restaurant?

2 I mean that is within a realm of possibility, correct?

3 A Yeah, like all in the same strip mall you mean?

4 Q (WHEREUPON, there was no audible response.)

5 A Yes.

6 Q Were you asked to track the phone of Shaniyah Toney?

7 A No, sir.

8 Q Now I see that the default that a lot of these shaded
9 areas list is three miles or so?

10 A Yes, sir.

11 Q And does that include square miles?

12 A Just standard miles.

13 Q So anywhere within a three mile range, correct?

14 A within that sector, if there's a sector, it would be
15 the cell tower and then the sector tells us what direction
16 off that cell tower that that phone is most likely within.

17 Q Now, see that on the last page or the last of the
18 second set of slides --

19 A Okay.

20 Q -- do you -- can we -- and so I have what's previously
21 asking, just so we can see, if you can see that the range
22 that we have right here for Mr. Jackson is three,
23 three miles?

24 A Yes, sir.

25 Q And the latitude and longitude, is that also an

Regina Sailer - Cross-examination
By Mr. Johnson

1 estimate?

2 A No, that is the, the -- for the circle you mean, the
3 NELOS data?

4 Q Yes.

5 A That is provided from the cell phone carrier. So that
6 is their saying that that phone -- we take the, the latitude
7 and longitude, we, we plot that on the map, and the radius
8 is how big or small that circle is.

9 Q So, in this Slide Number 29 --

10 A Okay.

11 Q -- State's Exhibit 115, it's fair to say that
12 Mr. Jackson's phone, based on your testimony, could be
13 anywhere from this top right corner to the bottom left
14 corner, correct?

15 A Yes, sir.

16 Q Up to the---

17 A That would be the---

18 Q ---top?

19 A Yes, sir.

20 Q Correct?

21 And so at no point in time are you able to, based on
22 the information that you got from the cell phone company,
23 tell us where an individual is at a specific time based on
24 this range---

25 A Yes, sir.

Regina Sailer - Cross-examination
By Mr. Johnson

1 Q ---that we have?

2 A They, they provide the cell site, which is the cell
3 tower location, and then the sector. So what part of the
4 tower the phone is on.

5 MR. JOHNSON: All right. Can I have one moment, Your
6 Honor?

7 (Pause.)

8 Q And besides analyzing these records, do we have any
9 other role in this case?

10 A I conducted a couple database queries on Mr. Curry.

11 Q And were you told to just look for April 30th?

12 A For---

13 Q The -- through these records.

14 A For Mr. Dixon and Mr. Jackson?

15 Q (WHEREUPON, there was no audible response.)

16 A Yes, sir.

17 Q Thank you.

18 A You welcome.

19 MR. THOMPSON: May it please the Court?

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. THOMPSON:

23 Q Agent Sailer, the data in all these pictures and graphs
24 and the stuff that you looked at is tracking phones, not
25 people, correct?

Regina Sailer - Cross-examination
By Mr. Thompson

1 A Yes, sir.

2 Q Okay. That -- and we kind of assume that everybody has
3 their phone on them at all times. It's kind of a function
4 of our, our modern society.

5 But you're tracking phones and not people?

6 A Yes, sir.

7 Q Okay. So, if -- and, and please do not give me any
8 personally I -- personal identifying information.

9 But if you and I were to go to lunch after your
10 testimony, and then if you were and I were to drop or leave
11 my phone in your car, my phone would ping from here to
12 wherever it is that you live or work?

13 A Yes, if your phone is receiving data from a cell.

14 Q These, these pictures -- I sometimes have a little bit
15 of a hard time with a prospective but -- because of the, the
16 maps that we're using.

17 These pictures of the little areas or pieces, these,
18 these can be relatively large areas, correct?

19 A Yes, sir.

20 Q And I'm -- forgive me but I think I did a little bit of
21 math, which is always dangerous, but, but I think some of
22 these, some of these pinged pictures are at about
23 2,500 meters?

24 A Some might be.

25 Q Is that right?

Regina Sailer - Cross-examination
By Mr. Thompson

1 A Some might be that large and then some might be 200 or
2 600 meters.

3 Q Okay. The, the one -- the only -- I, I was kind of
4 looking through the graphs but the one I was looking at was
5 2,500 meters. 2,500 meters is about, I'm gonna represent to
6 you, about one and a half miles, maybe a little bit more,
7 and -- pardon me just a moment.

8 If memory serves, I think the area of the circle is pi
9 R squared, which would make a 2,500 meter ping an area of
10 approximately about seven and a half square miles?

11 A Unfortunately I can not speak to that. I have no idea.

12 Q Fair, fair enough. Fair enough.

13 A I wish I did.

14 Q It -- but more than a couple square miles?

15 A I have no idea.

16 Q Okay. And you had, you had mentioned earlier that you
17 were familiar enough with some of the geography of Aiken
18 County to know that, that at least some of these were on
19 like -- there's a highway next to New Ellenton in-between
20 New Ellenton and the Savannah River site that some of them
21 were on that highway later on in the, in the tracking
22 picture, correct?

23 A Yes, sir.

24 Q Some of this earlier stuff though is in relatively
25 densely populated, relatively well traveled areas of South

Regina Sailer - Cross-examination
By Mr. Thompson

1 Aiken off of Whiskey Road, correct?

2 A I believe so, yes, sir.

3 Q Can you tell me, from the information you have in front
4 of you, the earlier, the earlier data that you have, about
5 what time was it from?

6 A In the maps that were prepared I believe we start
7 around 1:57PM.

8 Q So close to two o'clock in the afternoon?

9 A Yes, sir.

10 Q Okay. And I believe you, you testified earlier when
11 Mr. Johnson was talking to you that a lot of these signals
12 can be affected by things. It can be affected by maybe
13 ground cover or, or obstacles. That can be affected by the
14 traffic on the tower. Sometimes you can be bounced to
15 another tower if, for instance, if a tower is -- a specific
16 area has a lot of traffic at that time.

17 Correct?

18 A Yes, sir.

19 Q On your maps, Sugar Creek Elementary School is real
20 close to the, the first maps that you have that are ping-
21 gong Mr. Dixon's phone, correct?

22 A I'm not familiar with the elementary school.

23 Q Okay.

24 A I apologize.

25 Q But if it were near a elementary school at a time that

Regina Sailer - Cross-examination
By Mr. Thompson

1 there was a lot of traffic with people picking up kids from
2 school, it would be very easy for a call to be bounced maybe
3 to another tower, correct?

4 A It's always possible, yes, sir.

5 Q And in that case we wouldn't really be sure where this
6 was at because the latitude and longitude stuff you were
7 talking to him about, that's the latitude and longitude of
8 the tower, right?

9 A Yes, sir.

10 Q Okay. I believe you -- in your maps, you're, you're
11 using some information for Sha'kel Dixon's phone.

12 You were given that phone number as belonging to
13 Sha'kel Dixon, correct?

14 A I, I was given the, the, the call detail records---

15 Q Right.

16 A ---straight from the cell phone carrier and I was told
17 that that was -- to, to, to relate that phone number to Mr.
18 Dixon, yes, sir.

19 Q You were told that was Sha'kel Dixon's phone.

20 So, you don't necessarily have any specific subscriber
21 information indicating that that's his phone?

22 A Not---

23 Q It would---

24 A ---in front of me, no, sir.

25 Q Very well.

Regina Sailer - Cross-examination
By Mr. Thompson

1 And no record of any kind of messages. You're just
2 looking at where phones might be broadcasting or receiving
3 or pinging at. You're not looking at any specific messages
4 or texts or voice or anything like that.

5 A That is correct.

6 Q In all of this stuff, you, you were only asked to look
7 at data on the -- at -- the 30th of May?

8 A April.

9 Q I'm sorry. 30th of April.

10 You were only asked for data from the 30th of April,
11 2019, and slightly forward. You were not asked to look for
12 anything before then.

13 A That is correct.

14 Q Right?

15 Okay. So you don't have any records related to any
16 type of planning meetings in-between any people be -- ahead
17 of time?

18 A They may or may not exist. I did not look at those,
19 no, sir.

20 Q But you don't have any record?

21 A I did not look at them. I don't know whether the
22 records exist.

23 Q Yes, ma'am.

24 And you don't have any records of the proximity of
25 people in this -- and I apologize. You may not have heard

Regina Sailer - Cross-examination
By Mr. Thompson

1 this testimony. There was a -- testimony earlier in this
2 case about their being a, a murder plot like a day or two
3 before at a movie theater.

4 Your records don't have anything to do with that,
5 correct?

6 You did not look---

7 A I, I did not look at those, no, sir.

8 Q Okay. And you were not asked to look at any records
9 related to Miss Shaniyah Toney's telephone?

10 A No, sir.

11 Q And were not asked to look at any records related to
12 Mr. Elijah Stone's (sic) telephone?

13 A No, sir.

14 MR. THOMPSON: I have no further questions for this
15 witness.

16 THE COURT: Any redirect?

17 SOLICITOR CHARBONNEAU: No, sir. Thank you.

18 THE COURT: Thank you. You may step down.

19 THE WITNESS: Thank you.

20 THE COURT: Call your next witness.

21 (WHEREUPON, a disk was marked as State's Exhibit No.
22 116 for identification purposes only at this time.)

23 SOLICITOR HAMMACK: Your Honor, at this time, pursuant
24 to your request during COVID protocol, we have a digital
25 copy of photographs that have been entered into evidence.

1 They are contained on this disk that is labeled State's
2 Exhibit 116. We would just move this disk into evidence as
3 a copy of all photographs that have been admitted.

4 MR. JOHNSON: No objection, Your Honor.

5 MR. THOMPSON: This is just a compiling of all the
6 photographs?

7 SOLICITOR HAMMACK: They were manually scanned.

8 MR. THOMPSON: I have no reason to object to this at
9 all. I have no objection.

10 THE COURT: Admitted without objection.

11 SOLICITOR HAMMACK: Thank you, Your Honor.

12 (WHEREUPON, State's Exhibit No. 116 was received into
13 evidence at the time.)

14 SOLICITOR CHARBONNEAU: Your Honor, the State rests.

15 THE COURT: All right. Ladies and gentlemen, that is
16 the State's case and we need to take up some matters outside
17 of your presence. If you will go to the jury room. Please
18 do not discuss the case.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: Are there any matters of law?

22 MR. JOHNSON: Your Honor, at this time, on behalf of
23 Mr. Jackson, I would make a motion for a directed verdict.

24 THE COURT: On what basis?

25 MR. JOHNSON: All right. Your Honor, if we will start

1 with the kidnapping charge, which I, I believe is Count,
2 Count 2 in this matter, based on the evidence that we've
3 heard in this case, there has been no evidence that
4 Mr. Jackson was involved in the taking of Mr. Curry against
5 his will or imprisonment of Mr. Curry against his will.
6 Even by the evidence of Miss Shaniyah Toney, she stated that
7 she is the one who actually drove Mr. Curry from the, excuse
8 me, allowed him to drive her car from the McDonald's to her
9 home. But at no point in time does her testimony indicate
10 that she was assisted in that transportation by Mr. Jackson
11 and there's also no testimony that, once she got into the
12 home, that Mr. Jackson was involved in any actions that
13 would be classified as kidnapping under the statute.

14 with regard to Count 3, possession of a firearm during
15 a violent crime, we did hear evidence from Investigator, or
16 excuse me, Mr. Chad Smith from SLED who did ballistic
17 testing. He indicated that there was inconclusive evidence
18 with regard to the firearm that they tested, the Glock 19,
19 that night when they responded to Mr. Jackson's home. And
20 so, there again, we do not have any evidence of, of death in
21 the form of a body that has been examined or an autopsy
22 where a projectile was removed. And so, with regard to
23 Count 3, I would move for the directed verdict as well.

24 And, finally, the same line of argument for Court 1,
25 murder. The State does not produce any medical testimony

1 with a cause of death. The State has not produced any
2 autopsy report. The State has not produced any evidence of
3 a, of a coroner's or a -- the body of Mr. Curry in this case
4 and, and he is still, to this day, listed as missing, and
5 like I just said, a death certificate could of been a source
6 of evidence in this case to show that there had been some
7 classification of Mr. Curry's as not being alive to date.
8 That evidence was not presented to the jury in this case.

9 So, for the above reasons that I stated, I would move
10 for a directed verdict on all three counts.

11 Thank you, sir.

12 THE COURT: All right. Mr. Thompson.

13 MR. THOMPSON: Your Honor, at this point in time we
14 would renew all of our previous objections and motions. I
15 would also join Defendant Jackson's attorney's motion for
16 directed verdict and would also make a general motion for
17 directed verdict on behalf of Mr. Dixon and then a, a, a, a
18 separate motion for directed verdict with an emphasis on the
19 kidnapping charge.

20 Your Honor, as far as the kidnapping charges goes, I
21 don't believe that the law supports a verdict for kidnapping
22 for the moving of a, a body after someone is deceased.
23 There is a, a separate law about that and I don't believe
24 that, that the law of kidnapping applies to persons who are
25 deceased.

1 Your Honor, the testimony of Mr. (sic) Toney does not
2 support a verdict for Mr. Curry being kidnapped. At the
3 time of the alleged event, her testimony is that, that Mr.
4 Jackson and Mr. Dixon burst into the room and shot him, that
5 at no point in time was he prevented from movement. He is
6 surprised and shot and killed.

7 The, the only other argument for kidnapping would be an
8 inveiglement argument for kidnapping. The actual act of
9 inveiglement of, of Mr. Curry was not committed in any way
10 by Mr. Dixon, was committed by Miss Toney, according to her
11 own testimony, and the, and the, the actual sending of
12 messages or planning of the inveiglement was, according to
13 Mr. Toney, I'm sorry, according to Miss Toney, not done by
14 Mr. Dixon. And I, I don't believe that there's any evidence
15 to support a verdict for kidnapping for Mr. Dixon and would
16 move for directed verdict on that charge as, as well as my
17 other arguments for directed verdict.

18 THE COURT: What says the State?

19 SOLICITOR CHARBONNEAU: Yes, Judge.

20 As far as the -- starting with the possession of a
21 weapon, on both defendants, we have direct eye witness
22 testimony. Shaniyah Toney said that both defendants had
23 guns on them. They were on their hips. She described both
24 guns. She ultimately ID'd Denzell Jackson's gun. That gun
25 is found under Denzell Jackson's bed and ultimately tested

1 with Denzell Jackson's DNA on it. She testified that, when
2 the actual shooting happened, they both had their guns on
3 them as in both standing in the doorway.

4 As far as the kidnapping charge, again, direct eye
5 witness testimony, testimony from Shaniyah Toney. She told
6 this Court and the jury that she was involved in the
7 planning, that the planning took place at [REDACTED] Green Street,
8 that it is under inveigle, which is in -- to lure or bait
9 someone or trick them with evil purpose.

10 The plan was to get at Derrick Curry. The plan was
11 Denzell Jackson's but the conversation was between herself,
12 Denzell Jackson, and Sha'Kel Dixon at [REDACTED] Green Street. The
13 details, how they were going to do it, what she was going to
14 text Derrick Curry in order to get him to come to her, that
15 all three of them were involved in that, and it ultimately
16 plans out because all three of them then go to the
17 Nokesville Circle crime scene.

18 The two defendants in this case hide in the sister's
19 closet waiting for Shaniyah to go and get him and she does
20 get him by tricking and luring him pursuant to the plan that
21 Denzell Jackson initiated and Sha'Kel Dixon was a part of as
22 well as her.

23 As far as the murder, we have direct eye witness
24 testimony from Shaniyah Toney that Denzell Jackson, with
25 Sha'Kel Dixon standing right next to him, both with guns,

1 Denzell Jackson shoots Derrick Curry in the face, second
2 shot into the wall. We have the crime scene evidence that
3 supports her testimony as far as the recovered projectile in
4 the wall and the amount of blood at the scene. And, again,
5 the DNA results that Derrick Curry is the source of the
6 blood in the carpet, padding, all the way down to the floor,
7 and that Derrick Curry, as Shaniyah Toney testified to as an
8 eye witness, the blood of Derrick Curry is in both trunks of
9 both cars.

10 So, we feel the State has met the burden on all three
11 counts for both of them.

12 THE COURT: Any response?

13 MR. JOHNSON: No, sir.

14 MR. THOMPSON: Your Honor, very briefly.

15 I, with all due respect, would disagree slightly with
16 what I remember the testimony at the trial being
17 specifically related only to Mr. Dixon and his possession of
18 a weapon.

19 I believe that there was testimony from Miss Toney that
20 he had a weapon when he got into her car and when he got out
21 of her car and went into her home. I believe her testimony
22 though about the actual event and the actual alleged killing
23 was that when the -- when Mr. Jackson and Mr. Dixon are
24 alleged to have rushed into the room, that Mr. Jackson has a
25 gun, and Mr. Dixon is holding a tote and garbage bag, that

1 he is not, at that -- that he is not, at that time, during
2 the commission of the crime, that he is not in possession of
3 a weapon.

4 THE COURT: Any response?

5 SOLICITOR CHARBONNEAU: Judge, their presenting is not
6 required. The fact that he possessed a firearm on his hip
7 would be enough.

8 THE COURT: At this stage the Court is concerned about
9 the existence of the evidence and not the weight of the
10 evidence. The role of the jury is to weigh evidence and to
11 decide the case based on the evidence.

12 There is, in the record, direct and circumstantial
13 evidence that establishes the -- all of the -- each of the
14 offenses alleged as to each defendant and both as to their
15 individual acts and also based on the law, it provided that
16 if two or more people are acting together, assisting each
17 other, the act of one is the act of all. That is sometimes
18 referred to as the hand of one is the hand of all.

19 we also have an additional issue in this case regarding
20 the death of Mr. Curry or whether he's dead and whether he's
21 decided to disappear, the State must prove aliunde, must
22 produce proof aliunde of the corpus delicti and corpus
23 delicti may be proved by circumstantial evidence. That's
24 pursuant to State v. Owens, and the Court's considering in a
25 no body murder cases have allowed evidence of the victim's

1 personal habits, and relationships, and circumstantial
2 evidence from which an inference could be drawn that the
3 victim's sudden disappearance were the result of a death by
4 a criminal act.

5 In, in this case, there exists both direct and
6 circumstantial evidence from which the jury could conclude,
7 and certainly a combination of the two, from which the jury
8 could conclude that Mr. Curry was killed and killed by the
9 defendants at trial. All of which, if believed by the jury,
10 so I'll deny all motions.

11 Now it's 12:05.

12 with regard to presenting a defense, are the parties
13 ready to proceed with a defense?

14 MR. JOHNSON: Your Honor, on behalf of Mr. Jackson, I
15 would not be calling any witnesses.

16 THE COURT: Mr. Thompson.

17 MR. THOMPSON: Your Honor, other than asking my client,
18 if I could have maybe five or ten minutes to speak with him
19 again about whether or not he wants to testify. We don't
20 anticipate on calling any other, other witnesses. But I
21 would like five or ten minutes to speak with Mr. Dixon.

22 THE COURT: All right. With regard to each defendant,
23 I'm going to engage in a colloquy as to whether or not they
24 want to testify. We'll first go to Mr., Mr. Jackson.

25 Please come forward and, and if you'll be sworn.

1 THE CLERK: Place your left-hand on the Bible and raise
2 your right.

3 (WHEREUPON, Defendant Jackson was placed under oath at
4 this time.)

5 THE COURT: Mr. Jackson, at this time I'm going to
6 explain to you certain of your rights. If you do not
7 understand anything that I say, please let me know if you
8 want to confer with Mr. Johnson regarding anything that I am
9 asking you in this cause we have to explain in further
10 details.

11 We've reached the stage of the trial now where you may
12 present your defense. You have the right to claim the
13 protections given to you by the Fifth Amendment to the
14 Constitution of the United States.

15 The Fifth Amendment to the Constitution of the United
16 States states in part that no person shall be compelled, in
17 any criminal case, to be a witness against themselves. This
18 means that you can not be required to testify but you do
19 have the right to testify on your own behalf if you would
20 like to. However, no one, one can make you testify.
21 whether or not you testify is a personal right and no one
22 can waive this right except for you.

23 If you decide to testify, you will be subject to the
24 same rules that govern other witnesses and you may be
25 examined and cross-examined on any relevant issue in this

1 case. In addition, if you have convictions involving
2 dishonesty, false statements, or crimes punishable by more
3 than one year, and I determine that the probative value of
4 admitting this evidence outweighs it's prejudicial effect to
5 you, the State now would be able to introduce your record to
6 attack your credibility.

7 If you decide to testify, this decision on your part
8 must be freely, voluntarily, and intelligently made with
9 knowledge of the protections given to you by the Fifth
10 Amendment and the consequences of your decision to testify.

11 If you decide not to testify, I will instruct the
12 jurors that they can not give the fact that you did not
13 testify any consideration whatsoever and that there is to be
14 absolutely no prejudice to you because you did not testify.
15 It's left entirely up to you whether or not you testify.
16 You may talk with Mr. Johnson, family, friends, or anyone
17 else you have to talk to but the final decision will be left
18 entirely up to you.

19 Do you understand what I've explained to you?

20 DEFENDANT JACKSON: Yes, sir.

21 THE COURT: Do you have any questions---

22 DEFENDANT JACKSON: No, sir.

23 THE COURT: ---about what I've explained?

24 Now, Mr. Johnson says that you do not intend to
25 testify.

1 Is that correct?

2 DEFENDANT JACKSON: Yes, sir.

3 THE COURT: And you've discussed with him whether or
4 not you should testify?

5 DEFENDANT JACKSON: Yes, sir.

6 THE COURT: Do you need to talk with him anymore about
7 whether or not you should testify?

8 DEFENDANT JACKSON: No, sir, I don't, Your Honor.

9 THE COURT: And you do not wish to testify?

10 DEFENDANT JACKSON: No, sir.

11 THE COURT: All right. Thank you very much.

12 Then we'll move next to Mr., Mr. Dixon.

13 THE CLERK: Place your left-hand on the Bible and raise
14 your right.

15 (WHEREUPON, Defendant Dixon was placed under oath at
16 this time.)

17 THE CLERK: He's sworn.

18 THE COURT: Now, Mr. Dixon, at this time I'm going to
19 explain to you certain of your rights. If you don't
20 understand anything that I ask or say to you, you let me
21 know and I'll explain it further.

22 Do you understand?

23 DEFENDANT DIXON: Yes, sir.

24 THE COURT: And we've now reached the stage of the
25 trial where you may present your defense. You have the

1 right to claim the protections given to you by the Fifth
2 Amendment to the Constitution which states that no person
3 shall be compelled in any criminal case to be a witness
4 against himself and that means that you can not be required
5 to testify.

6 But you do have the right to testify on your own behalf
7 if you would like to. Whether or not you testify is a
8 personal right and no one can waive that right or decide
9 that fact but you.

10 If you decide to testify, you will be subject to the
11 same rules that govern other witnesses. You may be examined
12 and cross-examined on any relevant issue in this case.

13 In addition, if you have convictions involving
14 dishonesty, false statements, or crimes punishable by
15 imprisonment for more than one year, and I determine that
16 the probative value of admitting this evidence outweighs its
17 prejudicial effect to you, the solicitor then will be able
18 to introduce your record to attack your credibility.

19 If you decide to testify, this must be a free,
20 voluntary, and intelligent decision made by you with
21 knowledge of the protections given to you by the Fifth
22 Amendment and the consequences of your decision to testify.

23 If you decide not to testify, I will instruct the
24 jurors that they can not give the fact that you did not
25 testify any consideration whatsoever and there's to be

1 absolutely no prejudice to you because you did not testify.
2 It's left entirely up to you whether or not you testify.

3 You can talk with your attorneys, Mr. McKellar and Mr.
4 Thompson, and your family members, friends, or anyone else
5 you have that you can talk to but the final decision will be
6 up -- entirely up to you.

7 Do you understand what I've explained?

8 DEFENDANT DIXON: Yes, sir.

9 THE COURT: Do you have any questions about what I've
10 explained?

11 DEFENDANT DIXON: No, sir.

12 THE COURT: Have you talked with your lawyers about
13 whether or not you should testify?

14 DEFENDANT DIXON: Yes, sir.

15 THE COURT: Do you need to talk with them some more
16 about whether or not you should testify?

17 DEFENDANT DIXON: Yes, sir.

18 THE COURT: All right. We'll take a break and give you
19 an opportunity to do so and we'll give Mr. Johnson that same
20 opportunity in case you want to check further with
21 Mr. Jackson.

22 MR. JOHNSON: Thank you, Your Honor.

23 MR. THOMPSON: Thank you, Your Honor.

24 THE COURT: So y'all can be seated for the moment and
25 we'll take a break in just a second.

1 So, with regard to the -- with regard to the jury
2 charges, I presume the defense intends to rest?

3 MR. JOHNSON: Yes, sir.

4 MR. THOMPSON: Yes, sir, that's our contention.

5 THE COURT: I only have two questions. One we revisit
6 the one made by Mr. Thompson earlier about last argument
7 cause he didn't offer any exhibits, hands of one, the jury
8 charge request.

9 Any other jury trial requests and any instruction on
10 the issue of the death of Mr. Curry.

11 Now let's see. Go to the State first.

12 SOLICITOR HAMMACK: Your Honor, I think it depends on
13 the -- what Mr. Dixon elects to do, but assuming that Mr.
14 Jackson does not testify, then failure of the defendant to
15 testify charge would apply in this case.

16 THE COURT: Failure to testify?

17 SOLICITOR HAMMACK: Yes, sir.

18 THE COURT: Oh, yeah, I'll be -- that's, that's
19 standard.

20 SOLICITOR HAMMACK: And I don't think the State, at
21 this point, has any proposed instructions other than Your
22 Honor's standard instructions. We did submit State's
23 proposed hand of one hand of all instruction.

24 THE COURT: Yeah, I believe that was pretty much
25 verbatim from the standard charge except maybe one word or

1 two somewhere.

2 SOLICITOR HAMMACK: Yes, sir.

3 THE COURT: Okay. And remind me what those -- let's
4 see. The word was --.

5 (Pause.)

6 THE COURT: Any objection to the standard charge on
7 hands of one?

8 SOLICITOR HAMMACK: Not from the State.

9 MR. THOMPSON: No objection from Mr. Dixon.

10 MR. JOHNSON: Without objection.

11 THE COURT: And under the last argument issue of Mr.
12 Thompson having the right to argue last since he did not
13 present any evidence.

14 SOLICITOR CHARBONNEAU: Your Honor, if I may suggest?

15 If I were to go first, then Mr. Johnson, then I could
16 rebut Mr. Johnson, and then Mr. Thompson could go last.

17 THE COURT: Okay. That's what it would be.

18 SOLICITOR CHARBONNEAU: If his client doesn't testify.

19 THE COURT: Right.

20 MR. THOMPSON: Sure.

21 THE COURT: Do you-all agree with that?

22 MR. JOHNSON: Yes, sir, Your Honor.

23 THE COURT: Okay.

24 MR. THOMPSON: Yes, sir, Your Honor.

25 THE COURT: All right. Then, Mr. Johnson, you have a

1 request to charge?

2 MR. JOHNSON: Yes, sir, I have a request to charge on
3 identification of, of the defendant.

4 Do you have the original or do you need the original?

5 THE CLERK: I'll just find it.

6 MR. JOHNSON: Okay.

7 (Pause.)

8 THE COURT: All right. Mr. -- let's see.
9 Identification.

10 An issue in this case is the identification of the
11 defendant, the defendant or defendants as the perpetrator or
12 perpetrators of the crimes, the crimes charged. The State
13 has the burden of proving identity beyond a reasonable
14 doubt. Identification testimony is an expression or belief
15 or impression by a witness.

16 You may consider the opportunity a witness had to
17 observe the alleged offender at the time they're trying or
18 they're making an identification. Up to the jury to
19 determine the accuracy of the identification.

20 You must consider the credibility of each
21 identification witness in the same way as any other witness.
22 You can consider his or her truthfulness as well as the
23 capacity, opportunity, and circumstances of the observation
24 or the matters about which he or she testified.

25 That's the defense's requested charge on

1 identification.

2 what says the State?

3 SOLICITOR CHARBONNEAU: Your Honor, I believe that this
4 is all, all of this is covered in the standard instructions
5 that Your Honor gives. So, it would be duplication.

6 So, just based on that I would object to it and it's
7 all covered.

8 THE COURT: Mr. Johnson.

9 MR. JOHNSON: Your Honor, if, if this is what the Court
10 does, I would withdraw it. As the Court knows, this is my
11 first time with Your Honor. So, I did not know, and out of
12 an abundance of caution, I wanted to make sure that I
13 included this jury instruction.

14 THE COURT: Mr. --.

15 MR. THOMPSON: And, Your Honor, I have, I have no
16 input, objection, or otherwise on the identification charge.
17 I do have some questions about the standard charges at the
18 appropriate time.

19 THE COURT: Actually the identification charge -- the
20 standard identification charge is, in some instances, not
21 applicable to certain cases and I, I modified the
22 identification charge. I'm trying to find it.

23 (Pause.)

24 THE COURT: While I'm looking for that, Mr. Thompson,
25 I'll hear what, what you---

1 MR. THOMPSON: Your Honor?

2 THE COURT: Yes, sir.

3 MR. THOMPSON: Briefly, the only request we would have
4 is I -- I'm fairly certain that the Court is going to charge
5 on hand of one hand of all accessory liability, and we would
6 just ask that the Court include in its charge the difference
7 between accessory before the fact and after the fact.

8 Your Honor, would also ask that the Court charge on its
9 standard charge on circumstantial versus direct evidence.

10 THE COURT: All right. Well, circumstantial versus
11 direct is definitely included.

12 But regarding accessory before and after the fact, tell
13 me again what you're asking.

14 MR. THOMPSON: Just that the Court charge on the law
15 and explain the distinction in the law between accessory
16 before and after the fact.

17 THE COURT: And you're asking that as part of the hands
18 of one charge?

19 MR. THOMPSON: Or, or whatever the, the -- when the
20 Court charges on accessory liability.

21 THE COURT: Well, I---

22 MR. THOMPSON: Your Honor, in, in---

23 THE COURT: ---haven't been requested to charge on
24 accessory liability.

25 MR. THOMPSON: Well, Your Honor, the -- my

1 understanding from the directed verdict motion was that the
2 State's case is that -- not been Mr. Dixon actually engaged
3 in the, the physical acts of kidnapping Mr. Curry per se.
4 But that he is an accessory because he's alleged to have
5 participated before the fact in the planning of it somehow,
6 and that we would ask just that the Court explain the
7 difference between accessory before the fact and after the
8 facts.

9 Also I, I would think that, depending on the, depending
10 on the jury's evaluation of Miss Toney's credibility and the
11 weight that they give her testimony, that it's possible that
12 the jury could find Mr. Dixon guilty of participating in
13 moving the body and cleaning up the scene at the same time
14 not necessarily finding him guilty of the actual killing in
15 this matter depending on the---

16 THE COURT: That's a new charge, is it not?

17 MR. THOMPSON: It, it -- well then I -- then, then,
18 Your Honor, I would ask for that charge at this -- that's---

19 THE COURT: You want me to charge and give the jury a
20 charge on something he's not charged with?

21 MR. THOMPSON: I -- Your Honor, I would ask that, that,
22 that the jury be charged on the law concerning the
23 difference between the law of accessory before the fact
24 versus accessory after the fact because I, I would agree
25 with Your Honor that, if the jury finds him guilty of being

1 an accessory after the fact, they would essentially be
2 rendering a, rendering a verdict of not guilty in this case.

3 THE COURT: All right. What says the State?

4 SOLICITOR CHARBONNEAU: Judge, but neither one of these
5 defendants have the charge of accessory before or after the
6 fact. They are both present at the crime when it is
7 committed. They are both actively participating in the
8 crime, and, under South Carolina law, accessory after the
9 facts is not a lesser included offense.

10 So, he isn't charged with it and they're not lesser
11 included offenses. We would object to any instructions in
12 regards to accessory before or after, and I probably -- I
13 don't have the actual cases. I'm just looking through the
14 book but under State v. Fuller, 346 S.C. 477, case of 2001,
15 according to this book, it says accessory after the fact is
16 not a lesser included offense, and a second case, State v.
17 Patterson, 285 S.C. 5, a 1984 case, also holds on site
18 through accomplice liability is not a lesser included
19 offense of murder in South Carolina.

20 THE COURT: Well, this whole issue of accessory before
21 the fact where a person is present and committing at the
22 time of the commission of the crime, there is no case.
23 That, that came up in State v. Collins, which is a case that
24 I was involved in years ago.

25 Mr. Collins was convicted, convicted of murder but I

1 think the evidence was that he was -- somehow or another it
2 was either he was not there before -- either he was present
3 and could not be convicted of accessory or something to that
4 effect. His conviction was reversed. So, that's the,
5 that's the root of the whole thing, State v. Collins, from
6 Williamsburg County, my favorite place, and, and beyond
7 that.

8 But if the allegation is that the person is present,
9 committing the crime, then an instruction about being an
10 accessory would not apply. If he was accessory, accessory
11 before the fact, you're guilty as a principal as if you
12 committed the crime. If you had planned the crime, then,
13 then you're guilty of committing a crime as an accessory
14 before the fact.

15 So, there's no distinction. You said accessory after
16 the fact is a difference scenario.

17 SOLICITOR CHARBONNEAU: It's the only two cases I could
18 find this quick.

19 THE COURT: Right.

20 We'll take a -- we're gonna break for lunch in a
21 minute. We will just recap all that over lunch and I also
22 need to locate my charge on identification.

23 But basically it boils down to saying that the -- an
24 issue in the case is identification. The State must prove,
25 beyond a reasonable doubt, the identification of the

1 defendant or the defendants in committing the crime before
2 they can be found guilty. Identification can be proven by
3 direct or circumstantial evidence -- and/or circumstantial
4 evidence.

5 But it takes out the portion about how long you've had
6 to observe the person, whether you know them in the past or,
7 or otherwise unless you-all want to include that. I think
8 such as a test of -- I mean we went through a needless
9 exercise really with this Miss Toney, Toney under
10 suppression issue regarding identification. It was just a
11 total waste of time who again seemingly conceded that she
12 knew them and would have no problem identifying them.

13 So why did we go through that hour or two of testimony?

14 But whatever instruction you-all agree on will be given
15 regarding identification. I'll be happy to do it. But just
16 sort of taken away some of the boilerplate stuff other than
17 saying the State has the burden of proving identify beyond a
18 reasonable doubt. So --.

19 MR. JOHNSON: Your Honor, I would ask that the Court
20 read the instruction as the Court just read it omitting the,
21 the opportunity to observe the matters about which he or she
22 testified.

23 THE COURT: All right.

24 MR. JOHNSON: Thank you.

25 THE COURT: Mr. Thompson.

1 MR. THOMPSON: I have nothing further to add on that.

2 THE COURT: Anything further from the State on that?

3 SOLICITOR CHARBONNEAU: No, sir.

4 THE COURT: All right. Well, we're going to, over
5 lunch, see if there's anything else on this issue of
6 accessory as a separate defense, can the Court charge
7 something -- charge the jury with, in effect, a new crime
8 that hasn't been charged.

9 So y'all be ready for closing arguments at what time?
10 1:30, two o'clock?

11 MR. JOHNSON: If we could have until two o'clock, Your
12 Honor.

13 THE COURT: All right.

14 MR. THOMPSON: No objection, Your Honor.

15 THE COURT: All right. Then I -- before that we'll
16 come in and see whether or not --

17 MR. THOMPSON: Yes, sir.

18 THE COURT: -- there's been any change on testifying or
19 not testifying.

20 Anything else?

21 MR. JOHNSON: No, sir.

22 SOLICITOR HAMMACK: Not from the State, Judge.

23 THE COURT: All right. Just on the issue of these
24 exhibits that have been admitted on CDs and zip drives and
25 all that, it's my belief that the jury might -- given

1 policies that juries, juries are to deliberate in a jury
2 room, not in a courtroom, and that if the jurors are asked
3 and wants to view evidence, to be viewed in the jury room,
4 not in the courtroom with everyone staring down trying to
5 figure out what it means while they're looking at something
6 in the courtroom.

7 So, have you-all arranged for the jury to have means of
8 playing things in the jury room?

9 SOLICITOR CHARBONNEAU: Your Honor, we have the -- it's
10 a, a clean computer, laptop. It doesn't have anything. It
11 doesn't have access to WiFi. It doesn't have anything that
12 we typically send back with the jury. They can just open
13 it. There's no password on for them and they don't have
14 access to Internet or searching.

15 THE COURT: All right.

16 MR. THOMPSON: And, Your Honor, for this one issue, if
17 I might be allowed to lead off because I don't believe---

18 THE COURT: Yeah.

19 MR. THOMPSON: ---Keith is familiar with this.

20 THE COURT: All right. Go ahead.

21 MR. THOMPSON: It -- it's been my experience that what
22 Mr. Charbonneau has said is exactly correct, that there is a
23 computer that -- my understanding is the jury is not allowed
24 to get into any areas of that computer other than the
25 previously admitted evidence and that they would be able to

1 have the ability to just look at the evidence on a computer
2 and I have no objection to the computer going back to the
3 jury room. I would just ask that the bailiff be the person
4 that explains this to them but other than that, I, I---

5 THE COURT: Who's the bailiff of your choice?

6 THE BAILIFF: Don't look at me. I know nothing about
7 computers.

8 MR. THOMPSON: But I -- other than that, I have, I have
9 no objection to the computer.

10 THE COURT: All right.

11 MR. JOHNSON: Based on the representations of Ms.
12 Charbonneau and Mr. Thompson I have no objection.

13 THE COURT: All right. Very good. Then we'll be in --
14 we'll -- it's good to put that on the record. Quite often
15 people start debating about it after argument and after
16 just -- and then, in addition to all that, and then all of
17 the exhibits should be reviewed prior to the closings so
18 that there is not a delay between closing arguments and the
19 jury deliberations.

20 With that, we will bring the jury in and we will recess
21 until 2:00.

22 THE CLERK: I think counsel would be all right if one
23 of my staff gave the instructions about the computer instead
24 of one of my bailiffs?

25 MR. THOMPSON: No objection, Your Honor.

1 THE COURT: All right. Let's address that with Mr. --
2 you said---

3 MR. JOHNSON: What's that, Your Honor?

4 MR. THOMPSON: The court staff---

5 THE CLERK: One of my staff---

6 MR. THOMPSON: ---give instructions.

7 THE CLERK: ---instruct them how to use the computer
8 rather than one of the bailiffs.

9 MR. JOHNSON: No objection.

10 THE COURT: All right. Okay. Very good.

11 okay. Well, let's bring the jury.

12 (WHEREUPON, the following takes place within the
13 presence of the jury.)

14 THE COURT: Madam Forelady, members of the jury, we're
15 moving right along with this trial but we need to break
16 until two o'clock. So, we're gonna be in recess from --
17 until two o'clock. Please do not discuss the case. Return
18 to the jury room.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: Okay. We'll be in recess.

22 (WHEREUPON, Court was in recess for the lunch break.)

23 THE COURT: -- wish to testify?

24 DEFENDANT DIXON: No, I don't, sir.

25 THE COURT: Okay. Very good.

1 with regard to the hands of one charge, I'm -- the
2 standard -- I'm using the one that was submitted by the
3 State and not from the book, and the one the State submitted
4 they deliver -- deleted the part that says, for example, two
5 people can be guilty of the murder when only one fired the
6 shot. You're not suppose to use examples. That's the same
7 as in a case you're trying. So that's -- so that's deleted.

8 And on the -- anything else about that aiding and
9 abetting?

10 I -- that is part of the hands of one charge and mere
11 presence is part of it. So --.

12 Any other issue with the charge, Mr. Thompson?

13 MR. THOMPSON: No, Your Honor.

14 THE COURT: All right. Very good.

15 Anything else then?

16 SOLICITOR CHARBONNEAU: So, Judge, are you giving the
17 instruction requested by Mr. Thompson?

18 THE COURT: Which is, which is what?

19 SOLICITOR CHARBONNEAU: Accessory before and after.

20 THE COURT: Pardon?

21 SOLICITOR CHARBONNEAU: The -- he requested the
22 accessory before and after.

23 THE COURT: I do not intend to charge that. The
24 accessories charge is a part of hands of one.

25 SOLICITOR CHARBONNEAU: Thank you.

1 THE COURT: Accessory, aiding and abetting, but not as
2 a separate charge. It's not charged in this case.

3 SOLICITOR HAMMACK: And, Your Honor, the only thing to
4 add to that is there is case law saying not only it's not
5 appropriate to charge but specifically that it's
6 impermissible for counsel to argue that someone is guilty of
7 an uncharged offense.

8 So we would just make sure that, that everybody's aware
9 that argument that they're guilty of accessory is not a
10 permissible argument.

11 THE COURT: Mr. Thompson.

12 MR. THOMPSON: Your Honor, without necessarily being
13 forced to go into my argument ahead of time, I, I would -- I
14 would inform the Court that I, in fact, do intend to, to say
15 that there's, without Miss Toney's testimony, which I'm
16 gonna argue is completely not credible, that without her
17 testimony, there's not physical evidence to, to prove
18 anything against Mr. Dixon other than that he somehow was
19 intentionally involved in, in moving a body.

20 I, I, I don't intend to concede to that. I'm, I'm not
21 admitting to that. But I, I am gonna argue that if the jury
22 finds that is a possible -- is a possible, logical outcome
23 given the facts of the case, that the correct verdict would
24 be to find him not guilty.

25 THE COURT: I'm not gonna screen closing arguments or

1 rule on any anticipated objection. We're ruling as
2 objections are made if any are made.

3 SOLICITOR CHARBONNEAU: Judge, I just wanted to put the
4 case on the record that I emailed to Your Honor and opposing
5 counsel at the break. It was State versus Condrey,
6 C-O-N-D-R-E-Y, 349 S.C. 184. It's a Court of Appeals, South
7 Carolina, 2002 case that basically says that defense counsel
8 can not argue that the defendant's guilty of an uncharged
9 crime.

10 MR. THOMPSON: And, Your Honor, I don't plan on arguing
11 that my client is actually guilty of anything. I'm planning
12 on arguing that if the jury finds the evidence to be of a
13 certain character, that, that -- that finding would support
14 a verdict of not guilty in this case.

15 THE COURT: All right. What's the specific language of
16 this case you're referring to?

17 I'm looking at it.

18 SOLICITOR CHARBONNEAU: Under State v. Condrey, in that
19 case it was a grand larceny and criminal conspiracy that
20 they were charged with and opposing counsel -- defense
21 counsel tried to argue and said to the jury that he's guilty
22 of receiving stolen goods and what was found that it was a
23 comparison charge. And the Court held that requiring a
24 comparison charge when the facts do not warrant, one opens
25 the door of every criminal defendant to create a quasi

1 lesser included offense for which they could not be
2 convicted. Arguments by counsel which invite the jury to
3 base its verdict on considerations not relevant to the
4 merits of the case are improper.

5 THE COURT: All right. Well, that's, that's not
6 exactly the same as what was said before about claiming
7 they're guilty of an uncharged offense or something. I
8 don't, I -- I don't see anything controversial about this
9 case, you know. So -- or different than anything that's
10 ever done basically.

11 This is Judge Anderson, Court of Appeals, 1991 case.
12 We, we pretty well know the law of hands of one, hands of
13 all, and all those others.

14 I think -- it's, it's noted for the record and -- but
15 I'll listen out for any objections and I'll rule as
16 appropriate and rule accordingly.

17 SOLICITOR CHARBONNEAU: Thank you.

18 THE COURT: All right. So you-all are gathered around
19 the exhibits I see.

20 SOLICITOR HAMMACK: We have almost completed confirmed
21 each item of evidence that you asked us to do before closing
22 arguments.

23 THE COURT: Okay.

24 SOLICITOR HAMMACK: May I just complete that very
25 quickly?

1 THE COURT: Yes.

2 (Pause.)

3 THE COURT: The last trial I had the -- after the jury
4 was charged, and I told them to start deliberating when they
5 got the exhibits, it, it took the State an hour and 15
6 minutes to review the exhibits before the jury could start
7 deliberating, and, needless to say, that wasn't a happy
8 time.

9 So the system's got to be in place to, when the closing
10 arguments are over, are over and the jury has been charged
11 and they can start deliberating without waiting an hour and
12 15 minutes obviously. So, that's why I'm glad you-all comb
13 through things so that we won't have that problem.

14 So, are we ready for the jury?

15 SOLICITOR CHARBONNEAU: Yes, sir.

16 THE COURT: All right.

17 MR. JOHNSON: Yes, sir.

18 THE COURT: Bring them on.

19 Y'all have the original indictments for the jury?

20 (WHEREUPON, the following takes place within the
21 presence of the jury.)

22 THE COURT: All right. Ladies and gentlemen, you've
23 heard the State's case. It's now the defense's turn.

24 Mr. Johnson.

25 MR. JOHNSON: On behalf of Mr. Jackson, the defense

1 rests.

2 THE COURT: All right. Mr. Thompson.

3 MR. THOMPSON: Your Honor, Mr. Dixon's defense rests.
4 we do not -- have the procedural motions at the appropriate
5 time and this---

6 THE COURT: They will be so noted for the record.

7 MR. THOMPSON: Thank you, Your Honor.

8 THE COURT: And if you have anything further to say at
9 a the later time, then we'll---

10 MR. THOMPSON: Very fine, Your Honor.

11 THE COURT: All right.

12 MR. THOMPSON: Thank you.

13 THE COURT: Ladies and gentlemen, that means you have
14 heard all of the testimony and received all of the evidence.
15 It's now time for closing arguments.

16 First by the State.

17 SOLICITOR CHARBONNEAU: Thank you, Your Honor.

18 May it please the Court?

19 THE COURT: Yes.

20 SOLICITOR CHARBONNEAU: Mom, I'm coming home, the last
21 words that Derrick Curry ever says to his mother,
22 April 30th, 2019.

23 Sometimes the victims get lost in murder cases if
24 they're not here to speak on their behalf for themselves. So
25 let's not forget about Derrick Curry.

1 Twenty years old, 5'11", 120 pounds. He's skinny.
2 Look at his arms compared to the (indiscernible) on the
3 porch and you will get all the evidence that will go back
4 with you in the jury room. So you will have all of this to
5 follow -- look over for yourselves.

6 The State's Exhibit 1, take a look at how skinny he is.
7 He was 20 years old. He had a girlfriend, Cordajiah
8 Council. He had a mom, friends, family. He was making rap
9 music. 60 was his performer's name. Twenty years old. He
10 had his whole life ahead of him.

11 Not anymore. Because on April 30th, 2019, Denzell
12 Jackson and Sha'kel Dixon put an end to, to his future.

13 You heard the testimony and the evidence. Let's go
14 over it just so I can point out certain things to you to
15 have paid attention to.

16 Denzell Jackson and Sha'kel Dixon, along with Shaniyah
17 Toney, lure Derrick Curry to that Nokesville Circle house.

18 Now, you are the jury for Denzell Jackson and Sha'kel
19 Dixon. You're not the jury for Christian Barnwell. You're
20 not the jury for Altashaun Bacon and you are not deciding
21 whether you like or dislike Shaniyah Toney.

22 You may not like her. You may not like what she did.
23 She -- there's no question she was involved in this. But
24 she is not on trial. You judge her credibility. You take
25 her actions into consideration along with the others,

1 Barnwell and Bacon, along with Dixon and Jackson, and then
2 you decide Dixon and Jackson. Barnwell and Bacon will have
3 their own days in Court and they will have their own jurors.

4 So, while the hand of one, you are looking at all five
5 people's actions and you are deciding on Jackson and Dixon.
6 If they are a part, under the hand of one, if -- they
7 committed these crimes.

8 The other thing to keep in mind is that you are
9 deciding whether they are guilty or not guilty of the crimes
10 charged. The Judge decides the sentencing. If he wants to
11 be more lenient on one or the other, give them the same
12 sentence, whatever it is, that's not for you to decide. You
13 decide guilt or not and then the Judge decides the sentence.

14 Let's go over -- both defendants are charged, the same
15 three charges, murder, kidnapping, and possession of a
16 weapon during a violent crime. Let's start with the
17 easiest.

18 Possession of a weapon during a violent crime is just
19 that, that they possessed a gun while they committed a
20 violent crime. Murder and kidnapping are both considered
21 violent crimes in South Carolina.

22 So, how do you know, through the testimony and the
23 evidence that you heard, that both Dixon and Jackson are
24 both guilty of that?

25 Well, first of all, Shaniyah Toney, whether you like

1 her or not, whether you agree with her behavior, or even for
2 that matter, whether you agree whether she should of been
3 arrested or not, is, again, not for you to decide.

4 Look at her actions. Listen to her testimony. Decide
5 if she's credible.

6 Shaniyah Toney is an eye witness in this case. She
7 told you that both Denzell Jackson and Sha'Kel Dixon had
8 guns on their hips. She gave descriptions of both guns.
9 She ID'd Denzell Jackson's gun, State's Exhibit 107. She
10 ID'd and told you that's the gun Denzell Jackson had that
11 day, the 9-millimeter Glock. And you heard from the DNA
12 forensic scientist tell you Denzell Jackson's DNA is on that
13 gun.

14 And where is it found?

15 Under Denzell Jackson's bed in his home at [REDACTED] Green
16 Street.

17 what else did Shaniyah Toney tell you as far as Dixon?

18 She said that he had a gun on his hip, that he was in
19 the doorway when they bust open the door to kill Derrick
20 Curry, that he's in the doorway with his gun. It was
21 Denzell Jackson who shot but Sha'Kel Dixon had his gun,
22 along with the pink tote, and the black trash bags there.

23 You also had the evidence such as the projectile found
24 in the house and recovered.

25 Kidnapping. When you think of kidnapping, we're used

1 to movies or TV shows where you see someone's kidnapped.
2 They're grabbed, a bag's put over their head, they're tied
3 up, duct tape across their mouth, thrown into a van, taken
4 off. That is not the real charge or element of kidnapping.

5 The judge will instruct you on the law. Although that
6 is a kidnapping, there's other types of kidnapping.

7 The accused did unlawfully seize, confine, inveigle,
8 decoy, kidnap, abduct, or carry away another person and that
9 the act was committed without authority of law. Inveigle
10 means to deceive or to lure or trick the person for an evil
11 purpose.

12 How do we know that the defendants are guilty of
13 kidnapping under South Carolina law?

14 well, Derrick Curry was lured and tricked by the plan
15 that all three of them, Dixon, Jackson, and Shaniyah Toney,
16 put into motion. She told you, again eye witness testimony,
17 Shaniyah told -- Toney told you that she went to [REDACTED] Green
18 Street, that Denzell Jackson started texting her in the
19 morning to come over to his house, and that they needed a
20 way to get to Derrick Curry. They had attempted to kill him
21 the night before with the whole movie scenario and it didn't
22 happen.

23 So now the three of them are talking at [REDACTED] Green
24 Street.

25 Denzell Jackson, Sha'Kel Dixon, Shaniyah Toney, how are

1 they going to get at them -- at Derrick Curry?

2 They come up with a plan. They are gonna use Shaniyah
3 Toney as bait. They are going to lure Derrick Curry to a
4 place where they can get to him and they all act on that
5 plan.

6 They discussed what Shaniyah Toney needs to put in her
7 message to Derrick Curry. They go over it. She does text
8 Derrick Curry and Derrick Curry agrees to meet her.

9 The fact that he's not aware that he's being tricked
10 and lured is not a part of, of the situation or the element
11 of the crime. The element of the crime is that they did
12 trick him. Whether he knew it or not before he died is not
13 a part of the element.

14 So, they put the plan in motion. She text -- Shaniyah
15 texts Derrick Curry. She drops the two defendants off at
16 her house at Nokesville Circle. According to the plan
17 they've all decided on, she goes to McDonald's on Richland
18 Avenue to pick up Derrick Curry and to bring him back to
19 Denzell and Sha'kel.

20 She brings him back to Nokesville Circle. Dixon and
21 Jackson are hiding in her sister's closet and he thinks he's
22 there to have sex with Shaniyah Toney. That is a
23 kidnapping.

24 How do we know that what Shaniyah Toney told you is
25 true?

1 You look to evidence and see if it, it corroborates or
2 matches with what she says. You look to the testimony of
3 other witnesses to see if it's been corroborated or matched.

4 We have, again, the physical evidence that's found in
5 at the scene, the projectile, the blood, the defendant's
6 blood DNA, the projectile recovered. You have all of that
7 in evidence, the carpet, the padding where all the blood was
8 and the amount of blood.

9 You also know that what she told you is true because
10 you have the McDonald's video. The McDonald's video
11 corroborates what she said, that she was sent to McDonald's
12 to pick him up, and you see him for yourself getting in the
13 car, and we have a computer that goes back with you, and you
14 can play that video as many times as you want to look at it.

15 Let's look at the murder. Unlawful killing of another
16 with malice aforethought. Malice aforethought -- I'm
17 reading from the instructions. It's the willful doing of an
18 illegal act without just cause and with a previously formed
19 intention to commit such act. A killing may be with malice
20 aforethought although it is conceived and executed at the
21 same time. Malice aforethought may be inferred from
22 reckless disregard of human life. If malice aforethought is
23 committed in the execution of an unlawful act, all
24 participants are guilty.

25 Even in the instructions that the Judge will read to

1 you he will tell you that you can not decide this case
2 because you like or dislike someone and you must follow the
3 law as he instructs you. whether you agree with the law or
4 not, you must apply it.

5 The Judge will further instruct you on the hand of the
6 law that I told you about in opening and it's important
7 because it applies completely in this case.

8 A person who joins with another to commit an unlawful
9 act is criminally responsible for everything done by the
10 other person which happens as a probable or natural
11 consequence of the acts done in carrying out the common plan
12 and purpose. If two or more people act together, acting
13 together, assisting each other in committing the offense,
14 the act of one is the act of all, or as it is sometimes
15 said, the hand of one is the hand of all.

16 when a person does an act in the presence of and with
17 the assistance of another, the act is done by both. where
18 two or more acting with a common plan or intent are present
19 at the commission of a crime, it does not matter who
20 actually commits the crime. All are guilty. The hand of
21 one is the hand of all.

22 So, we talk about the hand of one and I want to give
23 you an example. Three guys decide to rob a bank at
24 gunpoint. One guy -- the plan is one guy's gonna go into
25 the bank with the gun and he's gonna hold up the job and get

1 the money. The second guy is gonna stand outside the bank
2 and he's gonna whistle if he hears the -- if he see or hears
3 the police coming. The third guy is gonna be the getaway
4 driver. He's gonna sit in the car. He doesn't have a gun,
5 sitting in the car, and as soon as the other two can,
6 they're gonna jump in the car and get away with the money.

7 Under the hand of one law, all three of those people
8 are guilty of armed robbery. That's the hand of one law.

9 So, Shaniyah Toney basically gives you all the eye
10 witness testimony in this case, and the other evidence that
11 you can look at, you have to decide if she is a credible
12 witness and the Judge will also instruct you on the
13 credibility of witnesses and things that you are to look
14 for.

15 You want to look and see if they're truthful or not.
16 Were they straightforward in answering the questions?
17 Look at their body language when they're on the stand.
18 Do they have a reason to lie?

19 Do they have any bias or prejudice or motive to lie?

20 Does their testimony match or is it consistent with
21 other testimony and other evidence in the case?

22 And I submit to you all the evidence in this case
23 matches or is consistent with what Shaniyah told -- Toney
24 told you this week.

25 We talked about the plan at, at [REDACTED] Green Street and

1 that the, the plan is for her to go and pick up Derrick
2 Curry at the McDonald's video. That's State's Exhibit 6 and
3 I'd like to show that to you right now to point out some
4 things.

5 Mr. Trin (phonetic), if you'll fast forward to where we
6 see Derrick Curry?

7 Can you see him?

8 I'm drawing your attention on State's Exhibit 6 to the
9 top right-hand corner. Here's Shaniyah Toney's car that she
10 told you about. That's Derrick Curry.

11 As I said, you'll have this back with you. You can
12 look at it as much as you want. But take a look. white
13 shirt and shorts. Looks like white -- she told you they
14 were Jordan shoes. He's got a backpack on his side.

15 Go ahead.

16 On his back.

17 (WHEREUPON, the video was played for the jury at this
18 time.)

19 SOLICITOR CHARBONNEAU: And then you see him pull out
20 in Shaniyah Toney's car.

21 Thank you.

22 So why is the McDonald's video so important to you?

23 Because it confirms what Shaniyah Toney told the police
24 days after the murder. She says that there was a plan in
25 motion, that she was to go and pick him up at McDonald's,

1 that she did pick him up at McDonald's and brought him back
2 to her house. All part of a plan with Dixon and Jackson.

3 This video confirms that she told you the truth. This
4 is surveillance video from McDonald's. This is not Shaniyah
5 Toney's video. This is from McDonald's. It confirms. It
6 tells you she was telling the truth.

7 How else do you know she was telling the truth?

8 Because Agent Sailer told you this morning, the cell
9 phone records, and, again, you will have those PowerPoints
10 in the back, and she mapped Derrick Curry's phone for you
11 separately and she mapped it with the two defendants'
12 phones. And she showed you his phone is at McDonald's in
13 the 2:30, 2:40PM time on April 3rd, 2019, all confirming
14 what Shaniyah Toney told us.

15 What else do we have to confirm what Shaniyah Toney
16 tells us for the next part?

17 She says that she brings him to her house, that the two
18 defendants are hiding in the closet, that they burst in.
19 They shoot Derrick Curry in the eye. He falls instantly
20 dead.

21 No, no defense. No words are spoken. Doesn't -- he's,
22 he's not able to defend that. He doesn't even know what's
23 happening. He's caught by surprise when they bust open the,
24 the closed door and that it's Denzell Jackson who shot
25 twice, the second time into the wall, and that Sha'kel Dixon

1 is ready to go. They both had gloves on and Sha'Keel Dixon
2 has a pink tote and the black trash bag, his gun on this
3 table.

4 How do we know it's true?

5 Again, we look to the other evidence to confirm whether
6 she was telling the truth days after the murder, and
7 Investigator Williams has this evidence months, weeks, years
8 after the evidence.

9 well, Derrick Curry's phone goes there. You saw him
10 again on the map. The, the -- Derrick Curry's phone is
11 traveling from the McDonald's to the Cornerstone, which is
12 the Nokesville Circle address.

13 what else do we know that confirms?

14 Is that Dixon and Jackson's phones are all overlapping
15 at the crime scene. They're all in the same place together.
16 These people are enemies. They are not traveling together.
17 Everyone told you they're not friends and there's a beef
18 going on.

19 Cordajiah Council told you they weren't friends.
20 Shaniyah Toney told you they weren't friends and there was a
21 beef going on. Investigator Williams told you there was a
22 beef going on and she also told you that, on the Facebook
23 account of Derrick Curry and Denzell Jackson, for over
24 months leading up to the murder day, there was hostile back
25 and forth between Denzell Jackson and Derrick Curry.

1 These three are not together on -- by Derrick Curry's
2 approval. He was set up and those phone show that all three
3 of them are in the same area together and that was brought
4 up with these enemies except to kill him and that's what
5 they did.

6 Shaniyah Toney tells us that there was no struggle,
7 that Derrick was surprised. He shot him and he's
8 immediately dead. Derrick -- Shaniyah Toney tells you that
9 he's dead.

10 So how do we know this?

11 There's no evidence of a struggle. When the police go
12 there some 10 days later, there's no evidence of a struggle
13 at the crime scene. There's no shots fired from the
14 victim's gun. We also know that these are enemies, and if
15 he knew that Dixon and Jackson were in the house, he's not
16 leaving his book bag with his gun in the car and his phone
17 in the car. But Shaniyah Toney told you that he left it in
18 the car.

19 There is -- the amount of blood at that scene 10 days
20 later, when the police realize and are found that it's the
21 scene and they get to go there, and, by consent to search,
22 work that scene, is so much that it has soaked through the
23 carpet, through the padding, and is on the concrete floor.
24 And you heard the forensic scientist this morning, Adrienne
25 Hefney, tell you that it was blood. Not some liquid. Not

1 some cleaning supplies. It was blood.

2 Investigator Williams told you that it was a
3 significant amount of blood. It was definitely traumatic
4 injury. Investigator Johnson, the man who testified the day
5 before about collecting all the evidence, he told you a
6 large quantity of blood and then the carpet is saturated,
7 saturated with Derrick Curry's blood. The absence of
8 evidence sometimes tells you just as much.

9 Now, Shaniyah Toney told you that Dixon and Jackson
10 were wearing gloves. She also told you that they had never
11 been to her house before.

12 what does that tell you?

13 We know there's no DNA from Dixon and Jackson in that
14 house.

15 why not?

16 Because the forensic scientist told you this morning,
17 you're wearing gloves, you're not gonna leave behind DNA.
18 So, they were smart enough or watch enough TV or movies to
19 know to wear gloves when they commit this murder and they
20 didn't leave DNA behind.

21 So, sometimes the lack of evidence or the, the fact
22 that the evidence is not there also tells you something.
23 Shaniyah Toney told you they were wearing gloves. There's
24 no DNA there. That's a match. And, again, the cell phone
25 records put the Defendant Dixon, the Defendant Jackson with

1 Derrick Curry at that crime scene at the same time.

2 Shaniyah Toney told you that Sha'Kel Dixon said to her,
3 after they kill Derrick, and now they are putting his body
4 in a pink tote, and she's standing there crying, Sha'Kel
5 Dixon said to her that she better stop crying or they're
6 gonna kill her too.

7 They. He used the words they. He didn't say Denzell
8 is gonna kill you. He said they because they are both
9 equally guilty of murdering Derrick Curry. They both acted
10 together. And when he said they, he meant himself and
11 Denzell. So, actually Sha'Kel Dixon's words to Shaniyah
12 Toney that day tells you today that he's guilty of murder.

13 She told you that when they put him in the pink tote
14 that he -- his body fit in the pink tote but his legs were
15 hanging out.

16 Look at State's Exhibit 1. He is a skinny guy. He can
17 fit into the pink tote and the investigators took pictures
18 for you and measured pink totes found in the garage. Those
19 are not pink totes -- the pink tote that they used. That
20 pink tote is gone with Derrick Curry's body. But those show
21 you that pink totes were available, they were there in the
22 garage, and they measure them so that you could see that a
23 skinny guy like Derrick Curry could fit into that with his
24 legs hanging out.

25 Shaniyah Toney told us that, when they put Derrick in

1 the pink tote, that Denzell backed her car into the garage,
2 closed the door, and that both Denzell Jackson and Sha'kel
3 Dixon carried that pink tote with Derrick Curry's body in
4 it, and put it in the trunk of the car.

5 she also told us that the three of them then went, with
6 Denzell driving her car, they then drove to Christian
7 Barnwell's house, remember that's the house across from
8 Dukes, Dukes Bar-B-Que with the dirt road, and then that
9 they pulled ahead to Barnwell and Bacon. And when they got
10 to the dirt road, Barnwell and Bacon are there with
11 Altashaun Bacon's Honda Prelude and they are waiting,
12 standing outside the car, waiting for the trans -- for the
13 transfer.

14 And what else did Shaniyah Toney tell you?

15 That when they got there, and they opened the trunk,
16 Barnwell says oh, shit because they can see Derrick Curry in
17 the pink tote and now Barnwell helps Dixon and Jackson carry
18 that pink tote from the white Toyota Avalon that's
19 Shaniyah's to the trunk of Altashaun Bacon's Honda Prelude.
20 They were laughing about it. They thought it was funny.
21 Denzell made a comment about using his body as a target.

22 Kel, at the time of the scene, picked up Derrick
23 Curry's eyeball off the floor and put -- they thought that
24 was funny.

25 Ladies and gentlemen, that's malice aforethought.

1 There's nothing colder.

2 How do you know Shaniyah Toney's telling the truth
3 about that part?

4 Again, the DNA evidence, the victim, Derrick Curry's
5 blood DNA, is in the trunk of both those cars. The forensic
6 scientist told you that this morning. Not cleaning
7 supplies, not water, not semen, not saliva. It was tested.
8 It was blood. It's -- and it's a single source.

9 It is Derrick Curry's blood in the trunk of Shaniyah
10 Toney's car. It's Derrick Curry's blood DNA on the floor at
11 the crime scene and it is Derrick Curry's blood in the trunk
12 of Altashaun Bacon's car.

13 The cell phone, the cell phones again -- now the cell
14 phones are three -- are driving them to Christian Barnwell's
15 house. Look at the PowerPoints. You'll see it for
16 yourself.

17 Shaniyah Toney tells us that they go back to Nokesville
18 Circle to clean up. They had cleaning supplies and then
19 they -- she has to get a shirt back at Barnwell's house
20 cause she had blood on her shirt and that Denzell Jackson
21 and Dixon drop her off in her car back to IHOP, that she's
22 very late for work. She was suppose to be there at 3:00 and
23 it's now after 5:00, that they drop her off and they take
24 her car and they leave her there.

25 Again, how do you know she's telling the truth?

1 Cause this case can be tried on one witness alone.
2 Shaniyah Toney, if you believe her credible without anything
3 else, they are guilty of all these crimes, both of them.

4 But how do you know -- how do you have that comfort to
5 know that they are guilty is because you compare it to the
6 other evidence in the case.

7 So, what else?

8 How do you know that Shaniyah Toney's telling you, you
9 the truth about them taking her to IHOP when she went to
10 work?

11 Morgan Blacks came in here, the general manager. She
12 told you Shaniyah Toney came late that day. She was suppose
13 to be there at 3:00. She called and didn't get there until
14 after 5:00.

15 what else did she tell you?

16 That she left after 11:00 and that she was at work.

17 what else do we have?

18 Investigator Williams told you that Shaniyah Toney's
19 records show that she connected to the IHOP WiFi for her
20 phone during that period when she was supposedly at work.
21 It's confirming she's at work.

22 what else do we have?

23 we have the cell phone records of Dixon and Jackson
24 traveling from Barnwell's house up to -- on the map it said
25 Aiken Mall area. But if you know Aiken County, IHOP is the

1 Aiken Mall area.

2 And when you look at State's Exhibit 11, these are the
3 highlights, this is the places you need to concentrate when
4 you're looking at the cell phone records still. McDonald's
5 is up here. This is State's 111 and then we have Christian
6 Barnwell's house below the crime scene. Cornerstone is the
7 Nokesville Circle area. Barnwell is slightly further down
8 on Whiskey Road. [REDACTED] Green Street is further south in New
9 Ellenton off of Whiskey Road and then Savannah River site is
10 hundreds of thousands of acres south of Aiken.

11 Shaniyah Toney tells us that both defendants pick her
12 up from work and bring her back to Christian Barnwell's
13 house, and that there is a fire going on, and they are
14 burning the evidence. Remember she had told us, when they
15 put Derrick Curry in the trunk of the car, they put a black
16 trash bag. When they went back to the crime scene for the
17 second time, there was a second black trash bag and that
18 left the house as well.

19 So now it's close to midnight. They're burning the
20 evidence at, you know, in the yard, in the dirt, at
21 Christian Barnwell's house and what else does she tell you?

22 That Denzell Jackson takes the steering wheel cover off
23 her car and burns that and that he's wiping down the car,
24 especially where he sat I believe were her words, and that
25 he threw the rags and everything in the, in the fire as

1 well. That's when Barnwell and Bacon are, I believe she
2 said, were there but definitely Jackson and Dixon and I
3 think she named another, another person call Turk was there.

4 Now, she tells you that she -- that Kenya Bush had
5 contacted her through Facebook Messenger while she was at
6 work.

7 Again, how do know all this is true?

8 well, Kenya Bush, the mother of Derrick Curry, told you
9 in her testimony that she starts reaching out to Shaniyah.
10 She doesn't know her. Contacting through Facebook. Starts
11 messaging her through Facebook asking where Derrick Curry is
12 and Shaniyah Toney's giving them the wrong, the run around
13 and giving her different answers as far as where she dropped
14 him off. And Shaniyah Toney tells you that, when she's at
15 Christian Barnwell's house at around midnight now when
16 they're burning the evidence, that Denzell and Sha'ke'l are
17 telling her what to say back to Kenya because they're mad at
18 her for responding to Kenya when she was at work.

19 So now they're telling her tell her this, tell her
20 that, and what did she tell you?

21 That they were reading her texts -- her, her messages
22 as she was texting back and forth with Kenya Bush.

23 well, what did Kenya Bush tell you because Shaniyah
24 Toney and Kenya Bush are strangers?

25 They don't know each other. Kenya Bush actually

1 corroborates what Shaniyah Toney told you. Kenya Bush got
2 on this stand in the murder of her son and told you that she
3 was reaching out to Shaniyah Toney and that Shaniyah Toney
4 had responded back to her after she said I'm gonna see him
5 after work or he's gonna pick me up after work. And that
6 when she was talking to him, that she -- that Kenya Bush
7 heard someone in the background.

8 She is confirming what Shaniyah Toney told you. This
9 is how the pieces of the puzzle fit together.

10 These people don't know each other. They're certainly
11 not friends. Shaniyah Toney is the part of the death of
12 her, her son. So, they actually corroborate one another
13 because their, their testimony matches what they said.

14 Shaniyah Toney tells you that Dixon and Jackson pick
15 her up from work, that Kel is holding Derrick Curry's gun,
16 that he said at the crime scene when they just murdered him
17 that he was keeping Derrick's stuff. He was keeping his
18 shoes and his gun and his backpack. And when she gets in
19 the car after 11:00, almost midnight from work, that Kel is
20 holding Derrick's gun and that he has his shoes and that his
21 back -- Derrick's backpack is there as well.

22 How do you know that's true?

23 Because we have Derrick Curry's gun found with State's
24 97. You'll see this a lot better than -- even on the --
25 these when you look at it close-up.

1 Derrick Curry's gun is in the same bag found under the
2 bed of Denzell Jackson when they do this search warrant at
3 █ Green Street. They're in the same bag, any guns.
4 Denzell Jackson's gun, the Glock 9-millimeter, is in the
5 same bag, the red bag that's in evidence, with Derrick
6 Curry's gun. They were keeping it -- his stuff as a trophy
7 and we found his stuff.

8 Take a close look at 97. When you get in the jury box,
9 you'll see.

10 Again, in addition to Kenya Bush corroborating Shaniyah
11 Toney, cell phone records, keep going to those cell phone
12 records. Those cell phone records are important because the
13 cell phone records are showing that these three phones are
14 traveling together.

15 Now, I'm not telling you that at five o'clock at night
16 that Derrick Curry's body is traveling with these defendants
17 any longer. We don't know what they did with Derrick
18 Curry's body but we do know they had his phone and they
19 pack -- he is their enemy.

20 So, when you look at those cell phone records, he's,
21 he's confirming over and over again that they are traveling
22 together, that they have taken Derrick Curry's body, they've
23 taken it somewhere, and, to this day, we don't know where,
24 but this is very critical. The Judge instructs you on the
25 law and he will not tell you that we have to have Derrick

1 Curry's body in order for you to convict them of murder.

2 No body doesn't mean they get a pass. They don't get
3 to get away with murder because Derrick's body -- Derrick
4 Curry's body has not been found. That's not the law. If
5 they're guilty of murder, and if Derrick is dead, end of
6 story. You don't have to have Derrick Curry's body in order
7 to find him guilty and it is not an element of the crime.

8 How else do we know that all three of guys, all four of
9 these guys are involved altogether?

10 State's Exhibit, State's Exhibit 93. Sha'Kel Dixon, on
11 his Facebook account on September 2nd, 24 hours after this
12 crime is finished, that's Sha'Kel Dixon sitting on Altashaun
13 Bacon's car in Christian Barnwell's backyard. Within 24
14 hours he's sitting on Altashaun Bacon's car.

15 Do you understand the significance of that?

16 He's sitting on the trunk of the car where Derrick body
17 trunk -- was in the trunk of that car.

18 We have the DNA of Denzell Jackson on that 9-millimeter
19 Glock found under his bed with Derrick Curry's gun as well.

20 Now, the firearm expert, Chad Smith, came in here and
21 he told you the defendant's gun was working, and it matches
22 as far as the type -- the projectile found in the wall is a
23 9-millimeter projectile. It has the correct rifling. It
24 came from the Glock gun. It came from a 9-millimeter and it
25 came from that new Gen barrel that he was talking about.

1 So, a newer gun.

2 He is not able to say, he told you, due to the damage
3 to the projectile that this is the exact gun but he was able
4 to tell you this is the type of gun. And I submit to you
5 that, that Shaniyah Toney told you that's the gun and she
6 ID'd it for you and it was found under his bed, that that
7 all ties -- that that is the murder weapon of Derrick Curry.

8 Shaniyah Toney voluntarily comes forward to the police,
9 and in the questions from defense counsels, they kept
10 harping on nine days, nine days, nine days.

11 It wasn't nine days. She leaves town on May 1st, 2019.
12 Remember the bonfire's happening after midnight. They're,
13 they're communicating with Kenya telling her what to, what
14 to say, and then Shaniyah's like I'm out of here, and she
15 leaves Aiken County and goes to Greenwood. Her boyfriend,
16 Elijah Sloan's, up there and that's where she goes.

17 By May 3rd Investigator Williams told you, May 3rd,
18 Shaniyah Toney has reached out to the Sheriff's office
19 through her attorney, Jerry Screen. They are coming
20 forward. We want to tell you what happened.

21 Now, is it nine days before they can take a recorded
22 statement?

23 Yes, that's where the nine days comes from. But it
24 didn't take her nine days to come forward and say I want to
25 tell you everything that happened including my involvement

1 and what I did and that's what you look at too.

2 She came forward and said -- she didn't say they did
3 everything, I did nothing. She told you. She was -- hired
4 a lawyer. She was in the movies left -- the night before.
5 She was the one who texted Derrick. She went and got him.
6 She was alone in her car when she went and got him. She
7 didn't warn him that this was happening. She told you all
8 of that. She was involved in this and she admitted it. She
9 owned it.

10 But she also told the police all that, and every time
11 they asked her for more information as the investigation
12 continued and the police had more information, she
13 voluntarily, she voluntarily answered their questions and
14 told them everything that she knew.

15 State's 2, 3, 4, and 5 are the photo lineups where she
16 picks out Denzell Jackson, Sha'kel Dixon, Christian
17 Barnwell, Altashaun Bacon. You heard the testimony of that.
18 You'll have this in the back as well.

19 She's known Sha'kel Dixon and Denzell Jackson for
20 years. She told you three or four years. There's no
21 question about who did this and then she knew Altashaun
22 Bacon. She had seen -- I'm sorry. Christian Barnwell. She
23 had been to his house for a numerous times and she had seen
24 Altashaun Bacon two or three times three.

25 And although she couldn't remember Altashaun Bacon's

1 legal name, she was able to pick him out of the photo
2 lineup. She was able to tell exactly what he did. It was
3 his car that the body went into and everything matched after
4 that.

5 The Judge is going to instruct you on another law of
6 reasonable doubt. Now, it's Ms. Hammack and I's
7 responsibility as the State to prove the elements of the
8 crime beyond a reasonable doubt and this is what the Judge
9 is going to say to you.

10 A reasonable doubt is the kind of doubt that would
11 cause a reasonable person to hesitate to act. Reasonable
12 doubt is proof that leaves you firmly convinced of the
13 defendant's guilt. There are very few things in this world
14 that we know with absolute certainty, and, in criminal
15 cases, the law does not require proof that overcomes every
16 possible doubt.

17 So, sometimes that's a hard concept to understand and
18 I'd like to give you an example. If you think of a famous
19 actor or actress that we may all know like Denzel Washington
20 or Jennifer Lopez.

21 Now, I ask you, is it possible, just possible, that
22 Denzel Washington can walk through that door and come and
23 watch this trial, that he's interested, he heard about this
24 trial and he wants to come?

25 Is it possible?

1 Sure. It's possible. He's a real human being. He's
2 alive. We know he shoots movies all over the world.
3 There's no reason to think that he couldn't come.

4 But is it reasonable?

5 Is it reasonable to believe that Denzel Washington is
6 gonna come to Aiken County, come to the courthouse to the
7 second floor, plop himself down and watch this trial?

8 No, it's not reasonable.

9 Why?

10 Because there's no evidence. There's no evidence to
11 prove that Denzel Jackson -- Washington knows anything about
12 this trial or even where Aiken County is on the map and
13 that's the difference between reasonable and possible cause
14 almost anything is possible. We need to prove it to you
15 beyond a reasonable doubt. That's the standard in a
16 criminal case.

17 Another thing that we see on TV and in movies is
18 motive. Human beings are a curious people. We want to know
19 why people do things and motive means that, why did somebody
20 do something.

21 In criminal cases, when the Judge reads the
22 instructions to you and the elements of the crime that we
23 need to prove to you, motive is not one of those elements.
24 We do not have to prove to you why Jackson and Dixon did
25 this.

1 Now, you know that they're not friends, and that
2 there's a beef going on, and that they've been arguing and
3 they're hostile to each other for several months. But why
4 they kill him you don't have to know and we don't have to
5 prove it. I know you want to know cause we're curious but
6 it's not an element of the crime.

7 So, you can not hold the State to proving to you why
8 they did it. You need to -- all we need to be held to is
9 did they do it, and, in this case, they did, and just to
10 reiterate, Cordajiah Council told you they were not friends.
11 Shaniyah Toney told you they were not friends and that there
12 was a beef between them.

13 Investigator Williams told you they were not friends.
14 There was -- they -- Dixon and Jackson were against Curry in
15 this hostile for months before on Facebook between Jackson
16 and Curry were actually Facebook communications that were
17 hostile and that these people who taught -- were on opposite
18 sides. Curry was not friends with then -- with Jackson and
19 Dixon.

20 Derrick Curry, he's dead.

21 How do you know that he's dead?

22 And, again, I don't have to bring his body in here. We
23 don't have to have his body. You don't have to have his
24 body.

25 But how do you get to that level of comfort that you

1 know that he's dead?

2 Let's look at it because these two are not getting a
3 pass because they buried that body really well. They don't
4 get a pass. So, let's look at the evidence so that you're
5 comfortable and you know that Derrick Curry is dead.

6 Eye witness testimony, number one. Shaniyah Toney was
7 there and she told you Derrick Curry was dead in that room.
8 That's key. Number one.

9 The amount of blood still at the scene 10 days later
10 when, when the investigators go there and work the scene,
11 the amount of blood that you saw and you can take in the
12 back on that carpet, the padding, and all the way down to
13 the concrete floor.

14 The blood evidence, it is the defendant's blood DNA.
15 He is the source of all that blood in that room according to
16 the forensic scientist DNA expert. The fatal shot to his
17 eye that burst his eye out was what Shaniyah Toney said.
18 The fact that the victim, Derrick Curry, is never heard from
19 or seen again.

20 That's big because what did Special Agent Schelble tell
21 you?

22 It's almost impossible to go off the grid now. If --
23 there's too much interpretive action between the world, that
24 she checked all databases. She's the missing person's
25 person. She is the one who looks for missing persons

1 nationwide.

2 She told you he didn't cross the border. He doesn't
3 have any footprints anywhere, anywhere, since April 30th,
4 2019. She had evidence to you as a live person before that
5 and he is not alive after that according to all her
6 databases and she named numerous things for you that she
7 checked and there was no sign of him.

8 She went as far as to check unidentified remains to see
9 if he matched any of those and he didn't and---

10 MR. THOMPSON: Objection, Your Honor.

11 THE COURT: Sir?

12 MR. THOMPSON: Your Honor, at this point in time I
13 would renew my earlier objection about burden shifting
14 arguments.

15 THE COURT: All right. You may proceed. It's noted.

16 SOLICITOR CHARBONNEAU: Thank you.

17 we have the cell phone records. I'm gonna harp on
18 those because they show you everything.

19 Derrick Curry's cell phone, last outgoing message or
20 any activity out from the phone, 1:01PM on April 30th,
21 2019. Never heard from again. Didn't call someone for a
22 ride. Didn't do anything. 1:01PM, the last time Derrick
23 Curry uses his phone out.

24 Incoming messages, we know his mother's calling him
25 numerous times. She told you that. All kinds of people are

1 calling looking for him. That's not what matters. What
2 matters is if he was using his phone outgoing and Special
3 Agent Sailer told you 1:01PM.

4 Investigator Williams told you 1:01PM. That's the last
5 time Derrick Curry uses his phone.

6 Special Agent Sailer told you the last time that phone
7 even pings where the carrier is looking for the phone,
8 9:03PM, the same day, April 30th, 2019.

9 what else?

10 We have Jackson and Dixon's phones traveling to all the
11 key places that you see on State's Exhibit 111 that all the
12 witnesses have testified, testified about, IHOP by the Aiken
13 Mall, [REDACTED] Green Street where Denzell Jackson lives, SRS
14 where maybe they buried his body, Cornerstone, which is
15 Nokesville Circle where the crime happens. All of those key
16 places these -- Jackson and Dixon's phones are about and
17 they're traveling with their enemy's phone, Derrick Curry.

18 Those are key elements to show you that he is dead.
19 Sha -- that Shaniyah Toney told you the truth.

20 Now, opposing counsel has asked some questions of the
21 witnesses that somehow we should believe that because there
22 was an outstanding active warrant on Derrick Curry that
23 somehow he's decided to go off the grid because of this
24 active warrant.

25 Well, number one, Investigator Williams told you she's

1 involved with that case and it was an active warrant for
2 months. Her words were several months.

3 So, ask yourself is it reasonable to believe that
4 Derrick Curry has just decided that he's going off the grid
5 on April 30th, 2019, on the same day that all of this
6 happens but he's gonna go, after several months of being
7 wanted by the police, all of a sudden this is the day he's
8 gone?

9 And I'm asking you, when you look at that McDonald's
10 video, and you see that 20 year old, skinny kid, getting
11 into the car with, in shorts and a book bag, does he look
12 like he's going off the grid?

13 That guy's going to have, have sex. That's where he's
14 going.

15 He's not going off the grid. He hasn't, he hasn't
16 packed everything. He doesn't have a passport. He doesn't
17 have anything.

18 And what else did Shaniyah Toney tell you?

19 That the defendants kept his stuff. They have his
20 phone, his gun, his book bag, his shoes.

21 So, by the other questions that opposing counsel wants
22 you to believe, it's either number one, that somehow,
23 because of this warrant, he's going off the grid, or that
24 somehow, April 30th, 2019, he just decides that's the day
25 he's gonna go and this is key. I know I'm saying a lot, but

1 if you don't hear anything I say, please hear this.

2 DNA -- blood DNA doesn't lie. Derrick Curry's blood,
3 DNA, confirmed by the expert who told you this morning it's
4 Derrick Curry's blood at that crime scene and in both those
5 trunks of the car.

6 So, is it reasonable to believe that Derrick Curry, on
7 April 30th, 2019, was fatally shot in the eye, that he was
8 put in a pink tote, that he was shoved in the trunk of
9 Shaniyah Toney's car, he was then transferred to Altashaun
10 Bacon's trunk of his car, and then what, the defendants
11 decide to let him go and, and now this 20 year old, with no
12 shoes, no gun, no book bag, and no firearm, he decides he's
13 gonna live a happy life somewhere else and he's going off
14 the grid?

15 That's not reasonable. That's absurd.

16 He was killed on April 30th, 2019. Life is over for
17 him. He is dead and they don't get to pass because they got
18 rid of that body.

19 Shaniyah Toney -- Shaniyah -- I'm sorry. Investigator
20 savanna williams followed the evidence in this case and now
21 I'm asking you to do the same. You have direct testimony.
22 You have corroborating evidence. You have physical
23 evidence. It is all before you.

24 She followed it and now you need to along with the eye
25 witness testimony. Both defendants, what you do is you look

1 at the evidence as it applies to Denzell Jackson. You look
2 at the evidence as it applies to Sha'Kel Dixon, and I'm
3 asking you to return a verdict of guilty against both of
4 them for all, all, all three charges that they have been
5 charged with.

6 Thank you.

7 THE COURT: All right. Just stand for a moment or two
8 please.

9 (Pause.)

10 THE COURT: We'll have you go to the jury room for
11 about five minutes. Please do not discuss the case.

12 (WHEREUPON, the following takes place outside the
13 presence of the jury.)

14 THE COURT: We'll take five minutes. Take five.

15 (WHEREUPON, a short recess was taken at this time.)

16 THE COURT: You can bring the jury.

17 (WHEREUPON, the following takes place within the
18 presence of the jury.)

19 THE COURT: Mr. Johnson.

20 MR. JOHNSON: Thank you, Your Honor.

21 May it please the Court.

22 THE COURT: Yes, sir.

23 MR. JOHNSON: No lawyers in this country have a higher
24 burden of proof that what you determine for the -- South
25 Carolina and it's that way for a reason, for a purpose, and

1 the wisdom of our founders, they determine that, in a
2 criminal case, cause so much is on the line, that the State
3 must prove their case beyond a reasonable doubt. Not just
4 speculation. Not just possibility. But beyond a reasonable
5 doubt.

6 I say that with great respect for this process that
7 I've dedicated my life to. We all have. But it's important
8 to keep that in mind in the context of sifting through the
9 various inconsistencies in this case.

10 So, we believe evidence matters and the lack of
11 evidence is the fatal flaw in this case. It's fatal to the
12 State's theory and I believe it's just that, a theory.

13 They have no idea what happened. And since we're
14 talking about theories, I believe Shaniyah Toney is covering
15 for somebody. Something happened that occurred but Shaniyah
16 Toney's behavior in the moment, which we'll go through,
17 tells you who has malice aforethought, who is willing to lie
18 to a young man's mother in the midst of knowing what she
19 did.

20 Her boyfriend's are on this car. I'll leave that at
21 that.

22 She went to go see him immediately after. I'll leave
23 that at that.

24 She stayed there for nine days. You can make your own
25 conclusions cause you're smart people. Common sense does

1 not leave us in these type of moments.

2 And so if it's unclear what happened, they're not
3 guilty. That may not sit right but that is our law.

4 Those are the principles that distinguish us from
5 China, from Russia, from North Korea, and it makes us
6 Americans. If their star witness is inconsistent with her
7 testimony, even under oath in front of all of us, that's on
8 the State of South Carolina because they called her as a
9 witness.

10 They built their case on the word of a liar. You don't
11 have to take my word for it. We're gonna read it.

12 And so, if the evidence doesn't line up, they haven't
13 to -- proven their case beyond a reasonable doubt and you
14 must hold them accountable for those inconsistencies. And I
15 don't say that in a flippant way because this young man and
16 this young man are depending on you to follow your oath that
17 you swore to on Monday.

18 And so her story doesn't make sense. She told you that
19 she went to work and was so distraught that she had to go in
20 the back and take a seat.

21 Remember that?

22 And she gave us some, some tears from the witness
23 stand.

24 But no more than five minutes after she left the
25 witness stand, a neutral, independent witness who has no dog

1 in the fight, was asked a question well, what was her
2 demeanor and she looked at me like I had three eyes because
3 she though -- she, she was fine. She stayed late because
4 she got there late. Nothing was wrong with her phone. She
5 called me.

6 This is what we saw in Court, complete contradictions.
7 Those two statements can not be reconciled. Someone is
8 lying. That young lady continued to lie even up until
9 Tuesday about these facts.

10 So, we're just suppose to gloss over there. That
11 doesn't matter.

12 Well, no, it does matter because it shows you the
13 character and the credibility of their witness.

14 She also stated, as I just said, that she didn't have
15 cell service. Never did she say I was on WiFi. That could
16 of been cleared up of when we got finished with questioning
17 miss Toney. The State of South Carolina didn't want to ask
18 her any more questions cause see we would have the -- or be
19 able to ask her even more questions. They wanted to get her
20 out of here and I wonder why.

21 Because if you're telling us the truth, as my
22 grandmother use to say, you only say it one time cause it's
23 the truth. I can stop you in the middle of a story and tell
24 you to tell me again, tell it the same way because it's the
25 truth. When you lie, you have to build your story with

1 multiple lies and that's what she did.

2 And they want you to believe her statement that these
3 young men told her you better stop crying or we're going to
4 kill you and then they allow her to go to work for six hours
5 where she had every opportunity to tell anyone who would
6 listen to call the police?

7 No, we're talking about logic. That is illogical. But
8 that's what she said because, in her story, she's always the
9 hero. Even when I asked the young lady did you do anything
10 wrong, she looked at me, in the presence of this young man's
11 family, and said oh, I didn't do anything wrong.

12 So, is her story even true?

13 What kind of person are they building their case upon
14 because this is a case that's not based on physical
15 evidence?

16 We heard from the experts. This is a case built upon
17 the word of one person, Shaniyah Toney.

18 Another lie, something that's illogical, and I try to
19 be a gentleman. That's how I was raised. But in this job I
20 have to say certain things that are not appropriate to say
21 in public.

22 But Shaniyah Toney testified that Mr. Curry went to the
23 restroom and put on a condom and then she said he came back
24 to the room with his pants on with the condom on.

25 Now, we're all adults. Never in life. That makes no

1 sense and I leave that there.

2 She also stated that there was a big fire at Christian
3 Barnwell's house but there's no evidence. The young man
4 lives across from what the State has kept referring to
5 because it's a pretty big landmark in that -- in Dukes
6 Bar-B-Que.

7 So, he burns all these items, they burn all these items
8 in the front yard, and the investigator, when I asked about
9 it, said there was no evidence of it. We all know that if
10 you're burning items, whether it's in dirt or on the grass
11 or even in a fireplace, there's gonna be some remnants.
12 There's gonna be something showing, corroborating. Once
13 again, makes no sense.

14 And, by the way, why would they burn all these items
15 and not burn the tote?

16 why would they burn all these items and leave a gun
17 under the bed and not throw that away?

18 Because see that's a red herring cause we know that the
19 gun did not match any projectile that was found at the home.
20 That was testified to. It was testified a Glock was a very,
21 very popular gun. I bet it would make some of us suspects
22 if that was the criteria but it's not.

23 And, yes, it did take her nine days to speak to the
24 police. They want you to believe that, on [REDACTED] [REDACTED], which
25 happens to be my birthday, that her lawyer called the police

1 and the police waited six days.

2 Now, I may be a defense attorney but I'm a decent
3 person, and I'm gonna tell you nothing in me believes that
4 the Aiken County Sheriff's Office would wait six days
5 knowing that there's an allegation that a young man is
6 missing and may be gravely hurt. That makes no sense.

7 She waited nine days and you know what she did in those
8 nine days?

9 She got her story straight.

10 why do you have to flee if you didn't do anything
11 wrong?

12 These boys didn't flee. He was arrested at his house,
13 with his family, and his nieces peacefully. I know that's
14 not my client but I care about him.

15 He turned hisself in. Didn't change his appearance.
16 went to the police. If you're looking for me, here I am
17 because I will have my day in Court. They didn't run like
18 she did.

19 Once again, when we're framing it in the context of
20 credibility, these things are important. It's not just
21 fluff.

22 But I think the most important thing that I'm gonna say
23 is that there are no records of any communication between
24 Shaniyah Toney and either of these men. Remember she said
25 that there was a plan and that it would be evidence on

1 Facebook Messenger. We all know what Facebook Messenger is.

2 So you are telling me, State of South Carolina, that
3 you subpoena hundreds of records from Facebook Corporation
4 in California, and they send a lot of records that they have
5 to share with us, and there's not one message between these
6 parties, not one. If there were one, you would have seen
7 it.

8 I introduced the messages between Ms. Bush and Shaniyah
9 Toney, Cordajiah Council and Shaniyah Toney.

10 So, are we suppose to make a logical leap that the
11 young lady is just lying about that but everything else is
12 fine?

13 Would you trust a person like that in your life?

14 If they had the communication that there was some
15 longstanding feud, do you not think that they would not
16 present this to you?

17 Why would they hold that back?

18 It's because it does not exist. It's because this is
19 what she came up with in the more than week and a half when
20 she was on the run. They can not get past the fact that she
21 says that they met up at my client's house and wanted to
22 plan this.

23 Where's the historical cell data of that?

24 Since we want to make a case about areas of seven
25 square miles or three square miles on Whiskey Road, one of

1 the most popular roads in Aiken, businesses are all around,
2 but we don't want to scrutinize the fact that there's
3 nothing to corroborate that she met with Denzell Jackson,
4 Sha'kel Dixon, and whomever that morning?

5 why didn't they talk about that?

6 Because there's no evidence of it. Because it didn't
7 happen.

8 we know young people and some not so young people love
9 social media. The record should be there.

10 I even asked well, is it possible for Denzell Jackson
11 to delete Shaniyah Toney's messages?

12 well no. And Shaniyah Toney told us that she didn't
13 delete any messages.

14 So we have messages from or Facebook records from
15 Denzell Jackson, Sha'kel Dixon, Derrick Curry, Shaniyah
16 Toney. No communication between Jackson and Toney. No
17 communication between Jackson and Curry.

18 This feud, so we're just suppose to make a logical
19 leap?

20 That's not the standard.

21 when you make the allegation that we have this plan,
22 you follow it through with proof.

23 She also wants you to believe that they killed this
24 young man in a subdivision and no one heard gunfire. No
25 one. This is not some rural a, a 5-acre lot. This is a

1 subdivision. Surveillance cameras around.

2 So a fundamental aspect of assessing her character is
3 can she prove the communication that she stands by?

4 No.

5 Now, there was no change in her demeanor when she went
6 to work. She was actually being very disrespectful to
7 Cordajiah Council when -- asking her a valid question. But
8 she wants to come into the courtroom and play this role to
9 keep her own self from having any consequences for her lies.

10 So, I believe once a liar always a liar. I believe
11 that in, in a case that's this serious, with this kind of
12 impact for young men, it can't just be I think she's telling
13 the truth. Even they say you have to assess her
14 credibility. You have to know that they got with the bad
15 water when you're talking about whether she is the person of
16 character and credibility that we're going to rest this
17 decision on, a permanent decision. We don't get to ignore
18 it.

19 So, maybe Mr. Curry's missing. I think something
20 happened to him. I'm not going to insult your intelligence.
21 But I think Shaniyah Toney knows exactly who walked in on
22 her cheating. No explanation.

23 It's an insult that they didn't arrest her. It is
24 closed. If you believe her story, she is the key piece in
25 the reason why Mr. Curry's not here if you believe her

1 story. See I don't trust Shaniyah Toney to tell me the
2 time. Certainly wouldn't make her the star witness in my
3 case.

4 She was allowed to get out of this whole thing by
5 inserting a name and not being pressured or followed up on
6 to provide proof of these communications. So what the State
7 is asking you to do is ignore her lies in the heat of the
8 moment.

9 So what is more reasonable?

10 Are you gonna tell the truth in the moment?

11 Are you gonna tell the truth when the bright lights are
12 and you had time to counsel, time to talk to your lawyer,
13 and time to figure out what makes sense?

14 Because see she sent these messages but she didn't know
15 anybody else was looking at them.

16 what they say about character is what are you doing
17 when nobody's looking?

18 It's easy to put on a show when the room is full.
19 That's easy. But going about your day doing the right thing
20 every -- they are trying your best to do so is a
21 character -- is good character. And when she didn't know
22 that this would be scrutinized, she said all kinds of
23 things.

24 She actually said to Ms. Bush I never said he was mad
25 about that. I don't know what he was mad about is what I

1 said, hon. Hon.

2 I don't know what your son and his homeboys have going
3 on but y'all need to leave me alone or I'm going to the
4 police cause I dropped your son off in the projects with
5 this white boy and went on my business. That's while she's
6 at work so distraught.

7 And when it -- when it says I'm going to the police,
8 I'm just questioning you because he had your car all day,
9 which he did. You're the only person that can contact him,
10 which is strange, family stuff.

11 There was no come to Jesus moment then and they want
12 you to believe that she has great character, that she tells
13 the truth, and that she's worthy of belief.

14 You remember when I was really, really grinding and
15 pressing down on her inconsistencies, she, she normally say
16 well, can you ask me that again? Can you ask me that
17 question again?

18 See, that's a tactic. Get more time. Like one -- it's
19 because, when you're telling the truth, you just reply to
20 the question. She heard my questions and then she said
21 well, this doesn't make sense and, and I said I agree. It
22 doesn't make sense.

23 She goes on to communicate with one of Mr. Curry's
24 friends that same night and she says yes, he still has my
25 car. He's suppose to come and get me when I get off.

1 why do you think he got pulled over?

2 I pray not cause I'm not gonna have a way home.

3 Completely opposite of what she testified to.

4 Completely opposite of. Not even close.

5 How do you pick and choose what to believe and what not
6 to believe in this case?

7 Reasonable doubt doesn't feel good. You're not gonna
8 walk out of here feeling like yeah, they're winners. There
9 are no winners in this case, none, regardless of what the
10 verdict is. But the -- oh, our Constitution, this great
11 country, this great state demands that you look at the
12 inconsistencies of her story and hold her accountable for
13 such.

14 She goes on to say why are y'all sending me threats?

15 I really don't understand. I dropped 60 off within --
16 with this white boy. He came to my job with -- so, she's
17 saying this guy came to the job with Mr. Curry. I been
18 calling him off my app phone number since I dropped him off.
19 I'm just as worried and scared as anybody else.

20 She goes on to say I will talk to the folks. I think
21 she was talking about the police. I will talk to the folks
22 if I have to prove to everybody. I don't know why 60's not
23 answering.

24 He seemed mad and the dude, I don't know who he was, my
25 passenger, see but he was sniffing when he came. And, yes,

1 but I honestly got in the back seat and I'm minding my
2 business. I told him to call y'all because everybody was
3 calling me cause he wasn't responding but he's grown. I
4 can't tell him what to do. He said he was going to before
5 he got out. So I said okay talking about calling his mom,
6 mother. That's why I called his mother before any of y'all
7 told her.

8 Don't worry. Y'all gonna be apologizing when the
9 police tell y'all because y'all are blaming me for no
10 reason. I'm just as scared cause I really dropped him off
11 with the boy and y'all are scaring me cause you're saying
12 he's missing.

13 Keep me updated. I'm gonna try to figure out who the
14 white boy is cause. GMF you. Don't know about what that
15 acronym, acronym means.

16 And then she gets a message from Cordajiah Council and
17 I think this is probably the worst insult of all that they
18 build their case on this person who has no moral compass.
19 None. And, in the moment, if she is to be believed, she
20 already knows this young man has passed away.

21 Now, I would submit she knows who did it and she's
22 trying to protect who did it cause she surely isn't trying
23 to protect these young men the way she came in and
24 testified. So she's trying to protect someone and, in the
25 midst of being asked if Mr. Curry has her car, she says yes,

1 he's driving my car and I'm at work because he dropped me
2 off.

3 Y'all scaring me cause that's my only damn car. WTF.
4 His homeboy hit me up saying that he had a lot of ice in the
5 back seat and hope he didn't get pulled over.

6 Then she says oh, yeah, pardon me, we fucked before he
7 dropped me off and he gives good head, sis, talking about
8 oral sex.

9 who does -- who does that?

10 Even the lowest person, if you believe her, this young
11 man has passed away and she is taunting his girlfriend and
12 this is their witness?

13 This is who the case is built on, the girl who runs
14 away for nine days and appears with a fancy lawyer who was
15 in here when she testified to make sure it went right.

16 So, as I said, once a liar always a liar. So I believe
17 they -- and then about the (indiscernible) prosecutor. This
18 is not personal. They're won -- wonderful. But they had to
19 make a deal with the devil.

20 How do they present this case and look you in the face
21 knowing that she's never spent a second, a day, a week in
22 jail and she had the nerve to tell us that she did nothing
23 wrong?

24 This is their witness and you have the awesome
25 responsibility of judging her character.

1 Let's talk about this DNA evidence. See, if the DNA
2 evidence was in their favor, it would be conclusive,
3 foolproof, and all those things that they don't want you to
4 it -- think about. But, because there's no DNA, somehow we
5 have to make another logical leap cause these boys are
6 presumed to be innocent, and because there's no DNA, they
7 must have cleaned it up.

8 Now, that makes no sense when you think about what
9 Miss Toney said when she was asked by me, cause I knew the
10 answer, did these young men wash your car. Is that what you
11 told the police?

12 Oh, no, they didn't wash my car. I washed my car in
13 Greenwood two days later.

14 who lives in Greenwood?

15 Her boyfriend.

16 So, you need to tell me that they are willing to ride
17 around in her car from six hours and trust her at work that
18 she's so trustworthy and not wash her car, not clean-up a
19 vehicle?

20 It makes no sense. They were never in her car. That's
21 why there's no DNA in her car. There's DNA of Mr. Curry in
22 her car because someone disposed of Mr. Curry in her car I
23 believe, someone that she cared about, someone who did not
24 expect her to be sleeping with another man since we're
25 throwing out theories but it makes sense cause that's where

1 she went to run to.

2 Because when you talk about we set this up the morning
3 of, it's gonna be on Facebook, I'm going back to it because
4 I don't want you to forget it, where are the messages?

5 we have a lot of phone data.

6 where's even a phone call?

7 You're gonna have those phone records. You won't see a
8 single communication between my client and Shaniyah Toney.
9 So, she could drop anybody's name in there as long as she
10 had her story together.

11 Here we are two years later. You heard about the
12 fingerprints. I believe fingerprints are strong evidence,
13 strong evidence. They're gonna tell you that well, they're
14 no prints because gloves were, were worn but you know what?

15 I asked Ms. Hefney this morning about the black glove
16 that she tested that gave my client -- I'll just -- no DNA
17 on Derrick Curry -- from Derrick Curry. No DNA from my
18 client.

19 So, the evidence does back up the fact that Denzell
20 Jackson had nothing to do with this. He didn't have a
21 problem with Derrick Curry. If they could prove it they
22 would have done so. They would have done so. That would of
23 been the first thing, in opening statement, this is a
24 message from April 15th. I'm gonna get you the next time
25 I see you.

1 why they don't have the proof, motive, we all have
2 common sense. People do things for reasons.

3 who would of been upset about Shaniyah Toney having sex
4 with somebody else?

5 Not him. Not him.

6 They're over 20 items of evidence seized from my
7 client's house because the police did their job. They're
8 suppose to get everything and sort it out. Nothing, not a
9 one thing is linked to any criminal conduct of Denzell
10 Jackson. Not one thing.

11 So, if you return a guilty verdict, you are returning a
12 guilty verdict on the basis of her statement alone. No
13 corroboration. I believe evidence matters.

14 Let's talk about the ballistics. Once again, they're
15 gonna make a big deal or they've already made a big deal
16 about a Glock being found under my client's bed.

17 what significance does that Glock have?

18 None.

19 The projectile did not match Mr. Curry's blood, skin
20 cells. Nothing was found on that gun. The gun was not even
21 eligible -- the gun was not even eligible to be in a CODIS
22 system, which is a database that you compare items to on
23 other cases.

24 what about the rifle?

25 There was no DNA profile that could be pulled from the

1 rifle. So when they talk about the guns, and they show you
2 the guns, and guns are scary to some of us, it's really just
3 a red herring in the case because, if the gun would have
4 been a murder weapon, they would have told you that more
5 times than you can imagine cause that's what a good
6 prosecutor will do. But it has no link to anything of
7 substance in this case.

8 See they're not allowed to speculate about a theory of
9 a case. Speculation is for the streets. Speculation is for
10 other avenues.

11 I'm proud to do what I do because it takes proof. It's
12 very serious. It takes pressure. But at the, but at the
13 end of the day, it's the only way we can guarantee, if we're
14 ever accused of a crime, that we will get a fair shot
15 regardless of where we come from, regardless of how we look.
16 Regardless of anything else, we'll get a fair shot. A fair
17 shot.

18 And I am not saying that nothing happened to Mr. Curry.
19 Please do not -- please do not take that. Please do not
20 think that there's anything disrespectful for what I am
21 saying. I am advocating for an innocent young man and
22 Shaniyah Toney knows exactly what happened to Derrick Curry.
23 That's why she didn't go to the police immediately because
24 she had to get it straight with the person who hurt him.

25 And so when we talk about the missing persons search,

1 once again, that's a red herring. Respectfully, Mr. Curry
2 didn't have much of a digital footprint before this
3 happened. I don't believe he was working. I don't believe
4 he had a bank account. You heard the testimony. I don't
5 believe he had any loans in his name or any of those things
6 that would follow us.

7 All right. He did have a warrant. It doesn't make him
8 a bad person. I'm a defense attorney. Sometimes people get
9 in trouble and sometimes they're innocent. But it is a
10 factor in the case. The young man had a warrant.

11 So, they can't say that, after April 30th, he'd gone
12 completely off the grid without honestly comparing before
13 April 30th. It's just reasonable. I'm not asking them to
14 do that's unreasonable and that's -- I'll get to the final
15 parts.

16 Let me just say this about the cell phone evidence.
17 It's not GPS. It's a three mile radius. I looked it up
18 this morning, maybe they'll tell me that I'm wrong, but
19 Aiken High School is 2.4 miles from here, 2.4 miles from
20 this courthouse is Aiken High School.

21 So are we responsible if someone who is in those
22 classrooms right now gets hurt because see that, that,
23 that's really what we're talking about. We're talking about
24 a radius. We're talking about a shaded area. We're talking
25 about cell phone signals.

1 So, that's, that's their strongest evidence?

2 Did they tell you what Mr. Curry's pattern was before
3 April 30th?

4 They could of pulled phone records for a month, and if
5 he would of never traveled south of whiskey Road, they might
6 have something. If this is completely abnormal, then it
7 would establish that well, yeah, okay, there's some smoke
8 here.

9 They give you a snapshot for one day. Remember, Mr.
10 Curry wanted to drive Miss Toney's car cause he didn't have
11 a car and even she said that. Yeah, the plan was for him to
12 drive my car.

13 No one from this witness stand contradicted that. No
14 one said no, he wasn't driving. So, that evidence certainly
15 doesn't trump the lies that Miss Toney said. It certainly
16 doesn't trump the fact that she said that we all plan to
17 meet and it, it was in writing. It doesn't.

18 Once again, they're not guilty. It's not gonna feel
19 good. It's not cause they deserve vindication but they also
20 deserved a real investigation based on the facts, not based
21 on the lying. You get the lying first and then you try to
22 corroborate the lies to post with all these facts that lead
23 to the right result, the just result.

24 So, I'm gonna say this in closing. I had to write it
25 down. The prosecutor might ask you why would she lie.

1 well, people lie to get out of trouble. They lie to
2 avoid consequences. We've all seen it in our lives.

3 She lied to the boy having to answer what really
4 happened between her and Derrick Curry and guess what?

5 It's worked so far.

6 For two years she's had the opportunity, the
7 opportunity to have freedom and enjoy her life, enjoy
8 Christmases and birthdays but her lie ends today. They
9 can't prove any communication between these young men with
10 Shaniyah or my client and Derrick Curry. It's the most
11 basic piece of evidence, the most basic -- the fundamental
12 piece of evidence.

13 When I got up here on Monday and stated we're gonna
14 agree on one thing in this case, and it was a bold
15 statement, but I knew the facts of the case. We're gonna
16 agree that Shaniyah Toney's a liar and that their case is
17 built upon her word, her word. Compare Shaniyah Toney and
18 her word to people in my life who have honor and integrity.

19 Don't have to be important to have honor and integrity.
20 Don't have to be rich to have honor and integrity. You just
21 say the right thing. You do the right thing. You don't
22 answer when the lawyer asked you did you do anything wrong
23 and you say no. You say no. She should of said yes, I did
24 the wrong thing. I'm trying to make it right. This is why
25 I did what I did. It's because she's continuing to try to

1 make herself look good cause she's covering for someone who
2 she really cares about.

3 So, her lie ends today. The most basic piece of
4 evidence in this case is missing. It's a fatal flaw.

5 I know why she went to Greenwood for a week. She would
6 have us believe that a young man, a teenager, who was 18,
7 didn't leave a trace of scientific evidence. I bet y'all's
8 DNA's all those bedsheets because that's the nature of it.
9 That's why they have these shows about it because it's
10 interesting, because it's true, because it's -- it, it sifts
11 away all the personality and you just look at the science
12 and the science in this case is clear. It's clear that
13 the -- my client had nothing to do with the death of Derrick
14 Curry.

15 So, not guilty is the only true verdict on all counts.
16 There is no kidnapping. He was never involved. The firearm
17 charge, he did not fire a weapon at anyone.

18 Someone fired a weapon at Derrick curry. They were
19 angry that he was in there with Shaniyah Toney. They were
20 hopped up on meth and it happened (indiscernible) and they
21 had to clean it up and now there we are, a 20 year old.

22 So, I'm taking him, him as far as I can. He's in your
23 hands now. Got to know him the last years and it's been my
24 honor to represent him in this most important day of his
25 life. My honor.

1 So, regardless of your verdict, I'm proud that I took a
2 hard case. I'm really proud that I took a case that we can
3 get the true facts. These people deserve the truth and the
4 truth is Shaniyah Toney is responsible for the death of
5 Derrick Curry. They did everything in her power to cover it
6 up. Please, please return a verdict of not guilty.

7 Thank you.

8 THE COURT: Ms. Charbonneau.

9 SOLICITOR CHARBONNEAU: Thank you.

10 I'm briefly going to respond to what Mr. Johnson told
11 you. This is my last chance to talk to you.

12 Opposing counsel would have you believe that somehow
13 Shaniyah Toney made all this up back in May, two years ago,
14 came over to the police, and, and she is this mastermind of
15 this huge coverup.

16 If you don't stop crying, we'll kill you. "Kill." Not
17 shoot. Kill. Even Den -- Sha'kel Dixon's own words prove
18 that they knew they killed Derrick Curry. That's the plan.
19 They executed the plan. Mission accomplished.

20 Investigator Williams told you that if Shaniyah Toney's
21 phone was not paid, as she testified to, that she could
22 still connect to WiFi. Shaniyah Toney told you that she
23 connected through WiFi. Kenya Bush told you that the
24 communications with her were through Facebook Messenger,
25 which you can connect through the WiFi, and you can make

1 calls as well as messages. All three of those verify what
2 Shaniyah told you.

3 In addition, Shaniyah Toney's Facebook records show
4 that she was connected to the WiFi at IHOP and then she can
5 also connect to the WiFi at Christian Barnwell's house. All
6 corroborated.

7 Mr. Johnson said that there was no evidence of fire
8 burning the evidence but that's not true because
9 Investigator Williams testified to you that when they did --
10 when she went to Christian Barnwell's house, she did say
11 where they had work -- there was a burned fire in the dirt
12 outside in the yard at Christian Barnwell's house. She
13 didn't find evidence in it but there was a fire there. So,
14 that was not accurate.

15 Mr. Johnson says why not throw the gun away.

16 why not throw the gun away?

17 Because, you know, Sha'Kel Dixon told Shaniyah Toney
18 that they're keeping Derrick's stuff.

19 He said he was keeping Derrick's gun and shoes and book
20 bag and phone and they did and how do we know that?

21 Because we end up with it because we find it because
22 the cell phone records, again, show you that Derrick's phone
23 is traveling with Dixon and Jackson. Not with Elijah Sloan,
24 the boyfriend, who's up in Greenwood.

25 Is that reasonable?

1 Absolutely not.

2 There's no evidence that Elijah Sloan is involved in
3 this at all. Elijah Sloan is in Greenwood and is the
4 boyfriend to Shaniyah Toney.

5 So, yes, his fingerprint is on her car. So is
6 Lieutenant Billy Flurry.

7 Is he a part of this?

8 Did Billy Flurry kill him?

9 Of course not. It's ridiculous.

10 How you know is because, number one, there's no
11 evidence of Billy Flurry being involved in this murder.
12 There's no evidence of Elijah Sloan being involved in this
13 murder.

14 Shaniyah Toney told you that Denzell Jackson wiped down
15 her car when they were at Barnwell's house. She also
16 admitted to you that she had washed that car when she was up
17 in Greenwood and Elijah Sloan is up in Greenwood. She
18 drives that car to the police station and Elijah Sloan's
19 fingerprints are on there.

20 He's her boyfriend. He's been in the car. That's what
21 she told you. That doesn't mean that he's involved in this.

22 Look at the evidence. Follow the evidence.

23 Investigator Williams followed the evidence. I'm asking you
24 to follow the evidence.

25 Why didn't they throw away the gun?

1 Cause they wanted to keep it. It was a trophy for what
2 they did. Remember these are two people that laid in wait,
3 tried to kill him the night before. They're hiding in a
4 closet waiting for Shaniyah Toney to bring him home.
5 They're ready with gloves on. They got a pink tote ready to
6 go, black trash bag, gloves on their hands, guns on them,
7 ready to kill this guy. They want to keep his stuff.
8 That's why they didn't throw away the gun because it's a
9 trophy.

10 How do we know that?

11 Because it's State's Exhibit 97. Again, look at it
12 closely when you go in the back. They have Derrick Curry,
13 the victim's gun, and it's right in the same bag with
14 Denzell Jackson's gun.

15 He's not throwing it away. He's proud. He's happy.
16 He's got this victim's gun. He thinks it's funny his, his
17 eyeball's on the floor. He's gonna use his body as a
18 target, his own words.

19 93, Sha'kel Dixon, 24 hours after Denzell Curry, or I'm
20 sorry, Derrick Curry's body is in the trunk of this car,
21 here's Sha'kel Dixon with a little smile, smirk on his face
22 sitting on the car that had Derrick Curry's body in it at
23 Christian Barnwell's house. Altashaun Bacon's car with
24 Derrick Curry's body in it less than 24 hours before.

25 They're happy. Mission accomplished. You get

1 trophies.

2 Mr. Johnson will say to you they didn't leave. They
3 thought they'd be innocent because they didn't leave. They
4 didn't leave because they were arrested May 3rd. Two days,
5 48 hours after this crime is finished they're arrested.
6 They had no chance to leave. And, again, they're cocky
7 about it.

8 They're gonna get away with it because you know why?

9 They have threatened Shaniyah Toney to keep her mouth
10 shut or they'll kill her too and they are acting together.
11 So they're not gonna give it up and they are counting on
12 Shaniyah Toney not giving it up.

13 Opposing counsel says there's no records of phone calls
14 between them. That's not true either. There are cell phone
15 records and you'll have them on May 1st after this. There
16 are calls between Denzell Jackson and Shaniyah Toney and
17 Sha'kel Dixon. They deleted the ones before.

18 Also, Investigator Williams told you that they were
19 Facebook records between Denzell Jackson and Derrick Curry
20 for several months leading up to this murder, hostile
21 disputes, not friends, aren't going, not favorable.

22 Cordajiah Council told you not friends. Shaniyah Toney
23 told you not friends. Beef between these two defendants and
24 the victim.

25 This -- opposing counsel says there's no messages

1 between Shaniyah Toney and Denzell Jackson on April 30th,
2 2019. That's right because they're together. They're
3 together when they trick Denzell -- Derrick Curry into going
4 to Nokesville Circle. They're together when he is murdered
5 at Nokesville Circle. They are together when they go to
6 Christian Barnwell's and they hand off his body to Bacon and
7 Barnwell. They are together when they go back to the crime
8 scene and they're cleaning it up. They're talking next to
9 each other in the same room.

10 No, there's no phone messages. They don't have to use
11 their phone cause they're together. And when they drop it
12 off at the -- at work, it's -- a big deal is being made
13 about Shaniyah Toney not calling the police. Well, she's at
14 IHOP.

15 Think about it. She even brought the messages that
16 Mr., that Mr. Johnson put into evidence. She is getting
17 pressured, called, and threatened. Denzell and, and Sha'kel
18 have threatened to kill her too. She has just watched a
19 brutal murder, murder. They are clearly capable of it.
20 And, on top of that, Kenya Bush and her family and Derrick's
21 friends are contacting her, calling her, Facebook messaging
22 her where's Derrick, where's Derrick, where's Derrick.
23 She's getting pressure from them. She's got pressure from
24 these two.

25 They have her car. They know where she lives. They

1 know where her family lives and they have threatened to kill
2 her if she doesn't keep her mouth shut.

3 So she keeps her mouth shut until she can get away and
4 she gets to Greenwood in the early morning hours now into
5 May 1st, 2019, and she is contacting the police through
6 Jerry Screen, her attorney, by May 3rd.

7 He doesn't like the timeline. She came forward. She
8 voluntarily gave statements. Opposing counsel makes a big
9 deal about Shaniyah Toney is lying on these messages to
10 these random people that she's talking to.

11 What matters to you, what matters to the family, what
12 matters to this case is did she ever lie to the police in
13 those statements that she gave, three statements, and then
14 she sat here in front of you. Investigator Williams told
15 you she was consistent in all three of those statements and
16 she was consistent in the testimony that she gave to you.

17 She didn't lie to the police. Every time they had more
18 questions for her she answered more questions. Nobody cares
19 what she says to random people to keep them away from her
20 cause she's terrified of the pressure. She's told you she
21 was scared. She told you she was terrified and she should
22 be. They just killed Derrick Curry in her house.

23 What Shaniyah Toney told the police days after the
24 murder, still in May, 2019, she has no idea what
25 Investigator Williams is capable of getting much -- weeks

1 and years after that. Two and a half years later, we have
2 cell phone records corroborating what she said in May, 2019.
3 We have physical evidence from this scene corroborating what
4 she said.

5 We have Derrick Curry's phone corroboration. We have
6 the victim, Derrick Curry's gun, in Denzell Jackson's house
7 under his bed.

8 How did she know all this in May 2019 that all this
9 evidence is gonna corroborate and gather what she says?

10 We have the DNA evidence that comes back. Denzell
11 Jackson's on the Glock gun in the same bag with Derrick,
12 Derrick Curry's gun.

13 Elijah Sloan did this?

14 How does he get the victim's gun?

15 How does he have the victim's gun if Elijah Sloan did
16 this?

17 It's a -- it's not reasonable. Follow the evidence.
18 Follow the scientific evidence that was presented to you.

19 If he had nothing to do with this, how does he have
20 Derrick Curry's gun?

21 Because he did it. Lieutenant Flurry didn't do it.
22 Elijah Sloan didn't do it. Don't chase that red herring.
23 Follow the evidence.

24 Mr. Johnson wants you to hate Shaniyah Toney, wants you
25 to hate that she wasn't arrested, and I told you before, and

1 I'm saying it again, listen to the law that the judge
2 instructs you. You are not to decide this case based upon
3 any type of bias, prejudice, or cause you dislike the fact
4 that she -- what she did or that she was not arrested. That
5 is not your decision and it's not a basis for your decision.

6 She is an eye witness. The police did not know where
7 this murder happened without Shaniyah Toney.

8 Is it a tough call that law enforcement had to make?

9 Absolutely. But it's the only call. Because without
10 Shaniyah Toney, we could not -- they would not have known to
11 go to Nokesville Circle for the crime scene.

12 Don't like it, hard pill to swallow, absolutely. But
13 it's not reason to not believe her. You're judging her
14 credibility and her truthfulness. Not whether she shouldn't
15 of been arrested or not. Another red herring not to follow.

16 Mr. Johnson brought up the fact that Shaniyah Toney was
17 telling Kenya Bush that she dropped Derrick Curry off at the
18 projects and maybe he went there or maybe he was riding
19 around in her car. You know that's not true because we have
20 victim's -- we have Derrick Curry's cell phone records and
21 they were a match for you. And Derrick Curry's phone never
22 went to the projects.

23 Again, did she tell the truth to the police?

24 Doesn't matter what she's saying to these people who
25 are pressuring and threatening her. What matters is, on May

1 3rd, when she contacts the police through her attorney and
2 they finally get to take a recorded statement from her on
3 May 9th, did she tell the police the truth and she did. She
4 told of her involvement and she told of Dixon and Jackson's
5 involvement along with Barnwell and Christian -- and Bacon.

6 Ask yourselves what motive does she have to set up or
7 frame these four gentlemen?

8 What motive?

9 There is none. There is no evidence of one. So,
10 again, not reasonable.

11 Cell phone records show Derrick Curry, Jackson, Dixon
12 together, together at the crime scene, together at
13 Barnwell's, together at Green Street, back at Barnwell. It
14 shows Dixon and Jackson's phones dropping Shaniyah off at
15 IHOP. Follow the phones. They tell the story.

16 Mr. Johnson is saying that the Glock 9-millimeter that
17 was found is not the, the kill gun, not the murder weapon.
18 You know that it is and this is how you know it because,
19 number one, it's found under Denzell Jackson's bed. Number
20 two, it's found with Victor -- with, with Derrick Curry's
21 gun, the victim.

22 The last time anyone hears or sees him is April 30th,
23 2019. That's how he gets the gun and he keeps his gun.
24 It's a trophy.

25 We have Denzell Jackson's DNA on the gun and it matches

1 the same type of gun that would have gone out with the, the
2 projectile found at -- in the hole in the wall at Shaniyah
3 Toney's house.

4 Could the expert say it was the gun?

5 No.

6 But who told you it was the gun?

7 Shaniyah Toney.

8 She ID'd that gun. It's in evidence. You will have it
9 in the back with you. Shaniyah Toney said that was the gun
10 and, years later, the DNA expert said that gun has Denzell
11 Jackson's DNA on it.

12 Mr. Johnson wants you to believe that the -- if the
13 cell phone radius, that somehow the high school is in our
14 cell phone radius, so that means something happened at the
15 high school that we're responsible for it, well, if you have
16 an eye witness that says that we have done something, then,
17 yes, we are responsible. That's not, that's not the case.

18 We have an eye witness testimony in this case and we
19 have corroborating evidence. Whether the high school is in
20 this radius has nothing to do with anything.

21 What other evidence do we have connecting Sha'Keel Dixon
22 specifically when he's saying that they're not related and
23 that they have nothing to do with this?

24 But we have Sha'Keel Dixon keeping the victim's gun. We
25 have Sha'Keel Dixon taking his shoes, taking his book bag,

1 and his phone.

2 And, again, how do you know this?

3 Because the victim's gun shows up in the search warrant
4 under Denzell Jackson's bed. So, they kept the gun as
5 ke1 -- Sha'ke1 Dixon said he was going to and we have, we
6 have him -- we have him on May 2nd sitting on the car of
7 Altashaun Bacon with Denzell -- where Derrick Curry's body
8 was within 20 -- less than 24 hours before.

9 You've heard all the testimony. Follow the evidence.
10 Look at all that evidence in the back. You judge Shaniyah
11 Toney's credibility. Not whether she should of been
12 arrested, not how reliable she is, that she wasn't arrested.
13 She was involved in this. She owned that part of it. She
14 told you what she did.

15 What's important is did she tell the truth and does it
16 match or is it consistent with the other evidence in this
17 case. It is and both of these defendants are guilty as
18 charged.

19 Thank you.

20 THE COURT: Let's stand for a moment.

21 Okay.

22 MR. THOMPSON: Your Honor, I hate to keeping asking you
23 this but do you mind if I go to the restroom?

24 THE COURT: I see folks standing around. It may mean
25 that some folks on the jury may need to use the facilities.

1 So we'll take five minutes. Please do not discuss the case.

2 (WHEREUPON, a short recess was taken at this time.)

3 THE COURT: Okay. You can bring them on.

4 (WHEREUPON, the following takes place within the
5 presence of the jury.)

6 THE COURT: Mr. Thompson.

7 MR. THOMPSON: Your Honor, may it please the Court?

8 THE COURT: Yes, sir.

9 MR. THOMPSON: Ms. Charbonneau. Ms. Hammack.

10 Y'all, I'm sorry. I know it's really, really late in
11 the day and I'm about to talk for just a little bit. I, I
12 know y'all's attention spans are probably saturated and I
13 will try to be as brief as possible but there's some of this
14 I kind of have to respond to.

15 I, I told you at the beginning this is a court of law.
16 It does have rules. The, the three biggest rules being
17 people are innocent until proven guilty. The practical
18 effect of that, when you guys go back into the jury room
19 when you start arguing about this case and start talking
20 about what, what your verdict is gonna be, the practical
21 application of that is that you have to assume that, that
22 both the defendants are not guilty.

23 You start this, this line of questioning from the
24 standpoint of they're not guilty unless they're proven
25 guilty, that the burden of proof is never, ever on the

1 defendant. The burden of proof is on the State, which,
2 which really means the defendants are on trial. But at the
3 same time, the State's case is also on trial.

4 whether you like one of the parties or don't like one
5 of the parties, whether you are, you know, frustrated or
6 turned off about certain actions or not turned off, you --
7 it doesn't really have anything to do with the fact that,
8 that innocent until proven, proven guilty and the burden of
9 proof, that the State has the burden of proof are the laws
10 of this case and the proof must be really strong.

11 It's actually in your legal system, beyond a reasonable
12 doubt, is the highest level of proof that we have. In a
13 civil case, you kind of have a 50/50 well, it's probably.
14 But, but, in a criminal case, the standard of proof is
15 beyond a reasonable doubt, which, which means, at the -- and
16 I hate to even say this. Even you think well, maybe they
17 probably are guilty, but they might not be, that's
18 reasonable doubt and you have to find them not guilty.

19 Just because you hear them accused over and over and
20 over again does not make them guilty. I, I, I know at this
21 point people have talked to you -- at, at you for a solid
22 hour and a half now about the, the guilt of the parties.
23 I -- just because they're told -- oh, you're guilty or
24 guilty does not make them guilty. It has to be based on
25 proof and evidence.

1 The prosecutor gets righteously indicant about things
2 that Mr. Dixon says and she quotes things that Mr. Dixon --
3 he said this. That's just terrible.

4 She's not quoting Mr. Dixon. She's quoting Miss Toney.
5 Mr. Dixon has not taken the witness stand. You haven't
6 heard anything from him. There are no recordings of
7 anything Mr. Dixon said. His words are not part of this
8 case but you heard about it over and over and over again
9 because of what Miss Toney says. And, and I want to -- I
10 told you to begin with Miss Toney's testimony, if -- unless
11 you find Miss Toney's testimony to be believable beyond a
12 reasonable doubt, the only verdict in this case is not
13 guilty.

14 I mean she says all kinds of crazy stuff. I, I -- I'm,
15 I'm gonna give you an example. Where's the -- this is gonna
16 go back in the room with you.

17 The State's talked all over the place about how this is
18 Derrick Curry's gun and it's just terrible that this gun is
19 found in, in Mr. Jackson's home. This is Derrick Curry's
20 gun.

21 who says?

22 who says that?

23 It was sent to SLED and tested.

24 who's the only person that says this is Derrick Curry's
25 gun?

1 It's Miss Toney. There's no evidence, other evidence,
2 that this is Derrick Curry's gun other than what Miss Toney
3 says.

4 This gun was identified in the courtroom to you as
5 being the gun that was used to kill Derrick Curry.

6 By who?

7 Miss Toney.

8 I didn't -- I can't remember whether it was me or
9 whether it was Mr. Johnson but I am -- think I asked her
10 does she know anything about guns?

11 No.

12 How did she identify that as Mr. Jackson's gun?

13 well, it's a, a, a black handle.

14 Ladies and gentlemen, swing a cat, there's probably
15 half a dozen people in this room that have black handguns.
16 This -- that, that whole testimony is not based on evidence.
17 She doesn't know anything other than I can testify it's a
18 black handgun, and I'm presented with a black handgun, and,
19 and I've been told here anytime the prosecutor asked me
20 anything yes, ma'am, yes, ma'am yes, ma'am.

21 So, she identifies the gun as being the murder weapon.
22 There's no other evidence of this. Even the SLED guy comes
23 and testifies he can't match the gun to the projectile
24 that's in Miss Toney's room. The evidence, it's the same
25 kind of handgun. But on cross-examination he admits it's

1 the same kind of handgun as the world's most popular
2 handgun. Millions of these things in circulation.

3 Again I, I -- I'm probably -- I bet you there's about
4 six in this general area that own one of these Glock
5 9-millimeter handguns. She can't possibly know this. Even
6 if she was trying to tell the truth, which it is an eloquent
7 question, but they made a big deal about how oh, this is
8 terrible, that Mr. Curry's that -- and I don't, I don't mean
9 to be speaking ill of the probably dead. Mr. Curry's not
10 this insanely wonderful figure that's, that's where is he
11 suppose to come and fix the carpet in his mother's house.

12 This is a guy, even by their own testimony, is walking
13 around with semiautomatic rifles with -- the day before,
14 large amounts of crystal methamphetamine in Miss Toney's
15 car.

16 Madam Clerk, could I, could I have -- I believe it's
17 State's No. 67.

18 what does this prove?

19 Absolutely nothing.

20 watch the McDonald's video.

21 what color is the bag that Mr. Curry allegedly gets in
22 Miss Toney's car?

23 what, what color is that bag?

24 It's not red.

25 why is this in evidence?

1 It's just a bag. It, it barely means anything.

2 The only reason why it gets entered is because it's got
3 allegedly Derrick Curry's gun, and Mr. Jackson's gun, and
4 then it is found in Mr. Jackson's bedroom. This is just a
5 piece of luggage that's in Mr. Jackson's home. It has
6 nothing at all to do with this case. Watch the video.

7 In, in this -- this begs the question that I talked to
8 you about when we -- when I, when I opened in this case
9 about there are things that the -- there are things that the
10 physical evidence actually means and things that it doesn't.

11 Okay. Things that we can know from the evidence that's
12 presented in this case and things that we can't. And just
13 because -- just because someone says oh, that must be --
14 that's a, that's a semiautomatic rifle, that must be Derrick
15 Curry's rifle that's in Mr. Jackson's home.

16 These are people that are seeing what they're looking
17 for. They're, they're not actually asking questions of
18 whether this logically makes any sense at all.

19 She made a big deal about how oh, gosh, again Mr. --
20 Miss Toney to be talking with anybody while she's at, at, at
21 IHOP. She's been threatened.

22 The only person she's being threatened by is Mr. Curry's
23 family. The -- also find this whole conversation that's
24 kind of gone back and forth between about Miss Curry's phone
25 records -- not Miss Curry. Miss Toney's phone records is

1 odd. The prosecution wants to say well, she can make phone
2 calls because she's on WiFi.

3 But when she calls into work she's not on WiFi. She's
4 allegedly driving in the car. She's, she's not, she's not
5 somewhere calling into work late. As she's going into work,
6 she's calling him on the phone. This is just not true
7 but -- and the -- and not technically possible. I can give
8 you all the benefits to it I guess.

9 The phone evidence, all these people live and, and have
10 their lives based in South Aiken in -- in the South Aiken
11 and New Ellenton areas. The fact is they're all staying in
12 the, staying in the South Aiken and New Ellenton, in New
13 Ellenton areas is not surprising. In fact, it's, it's
14 frankly to be expected.

15 These phones -- you're, you're gonna get these phone
16 records and there's gonna be dots all over them. But I
17 would strongly encourage you to -- most of the dots are just
18 places that the, the, I don't know what kind of expert to
19 call her, but the phone data presentation expert, the
20 (indiscernible). She has to put the, the text that she
21 wants to put about the picture, she has to put it somewhere.
22 And so it looks like it comes from a specific point but it's
23 not coming from a specific point.

24 These shaded areas are several square miles in area.
25 I'm, I'm probably standing in the same what would be a

1 shaded square area right here as I would be if I was getting
2 coffee over at Blue Moon or if I was down at the South
3 Carolina Department of Motor Vehicles. I would argue with
4 you you could have somebody at Blue Moon, somebody here in
5 this courthouse, and somebody at the Department of Motor
6 Vehicles, and they might actually show up on one of these
7 shaded areas all at the same time and not be any where close
8 to each other and frankly might be more than a mile apart at
9 the time.

10 Mr. Dixon's DNA is no where in this story whatsoever.
11 I, I don't know why that ends up somehow being incriminating
12 evidence against the fact that his DNA's not there. But
13 what you really, I think at the end the day, what you're
14 really left with is if -- you either believe Miss Toney
15 beyond a reasonable doubt or you find these people not
16 guilty and she, she said some weird stuff.

17 In her testimony, there's this, this terrible, in her
18 story, this terrible murder that she set up. Only her
19 testimony is she doesn't know it's gonna happen. That
20 just -- that's just not true.

21 She meets -- she voluntarily met with the police to
22 tell them her story. Yeah, she voluntarily met with the
23 police to tell her story. She's being shepherded and, and
24 corrected and reminded what she's doing. But she's not
25 being interrogated.

1 She's had a chance to discuss all this and, and
2 harmonize it and come up with a story that fits the facts
3 that are known at the time and then she talks to the police.
4 The police get more facts. Some of these facts don't
5 necessarily completely jive with the first story she told.
6 So they got her in and she has to redo it again.

7 There's no purpose in her meeting with the police
8 multiple times if she actually tells the truth the first
9 time she's, she's said anything. There's no -- please don't
10 be fooled by that. There is no point in them talking with
11 her about another story if she tells them the truth the
12 first time.

13 She's met with them at least five times. It's, it's
14 not an accident that she can get up on the stand yes, ma'am,
15 no, ma'am, yes, ma'am, yes, ma'am. It's not an accident
16 that she is just spot on that and that she can tell this
17 story in amazing detail. That's not an accident.

18 She's practiced this. She's been confronted with, I
19 forget the exact phrase, furthers facts. We discovered
20 further facts and the fact to her -- had to talk with her
21 about it. This, this story has made -- it has been
22 modulated to fit the facts that they're able to, to uncover.
23 I mean except for some of the new ones. They're pieces of
24 this story that haven't even been investigated because
25 there's some stuff she came up with literally on the witness

1 stand this week.

2 This, this story about her being at the side and being
3 sprayed with blood to the point where she had to go change
4 her shirt, if I remember her having to go change her shirt
5 so that she could go to work, which -- okay. The door is
6 here. The bed is over there. The -- Mr. Curry is, in her
7 story, sitting on the bed. She gets up and goes to the
8 left-hand side of the room. The people come and shoot Mr.
9 Curry and his blood doesn't go that way.

10 It comes this way, which other than stretching the laws
11 of physics, even if that were true, if she had told the
12 police that, do you think Investigator Johnson would have
13 tested that side of the room?

14 Sure he would have.

15 But he wasn't told that, which is why he didn't test
16 for that. He was told to go look for something and he found
17 what he was looking for.

18 He was also told about this plastic tote. It, it still
19 boggles your mind as to why they find this pink, plastic
20 tote with some kind of goo in the bottom of it. They got
21 pictures of it and they don't test it. That's just odd.

22 But the reason why you don't have that test is cause it
23 doesn't fit, it doesn't fit Miss Toney's story. There's
24 also no tracking of coming back to the house to bring the
25 tote back or anything even if that is the -- I, I get lost

1 as to exactly what her testimony is with -- from day-to-day.
2 I'm not real sure whether she says that's a tote or not.

3 But even if it wasn't, if you were going to thoroughly
4 investigate the case, case, you'd at least test it. They
5 don't get her phone records, which is odd in the extreme.
6 They have, they have had information that she's suppose to
7 have been in the dead center of all this stuff that's
8 happened for over two years and they never not one time give
9 us any cell tower records that are tracking her phone.

10 That's either odd or I, I mean -- I don't want to argue
11 that maybe that doesn't support their case but that's just
12 strange. They -- how did they come up with Mr. Sloan's
13 name?

14 The only reason why we know about this Mr. Sloan is
15 cause his fingerprints are in the car. When they process
16 this car, they find -- they don't find Sha'kel Dixon's
17 fingerprints in the car. They don't find Mr. Jackson's
18 fingerprints in the car. They find the police officer who
19 drove the car there and Mr. Sloan.

20 They don't do anything with that information at all.
21 They don't track him. They don't get any phone records from
22 him. They don't even do DNA standard to see if he's it --
23 you'll -- if you'll remember the DNA lady's testimony, she,
24 with possibly one exception, she never says any of the DNA
25 is one person's DNA. It's a mixture.

1 Is it a mixture of Mr. Curry and Mr. Sloan's DNA?

2 We don't know. They haven't got standards from him.

3 Is it a mixture of Mr. Curry and Miss Toney's DNA?

4 We don't know. The -- I -- I'm not aware of whether it
5 came from her either.

6 Beg your patience for just a second?

7 I'm gonna try to skip ahead. One second.

8 (Pause.)

9 MR. THOMPSON: In her story, Mr. Dixon and Mr. Jackson
10 rushed into the room and Mr. Jackson's holding a gun and Mr.
11 Dixon bursts into the room holding this big plastic tote.

12 Now, if any of that happened, and I'm arguing it
13 didn't, but if any of that happened, that's not the way it
14 happened. He doesn't jump into the room carrying the
15 plastic bucket. That's just not true. Common sense will
16 tell you that is just not true.

17 Mr. Curry is a dude who carries around an assault rifle
18 in a backpack (indiscernible) in relation to -- at least
19 have a theory that the backpack's probably got drugs in it.

20 But he leaves his gun and his phone in his bag in the
21 car when he goes into this house that he's never been in
22 before?

23 Does that sound true to you?

24 There's this plot to kill Mr. Curry. Miss Toney, the
25 day before, she saves Mr. Curry. Doesn't get into this and

1 helps him getaway and then the next day sets this whole
2 thing up.

3 Does that sound true to you?

4 I think it's relatively clear Miss Toney's testimony,
5 if not outright lies, is, at best, not completely truthful,
6 at best -- it's incredibly self-serving and biased. She has
7 all the reason in the world to lie.

8 why would she do that?

9 Because unless she tells this story, she's a defendant
10 in this case. She better come up with something good cause,
11 if she doesn't, she's liable to be charged with murder.

12 She's incredibly biased. At least half of her story
13 doesn't even sound true which leaves you with the question
14 of is the forensic evidence in the case, if, if, if you
15 decide Miss Curry's, not Miss Curry, Miss Toney's testimony
16 is that credible, it leaves you with does the forensic
17 evidence alone, in this case, does it alone prove the guilt
18 of the defendant.

19 I can answer that question. It doesn't. No, it
20 doesn't and you should find him not guilty.

21 Thank you for your attention.

22 THE COURT: Madam Foreperson, and members of the jury,
23 you've heard the testimony and evidence and the arguments of
24 the State and each defendant. I will now explain to you the
25 law that applies to this case.

1 Under the Constitution and laws of South Carolina, you
2 are the finders of the facts in this case. I do not have
3 the right to pass upon the facts or even to express any
4 opinion that I might have as to them because this is a
5 matter solely for you, the jury, to determine. As jurors,
6 now it is your duty to determine the effect, the value, and
7 the weight of the evidence presented during this trial.

8 As the trial judge, it is my responsibility to preside
9 over the trial of this case and I also have the duty to rule
10 upon or pass upon the admissibility of the, of the evidence
11 offered during this trial. You are to consider only the
12 testimony which has been presented from this witness stand
13 together with any exhibits which have been made a part of
14 the record and any stipulations of counsel that were made.

15 I have the additional duty to charge you the law
16 applicable to this case, and, as the presiding judge, I am
17 the sole judge of the law of this case. It is your duty as
18 jurors to accept and apply the law as I now state it to you
19 and deliberate in an effort to reach your verdict. And,
20 finally, I charge you in this regard that you should not be
21 concerned with what you think the law ought to be but what I
22 charge you that the law is.

23 You're also the judges, the sole judges, of the
24 credibility, that is the believability, of the witnesses who
25 have testified and of the evidence, evidence which has been

1 offered in this case.

2 In passing upon credibility, you may take into
3 consideration many things such as the demeanor or manner of
4 testifying, whether the witness had reason to be biased or
5 prejudiced, whether the testimony of a witness was
6 contradicted on the one hand or supported and corroborated
7 on the other hand. You may believe a small portion of the
8 testimony of a witness and disregard the larger or vice
9 versa. You may believe one witness against many or many
10 against one.

11 All these things you will consider bearing in mind that
12 you should give the defendants the benefit of any reasonable
13 doubt. It becomes your duty as jurors to analyze and to
14 evaluate the evidence and determine that evidence which
15 convinces you of its truth.

16 Now normally a person can not give opinion testimony.
17 When a person testifies, they must generally testify as to
18 what they either saw, heard, or sensed, or smelled, or
19 something of that nature. However, there is an exception
20 when a -- someone is qualified because of education or
21 experience. They are permitted to give their opinion in
22 certain areas if the Court qualifies them in that way to
23 give opinion testimony in that area. That does not mean
24 that you must accept the opinion but it is evidence for you
25 to use in any way you see fit and give it the weight and

1 credibility you believe is appropriate.

2 I instruct you and emphasize that the fact that a
3 defendant did not testify is not a factor to be considered
4 by you in any way in your deliberations and in your
5 consideration on the question of the guilt or the innocence
6 of the defendant. It must not be considered by you in any
7 manner whatsoever. Each defendant has a constitutional
8 right to remain silent and the assertion of this right must
9 not be considered by you in your deliberations.

10 I repeat, under your oath, you are to draw no
11 conclusions whatsoever from the fact that a defendant did
12 not testify. The fact that a defendant did not testify
13 should not even be discussed, excuse me, in the jury room.

14 The burden of proof, as I have stated to you, is on the
15 state. A defendant is not required to prove their innocence
16 or his or her innocence. The burden of proof remains on the
17 state to prove guilt beyond a reasonable doubt.

18 There are two types of evidence which are generally
19 presented during a trial, direct evidence and circumstantial
20 evidence.

21 Direct evidence directly proves the existence of a fact
22 and does not require deduction.

23 Circumstantial evidence is proof of a chain of facts
24 and circumstances indicating the existence of a fact.
25 Crimes may be proven by circumstantial evidence. The law

1 makes no distinction between the weight or value to be given
2 either direct or circumstantial evidence. However, to the
3 extent the State relies on circumstantial evidence, the
4 circumstances must be consistent with each other, and when
5 taken together, point conclusively to the guilt of the
6 accused beyond a reasonable doubt.

7 If these circumstances merely portray the behavior of a
8 defendant as suspicious, the proof has failed. The State
9 has the burden of proving each defendant is guilty beyond a
10 reasonable doubt. The burden rests with the State
11 regardless of whether the State relies on direct evidence,
12 circumstantial evidence, or some combination of the two.
13 The fact that the defendants were arrested, charged, and
14 indicted is not evidence and can not be considered by you as
15 evidence of guilt nor does it create any presumption or
16 inference of guilt.

17 These indictments are simply the formal written
18 instruments which contains the charges -- which contain the
19 charges made against each defendant. The indictments are
20 the formal documents by which these cases are brought into
21 Court.

22 Each defendant has pled not guilty to each of these
23 indictments and that plea puts the burden on the State to
24 prove the defendants guilty.

25 A person charged with committing a criminal offense in

1 South Carolina is never required to prove himself innocent.
2 I charge you that it is an important rule of the law that a
3 defendant in a criminal trial, no matter what the
4 seriousness of the charge may be, will always be presumed to
5 be innocent of the crime for which the indictment was issued
6 unless guilt has been proven by evidence satisfying you of
7 that guilt beyond a reasonable doubt.

8 This presumption of innocence does end when you begin
9 your deliberations but it accompanies a defendant throughout
10 the trial until you reach a verdict of guilt based on
11 evidence satisfying you of that guilt beyond a reasonable
12 doubt. The presumption of innocence is like a robe of
13 righteousness placed about the shoulders of a defendant
14 which remains with the defendant until it has been stripped
15 from a defendant by evidence satisfying you of the guilt of
16 that defendant beyond a reasonable doubt.

17 The presumption of innocence is not a mere legal
18 theory. It's not just a legal phrase. It is a substantial
19 right to which every defendant is entitled unless you, the
20 jury, are satisfied from the evidence of the guilt of the
21 defendant beyond a reasonable doubt.

22 The State must prove the defendant guilty beyond a
23 reasonable doubt and that relates to each defendant.

24 So what is a reasonable doubt in the law?

25 A reasonable doubt is a doubt which makes a reasonable,

1 honest, sincere, conscientious juror to hesitate to act.
2 Proof beyond a reasonable doubt must therefore be proof of
3 such a convincing character that a reasonable person would
4 not hesitate to rely and act upon it in the most important
5 of his or her own affairs. Proof beyond a reasonable doubt
6 can also be described as proof that leaves you firmly
7 convinced of the guilt of the defendants.

8 Now, there are very few things in this world that we
9 know with absolute certainty, and, in a criminal case, the
10 law does not require proof that overcomes every possible
11 doubt. If, based on your consideration of the evidence, you
12 are firmly convinced that a defendant is guilty of a crime
13 charged, you must find him guilty. On -- if, on the other
14 hand, you think there's a real possibility that he's not
15 guilty, you must then give him the benefit of the doubt and
16 find him not guilty.

17 The indictments allege three different offenses against
18 each defendant. The charges are kidnapping, murder, and
19 possession of a weapon during the commission of a violent
20 crime.

21 Each indictment charges a separate and distinct
22 offense. You must decide each indictment separately,
23 separately on the evidence and the law applicable to it
24 uninfluenced by your decision as to any other indictment. A
25 defendant may be convicted or acquitted on any or all of the

1 offenses charged. You'll be asked to write a separate
2 verdict of guilty or not guilty for each indictment against
3 each defendant.

4 Each defendant is charged with kidnapping. The State
5 must prove, beyond a reasonable doubt, that a defendant
6 knowingly and unlawfully seized, confined, inveigled,
7 decoyed, kidnapped, abducted, or carried away another person
8 without authority of law.

9 To do a thing unlawfully is to do it willfully against
10 the law. Knowingly means with knowledge, consciously, not
11 accidentally. Seize means to take hold of suddenly or
12 forcibly. Confine means to limit, restrict, or enclose
13 within bounds, imprison, shut, or keep in. Inveigle means
14 to lure, entice, or lead astray by false representations,
15 promises, or other deceitful means. Decoy means to lure by
16 or as if by decoy and decoy is something to entice a person
17 into a trap. Kidnap is to remove a person against his or
18 her will by unlawful force or by fraud. Abduct means to
19 carry out secretly by force for an illegal purpose. Carry
20 means to remove.

21 The State does not have to prove that a defendant did
22 all of these things. Instead, if you find, beyond a
23 reasonable doubt, that a defendant did any of these things,
24 you may find a defendant guilty of kidnapping.

25 Something is done without authority of law if it is

1 something which is -- the law does not sanction, admit,
2 allow, condone, or provide justification for. The
3 kidnapping does not have to be for any personal or monetary
4 gain or any illegal purpose but it may be for any reason
5 whatsoever.

6 Each defendant is charged with murder of Derrick Curry.
7 The State must prove, beyond a reasonable doubt, that a
8 defendant killed Derrick Curry with malice aforethought.

9 Malice is hatred, ill will, or hostility towards
10 another person. It is the intentional doing of a wrongful
11 act without just cause or excuse and with an intent to
12 inflict an injury or under circumstances that the law would
13 infer an evil intent.

14 Malice aforethought does not require that malice exist
15 for any particular time before the act is committed but
16 malice must exist in the mind of a defendant just before and
17 at the time the act is committed. Therefore, there must be
18 a combination of the previous evil intent and the act.

19 Malice aforethought may be expressed or inferred.
20 These terms express and inferred do not mean different kinds
21 of malice but merely the manner in which the malice may be
22 shown to exist by direct evidence or by inference, inference
23 from the facts and circumstances which are proven.

24 Express malice is shown when a person speaks words
25 which are -- toward another or when the person -- where a

1 person speaks words which express hatred or ill will for
2 another or when the person prepared beforehand to do the act
3 which was later accomplished. For example, lying in wait
4 for a person or any other acts of preparation going to show
5 that the deed was in the minds of the defendant would be
6 expressed malice. Malice may be inferred from conduct
7 showing a total disregard for human life.

8 Each defendant is charged with possession of a weapon
9 during the commission of a violent crime. The State must
10 prove, beyond a reasonable doubt, that a defendant was in
11 possession of a weapon during the commission of a violent
12 crime.

13 A weapon is any article or instrument which is likely
14 to cause death or great bodily harm. Whether an instrument
15 has been used as a deadly weapon depends on the facts and
16 circumstances of each case.

17 In order to find a defendant guilty of possession of a
18 weapon during the commission of a violent crime you must
19 find a defendant guilty of committing a violent crime.
20 Murder and kidnapping are violent crimes.

21 The State must prove, beyond a reasonable doubt, that
22 the weapon further advanced or helped in the commission of
23 the crime charged. If a person -- if a crime, I'm sorry, if
24 a crime is committed by two or more people who are acting
25 together in committing a crime, the act of one is the act of

1 all.

2 A person who joins with another to commit an unlawful
3 act is criminally responsible for everything done by the
4 other person which happens as a probable or natural
5 consequence of the acts done in carrying out the common plan
6 and purpose. If two or more people are acting together,
7 together acting together, assisting each other in committing
8 the offense, the act of one is the act of all, or as it is
9 sometimes said, the hand of one is the hand of all.

10 Prior knowledge that a crime is going to be committed
11 without more is not sufficient to make a person guilty of
12 that crime. Mere knowledge that another person is going to
13 commit a crime, even if a defendant is present when the
14 crime is committed, is not sufficient to convict a defendant
15 as a principal.

16 Guilt as a principal is shown by actual or constructive
17 presence at the scene as a result of prior arrangement.
18 Therefore, a finding of a prior plan or a common scheme is
19 necessary for a finding of guilt as a principal. The State
20 must prove, beyond a reasonable doubt, by competent evidence
21 the theory of the hand of one is the hand of all.

22 A principal in a crime is one who either actually
23 commits the crime or who is present aiding, abetting, or
24 assisting in committing the crime. When a person does an
25 act under presence and with the assistance of another, the

1 act is done by both. Where two or more acting with a common
2 plan or intent are present at the commission of a crime, it
3 does not matter who actually commits the crime. All are
4 guilty. The hand of one is the hand of all.

5 Present at the commission of a crime means to be
6 sufficiently near to aid, and abet, and assist in the
7 commission of the crime. However, mere presence at the
8 scene of a crime is not sufficient to convict one as a
9 principal on the theory of aiding and abetting.

10 Intent is also a necessary element for there must have
11 been a common design or intent to commit the crime and a
12 crime must have been committed pursuant thereto with the
13 person aiding and abetting by some overt act.

14 Intent means intending the result which actually
15 occurs. Not accidentally or involuntary. Intent may be
16 shown by acts and conducts of a defendant and other
17 circumstances from which you may naturally and reasonably
18 infer intent. The State must prove these elements beyond a
19 reasonable doubt.

20 An issue in this case is the identification of the
21 defendants as the persons who committed the crimes alleged
22 or crimes charged. The State has the burden of proving
23 identity beyond a reasonable doubt. You must be satisfied,
24 beyond a reasonable doubt, of the accuracy of the
25 identification of a defendant as the person who committed

1 the crime or crimes charged before you may convict a
2 defendant.

3 Identification can be proven by direct evidence,
4 circumstantial evidence, or a combination of the both -- of
5 both. If, after examining the evidence, you have a
6 reasonable doubt as to the accuracy of the identification of
7 a defendant, you must find that defendant not guilty.

8 I charge you that there are two defendants in this case
9 each of whom is charged with murder, kidnapping, and
10 possession of a weapon during a violent crime. The case
11 against each defendant and the evidence and the law
12 concerning that defendant should be considered separately
13 and individually.

14 You verdict does not have to be the same for both
15 defendants. The fact that you may find one defendant guilty
16 or not guilty on a particular indictment should not control
17 your verdict as to the other defendant. Where more than one
18 person is charged with a crime, if the evidence, evidence
19 warrants it, you may convict one and acquit the other or you
20 may convict both. It will depend upon your view of the
21 testimony and evidence. You must take each defendant and
22 consider the evidence as to that defendant and my
23 instructions to you on the law. You would have to write a
24 separate verdict of guilty or not guilty for each individual
25 defendant on each indictment.

1 Now, while the arguments of counsel are a beneficial
2 part of every trial, you should remember that the statements
3 made by counsel are not evidence. In presenting their
4 arguments, counsel often referred to the evidence. However,
5 you should base your verdict on the evidence as you remember
6 it. If there are any conflicts between the recollection of
7 counsel about the evidence and your own recollection, you
8 should rely on your own understanding of the evidence.

9 Madam Foreperson, and members of the jury, I'm required
10 to charge you the law as I have done through these
11 instructions now being given to help guide you to a just and
12 lawful verdict. Whether some of these instructions will
13 apply will depend upon what you find to be the facts. The
14 fact that I have instructed you on various subjects must not
15 be considered as indicating an opinion of this Court as to
16 what you should find to be the facts or what your verdict
17 should be.

18 Now, you've been chosen and sworn to give the parties a
19 fair and impartial trial. When you've done so, you will
20 have complied with your oath and no one will have the right
21 to criticize your verdict. You must not be influenced by
22 opinions or expressions of opinions you may have heard
23 outside the courtroom but rather should base your verdict
24 solely on the testimony of the sworn witnesses who took the
25 stand, the exhibits received into evidence, and the law

1 which I have stated.

2 You should not be swayed by caprice, passion,
3 prejudice, or improper sympathy for or against anyone.
4 Remember you have no friends to reward or enemies to punish
5 and all parties are entitled to a fair and impartial trial.

6 It is your duty as jurors to consult with one another
7 and to deliberate in an effort to reach an agreement. Each
8 of you must decide this case for yourself but only after
9 impartial consideration of all of the evidence with your
10 fellow jurors.

11 In the course of your deliberations, do not hesitate to
12 reexamine your own views and change your opinion if you
13 become convinced it is erroneous. However, do not surrender
14 your honest conviction as to the weight or effect of the
15 evidence solely because of the opinion in your -- of your
16 fellow jurors or for the mere purpose of returning a
17 verdict. As I stated earlier, you are the judges, judges of
18 the facts.

19 Your verdict must represent the considered judgment of
20 each juror. In other words, your verdict must be unanimous.

21 And you may have noticed that I have read these
22 instructions. I do so to give you the law as accurately as
23 possible. I will give you a copy of these instructions to
24 have in the jury room. You may refer to these instructions
25 to assist you in your deliberations. You must consider the

1 instructions as a whole and may not follow some and ignore
2 others.

3 Madam Foreperson, it will be your duty to preside over
4 the deliberations of the jury. If, during your
5 deliberations, you should desire to communicate with the
6 Court, please reduce your message or question to writing
7 signed by your fore -- foreperson and the foreperson only
8 and pass the note to a bailiff who will bring it to my
9 attention. I will then respond as promptly as possible
10 either in writing or by having you return to the courtroom.
11 I caution you, however, with regard to any message or
12 question you might send that you should never state or
13 specify your numerical division at the time.

14 Now, you've heard the evidence and you've heard the
15 law. Whatever your verdict, Madam Foreperson, you will
16 indicate the verdict on the back of each indictment and then
17 sign and date the verdict. Each indictment has a place that
18 the word verdict is written to write not guilty or guilty
19 then sign and date.

20 Remember that although the foreperson is the only
21 per -- juror who writes the verdict, it is not hers alone.
22 The verdict has to be unanimous.

23 And, Madam Forelady, you're not authorized to write
24 your verdict until all of you have agreed on the verdict.

25 Now, ladies and gentlemen, I'll now send you to your

1 jury room but do not begin deliberations until you have
2 received a copy of this jury charge, the indictments, and
3 the exhibits. Once you receive these things, that will be
4 your signal to begin your deliberations.

5 We've taken the liberty of ordering food, more food for
6 you and you can eat and deliberate or whichever way you
7 prefer to handle that situation. But once you begin
8 deliberations, you will deliberate until you have reached
9 a verdict at which time you will knock on the door, advise
10 the bailiff, and we will bring you out to receive your
11 verdict.

12 So, we've selected 14 jurors but we can only use 12.
13 So, from the first 12 jurors that -- any of you, out of the
14 first 12, can not continue with deliberations, please raise
15 your hand and that way we'll use one of the two alternates
16 or both of the alternates. If you have any problems
17 continuing with deliberations, let me know by raising your
18 hand.

19 (WHEREUPON, there was no response.)

20 THE COURT: All right. All jurors seem to be in good
21 shape. So, you-all please go to the jury room and the
22 alternates will remain with us after they leave.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: Are there any additions or corrections to

1 the charge?

2 SOLICITOR CHARBONNEAU: None from the State, Your
3 Honor.

4 MR. JOHNSON: None on behalf of Mr. Jackson.

5 MR. THOMPSON: Your Honor, I have, I have no additions
6 or subtractions to the charge or objections to the charge.
7 I would, at this time, move nunc pro tunc to renew my motion
8 for directed verdict and all my previous motions and
9 objections in the trial.

10 THE COURT: All right.

11 MR. JOHNSON: We join in that.

12 THE COURT: Yes, and, and those -- they -- all of that
13 was properly noted at the appropriate time during the trial
14 and I indicated that we'd take it all up.

15 MR. THOMPSON: Yes, sir.

16 THE COURT: And obviously, if, if I deny the motion at
17 the end of the State's case and the defendant did present
18 any defense, then it wouldn't be -- there'd be no difference
19 in my ruling.

20 MR. THOMPSON: Yes, sir.

21 THE COURT: So we noted it for the record and, at this
22 time, I deny those motions.

23 MR. THOMPSON: Yes, sir. Thank you, Your Honor.

24 THE COURT: All right. So we have all of the -- check
25 the exhibits and see if they're ready to go.

1 SOLICITOR CHARBONNEAU: Your Honor, will you send us a
2 copy of the jury instructions?

3 THE COURT: I will. I have it. I don't mind doing so.

4 SOLICITOR CHARBONNEAU: Thank you.

5 MR. THOMPSON: Your Honor, do you still require the
6 defendants in the courtroom or --?

7 THE COURT: No, they can go back.

8 (WHEREUPON, the alternate jurors were dismissed at this
9 time.)

10 THE COURT: And where is the -- where are -- where's
11 the -- where are the exhibits?

12 SOLICITOR CHARBONNEAU: They took them back to the
13 jury.

14 (WHEREUPON, the jury began deliberations at 5:40PM and
15 returned with a verdict at 8:02PM.)

16 THE COURT: I understand that there's a verdict. So
17 bring in the jury.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE COURT: And, Madam Forelady, if you'll stand for
21 me?

22 (WHEREUPON, the forelady complies.)

23 THE COURT: Have you reached a verdict?

24 THE FORELADY: We have, Your Honor.

25 THE COURT: Is it unanimous?

1 THE FORELADY: It is.

2 THE COURT: Okay. If you'll pass it up and you may be
3 seated.

4 (WHEREUPON, the forelady complies.)

5 THE COURT: The defendant will rise. Defendants will
6 rise.

7 (WHEREUPON, the Defendants comply.)

8 THE CLERK: Your Honor, Case 29 -- 2019-GS-020-02017,
9 State versus Sha'Kel Rakeem Dixon, indictment for possession
10 of a weapon during a violent crime, the verdict of the jury
11 is guilty.

12 2019-GS-02-02016, State versus Sha'Kel Rakeem Dixon,
13 indictment for murder, verdict of the jury is guilty.

14 Indictment 2019-GS-02-02018, the State versus Sha'Kel
15 Rakeem Dixon, indictment for kidnapping, the verdict of the
16 jury is guilty.

17 Indictment 2019-GS-02-02084, State versus Denzell
18 Deshawn Jackson, indictment for possession of a weapon
19 during a violent crime, the verdict of the jury is guilty.

20 Case 2019-GS-02-02082, the State versus Denzell Deshawn
21 Jackson, indictment for murder, the verdict of the jury is
22 guilty.

23 Case 2019-GS-02-02083, State versus Denzell Deshawn
24 Jackson, indictment for kidnapping, the verdict of the jury
25 is guilty.

1 Madam Forelady, and ladies and gentlemen of the jury,
2 if this is your verdict, please signify by raising your
3 right-hand.

4 (WHEREUPON, all jurors raise their hands at this time.)

5 THE CLERK: All hands are raised, Your Honor.

6 THE COURT: Any additional individual polling
7 requested?

8 MR. JOHNSON: No, sir, Your Honor.

9 MR. THOMPSON: No, Your Honor.

10 THE COURT: Any posttrial motions?

11 MR. THOMPSON: Your Honor, we would move for a new
12 trial.

13 THE COURT: Mr. Johnson.

14 MR. JOHNSON: We join in that request, Your Honor.

15 THE COURT: The case was thoroughly contested over a
16 span of four days, four full days. The issues were issues
17 for the jury to determine. Particularly the issue, the
18 issue of credibility of witness -- witnesses as well as the
19 credibility of the evidence. The verdict -- the verdicts on
20 each and every one of those cases are supported by the
21 evidence. I respectfully deny the motions.

22 MR. THOMPSON: And, Your Honor, at this time, just to
23 preserve the record, I would go ahead and renew all prior
24 motions and, and, and objections.

25 THE COURT: All right.

1 MR. JOHNSON: And I'll join in that as well.

2 THE COURT: And all that's noted for the record and
3 y'all may be seated.

4 MR. JOHNSON: Thank you, Your Honor.

5 THE COURT: Noted and denied.

6 MR. THOMPSON: Thank you, Your Honor.

7 (WHEREUPON, the jury panel was dismissed at this time.)

8 THE COURT: Mr. -- can you-all stop the forelady?

9 THE BAILIFF: Yes, sir.

10 THE COURT: If you'll just be seated somewhere.

11 It's, it's my practice to speak with the foreperson
12 after the verdict's rendered.

13 Before speaking with you, however, I'll address
14 everyone else here, with regard to sentencing, I'm thinking
15 that, as far as the schedule tomorrow, what all do we have?

16 THE CLERK: Your Honor, I think we have four probation
17 violations. We have three pleas and I think only one of
18 those seven cases is an person. The rest is all by remote.

19 THE COURT: Ms. Hammock.

20 SOLICITOR HAMMACK: The only issue is going to be
21 transport in the morning. It's my understanding from
22 Lieutenant Callahan we would not be able to begin remote
23 hearings until all in person bail matters have concluded and
24 they've been able to go back to the jail.

25 Is that correct, lieutenant?

1 THE OFFICER: Yes.

2 THE COURT: So, if we do sentencing at 10:00 and then
3 you can do the transport as we -- as we're dealing with in
4 person matters?

5 THE OFFICER: Yes, do the sentencing first. When you
6 start the street, we'll have time to go back and set up.

7 THE COURT: All right.

8 THE CLERK: That's what I was gonna ask.

9 THE COURT: All right. So we're going to hear from the
10 parties with regard to sentencing at -- beginning at ten
11 o'clock tomorrow morning.

12 we're gonna have the family of the victims leave first
13 now and the, and the defendants will wait five minutes.

14 (Pause.)

15 THE COURT: Aside from waiting five minutes for the
16 family of the defendant to leave, we'll otherwise be in
17 recess until tomorrow morning at 10:00.

18 Madam Forelady, if you'd come back?

19

20 (WHEREUPON, Court was in recess for the evening.)

21

22

23

24

25

1 Friday, August 20th, 2021

2

3 THE COURT: Morning.

4 All right. We're going to proceed with sentencing for
5 Mr. Jackson.

6 From the State.

7 SOLICITOR CHARBONNEAU: Yes, Your Honor.

8 May it please the Court.

9 Your Honor, just for -- a, a couple of highlights as
10 far as I know that you've obviously heard all the testimony.

11 Both Mr. Jackson and Mr. Dixon felt that this was a
12 laughing matter. They took Derrick Curry's body and they
13 threw it away like a piece of garbage by putting it in that
14 pink tote, and then taking it and transferring it while
15 they're laughing about it from one trunk to the other trunk.
16 Laughing about it again when they meet up with Codefendants
17 Barnwell and Bacon.

18 They thought it was funny that his eyeball was on the
19 floor when they picked it up. They threatened Shaniyah
20 Toney to shut up and stop crying or they would kill her too.

21 That shows the callousness, the coldness of this murder
22 in addition to the planning that went into this murder. The
23 attempt the night before that didn't happen shows
24 premeditation, the thought process between the two of them
25 in trying to carry this out. It shows the egregious

1 behavior of both Jackson and Dixon.

2 Mr. Jackson, his prior record is just 2018 reckless
3 driving. However, he has numerous charges pending.

4 He has December 21st, 2020, after this murder, he has
5 a malicious injury to the jail where he broke a phone
6 receiver. On December 21st, 2020, he has an assault and
7 battery by mob third degree after this murder while he was
8 in the jail when he and five others beat up or -- Robert
9 Badger resulting in bodily injury.

10 He has, prior to this murder, he has a pending murder
11 case. That happened on November 28th, 2018, and he has
12 the following charges:

13 Discharging a firearm into a dwelling at [REDACTED] Peak
14 Drive.

15 He has possession of a weapon during a violent crime
16 from November 28th, 2018, to commit the murder for attempted
17 murder.

18 11/28/2018 he's charged with the murder with malice
19 aforethought of Travis Young. Travis Young is the uncle to
20 Derrick Curry, the victim in this case.

21 He has a charge of November 28th, 2018, the attempted
22 murder of Dejon Simpkins by shooting at him. He has
23 possession of a weapon during a violent crime. Oh, I'm
24 sorry.

25 Possession with intent to distribute a controlled

1 substance. That happened on December 10th, 2017. That's
2 still pending. Possession with intent to distribute,
3 December 10th, 2017. Trafficking in methamphetamine
4 December 10th, 2017.

5 Since this murder---

6 THE COURT: Was he on bond?

7 SOLICITOR CHARBONNEAU: He was on bond for those drug
8 cases.

9 THE COURT: I mean the murder charge, the other murder
10 case.

11 SOLICITOR CHARBONNEAU: No, what happened with that is
12 he was just charged with, as well as the older murder, he
13 was just arrested on that December, 2020.

14 THE COURT: Okay.

15 SOLICITOR CHARBONNEAU: So after he was already in jail
16 on this murder case.

17 Sent -- in addition to the assault and battery third
18 degree that happened since he's been in jail for this
19 pending murder charge, also three weeks ago Denzell Jackson
20 started a riot in the C pod. They had to lock down and
21 close everybody out. They -- he instigated that entire
22 thing.

23 Based on the facts and circumstances of this case, and
24 of his behavior, and his attitude, and his cold and
25 calculated and premeditation of all this, the state is

1 asking for life.

2 Kenya Bush, the victim, the victim's mother, you may
3 know -- remember, Your Honor, he -- she has been here for
4 every single hearing on all four defendants' cases and every
5 time she comes she asks where is her son and she's asking
6 again today.

7 She's asking Your Honor to sentence them to the
8 maximum. She doesn't feel like she has the emotional
9 ability to speak to you this morning. But she's asking you
10 to ask them again where her son is so that she can bury her
11 son. Two and a half years she's been asking.

12 Based on law enforcement, they are also asking for a
13 life sentence and Deborah Duncan, Derrick Curry's
14 grandmother, is here and she would like to address the Court
15 when you are ready.

16 THE COURT: Okay. I'm ready now.

17 MRS. DUNBAR: My name is Deborah Dunbar, D-U-N-B-A-R.
18 I am here. I am the grandmother and I'm here supporting
19 Kenya. Kenya has gone through, through a lot of struggles,
20 sleepless nights, can't stay home alone many times. She
21 have gotten various, numerous leads on where -- through the
22 streets on where he might have been.

23 She, his granddaddy, and one of her brothers would go
24 everywhere they thought someone would tell them and they
25 thought he was there looking for him. There were one, one

1 time we were out and she felt that they would find him
2 across from my house and she said I bet you Derrick's over
3 there. She, his granddaddy, and her brother they went over
4 there searching cause she thought it might of been him.

5 One thing that she would want to, to, to really want to
6 know if they would, in fact, tell her is where he is and
7 what they done with him. And if you would, she wrote a
8 note. She wrote something for me to read and this is from
9 Kenya.

10 She said this has taken a toll on, on my life. I've
11 been a hospice worker for over 20 years helping others in
12 their time of grief. I often feel guilty not being with my
13 son when he took his final breath and not being able to give
14 him the proper burial.

15 Your Honor, I ask for the maximum.

16 THE COURT: All right. Thank you.

17 SOLICITOR CHARBONNEAU: And, Your Honor, lastly, from
18 the State---

19 THE COURT: And where is law enforcement that searched
20 for the body?

21 I noticed from some of the exhibits of Savannah River
22 site, about here, about there. It just has---

23 SOLICITOR CHARBONNEAU: There's been several searches
24 in Savannah River site properties. It's hundreds of -- if
25 not thousands of acres. There's been attempts at Savannah

1 River site and where the launch -- boat launching area is.
2 There were cadaver dogs that went out. They spent all day
3 in this Houston Loop area that Investigator Williams talked
4 about in Jackson area. Whenever there's a viable lead, they
5 have attempted to locate him.

6 THE COURT: Okay. And how many law enforcement man
7 hours do you think have been spent in pursuit of attempting
8 to locate his body?

9 SOLICITOR CHARBONNEAU: That I, I can not---

10 THE OFFICER: Since 2019, Your Honor.

11 THE COURT: Since 2019?

12 THE OFFICER: Yes, sir, ever since the case happened.
13 As I told his mother this morning, we will not stop
14 continuing to look for him.

15 THE COURT: All right. Thank you.

16 SOLICITOR CHARBONNEAU: And, Judge, just lastly on the
17 kidnapping charge, under State v. Burk -- Vick, although it
18 is a conviction, I don't believe that he is to be sentenced
19 because he's being sentenced for a murder charge.

20 THE COURT: State v. Vick?

21 SOLICITOR CHARBONNEAU: State v. Vick. It's -- the
22 cite is 384 S.C. 189, June, 2009. And although the
23 kidnapping charge is a conviction, my understanding is that
24 they would not receive a sentence for it.

25 THE COURT: Uh-huh. (Affirmative).

1 And under -- with regard to the kidnapping charge, I
2 have over, other questions of issues to raise that I want to
3 hear from you-all on in further consideration of the motions
4 for new trial or whatever the motion were regarding -- the
5 motions are made on, on all charges. I've had some further
6 thoughts in my mind about the kidnapping charge and we can
7 talk about it now.

8 when did the kidnapping occur?

9 SOLICITOR CHARBONNEAU: The kidnapping occurs when they
10 put the plan in motion that they are going to trick him and
11 lure him with Shaniyah Toney. That plan starts at ■■■ Green
12 Street with the three of them discussing how they're gonna
13 trick him and how they're gonna do it with having Shaniyah
14 Toney Facebook Messenger Derrick Curry to meet up with her.

15 THE COURT: So, you said the kidnapping starts.

16 So, when a conversation is -- they're having a
17 conversation about getting him from Point A to Point B,
18 that's a kidnapping at that point?

19 SOLICITOR CHARBONNEAU: Yes, because they put it in
20 motion and either inveigled or tricking him or he's agreeing
21 to meet with Shaniyah. He thinks he's meeting Shaniyah for
22 a social visit as opposed to somebody waiting in a closet to
23 kill him. So, he agrees---

24 THE COURT: All right. we understand the facts.

25 SOLICITOR CHARBONNEAU: Right.

1 THE COURT: I'm, I'm focusing on the kidnapping.

2 SOLICITOR CHARBONNEAU: Yes.

3 THE COURT: Um.

4 SOLICITOR CHARBONNEAU: So once he is told hey, I'm
5 gonna meet up with you under a social setting, if he
6 agrees---

7 THE COURT: well, is that a kidnapping or is that a
8 conspiracy?

9 I'm glad we have the -- I think the -- I know you-all
10 are legal experts here but I see David Miller back there.
11 He's a, he's a legal, legal expert so far.

12 we have the kidnapping. Anyhow, of course, I had this
13 just last month in a trial that I do where a person
14 voluntarily got in a car. Of course, they were deceived
15 and, through deception, they were in the car and immediately
16 they couldn't get out of the car. So, that's clearly a
17 kidnapping.

18 But where someone gets in a car and starts driving the
19 car, your notion is that he's been kidnapped while driving
20 Toney's car?

21 He's -- he has been kidnapped---

22 SOLICITOR CHARBONNEAU: Correct. He---

23 THE COURT: ---because he's under a deception he's
24 driving this car.

25 SOLICITOR CHARBONNEAU: Exactly.

1 THE COURT: Okay.

2 SOLICITOR CHARBONNEAU: Frankly, Your Honor, he thinks
3 he's going to have sex.

4 THE COURT: All right. Well, we know the facts --

5 SOLICITOR CHARBONNEAU: Right.

6 THE COURT: -- based on the, the evidence.

7 SOLICITOR CHARBONNEAU: Yes.

8 THE COURT: I'm -- my focus is not on the facts but on
9 the law when was there a kidnapping. You know, obviously,
10 after he's been killed he is -- there can be no kidnapping.

11 SOLICITOR CHARBONNEAU: Yes, sir.

12 THE COURT: Mr. Thompson argued it.

13 Well, the Court of Appeals loves these kinds of
14 questions and they're not here in the, the emotionally
15 charged environment of the trial. But they're, for the most
16 part, I mean they are obviously interested in the facts but
17 they are, you know, and many times sort of looking at them
18 from an academic prospective.

19 So, from an academic prospective, which is still a
20 legal prospective, it's the State's contention that he was
21 kidnapped though he was voluntarily driving Toney's car?

22 SOLICITOR CHARBONNEAU: Correct. Because once he
23 agreed to this social encounter with Shaniyah Toney, he's
24 under the wrong idea that he is going for a social date with
25 her as opposed to what's waiting for him.

1 THE COURT: Yeah, and I understand that as another
2 element of premeditation, planning, premeditation. Yeah. I
3 have a team of solicitors here.

4 SOLICITOR CHARBONNEAU: Yes, sir.

5 THE COURT: Well, go ahead.

6 SOLICITOR CHARBONNEAU: It's under inveigle, Judge, as
7 I said. He was tricked in order---

8 THE COURT: Well---

9 SOLICITOR HAMMACK: Additionally, Your Honor, once he
10 arrived at that house, both defendants were at that house
11 armed. He's in the back bedroom as far from an exit---

12 THE COURT: Well, they're hiding. They're, they're,
13 they're not --.

14 SOLICITOR HAMMACK: And they were not gonna let him
15 leave that house. At that point he is there at the location
16 where he is killed under the impression that he is there for
17 a different reason. They are between him and the exit.

18 THE COURT: So he is -- he's being unknowingly
19 kidnapped.

20 Can you unknowingly -- can you be kidnapped
21 unknowingly?

22 SOLICITOR HAMMACK: Yes.

23 SOLICITOR CHARBONNEAU: Yes, under inveigle and he
24 knows---

25 THE COURT: Yeah, we've heard that definition and how

1 long -- I mean a lot of folks -- well -- and if you poll the
2 folks in here, 98 percent would not know what you mean when
3 you inveigle. Inveigle.

4 And what case authority is there for what you're
5 telling me about when she lies to him about driving me here,
6 he's been kidnapped?

7 when they hide in the -- when they make a plan the
8 previous day and the next day to get him there, he is been
9 kidnapped. When they hide in a closet, he's been kidnapped
10 though he is -- has unknowingly been kidnapped. Not just
11 the use of the word inveigle but what legal authority
12 supports what you're telling me?

13 SOLICITOR CHARBONNEAU: Judge, I didn't bring any case
14 law. I actually looked up the Blacks law dictionary for
15 inveigle and decoy and it fit.

16 THE COURT: Yeah. well, yeah, those -- yeah, I, I
17 understand your argument.

18 SOLICITOR CHARBONNEAU: Right.

19 THE COURT: And, you know, understand why the jury
20 would find him guilty. I'm focused on is it accurate as a
21 matter of law and that's not something that I have to decide
22 today. I want to hear from everyone at issue.

23 As you've already said, it does not matter with regard
24 to sentence because, if he's been convicted and sentenced
25 for murder, he doesn't get an additional sentence for

1 kidnapping. But as a matter of public record, and for the
2 folks who might want to review your view of things, as
3 you're now arguing to me, you know it, it matters. And so
4 I'm -- first -- my point is I'm further considering the
5 motions as it relates to that specific charge.

6 SOLICITOR CHARBONNEAU: And, Your Honor, it matters to
7 the State as well because it is an aggravating factor for
8 the next murder charge.

9 THE COURT: Aggravating -- well, the facts are as the
10 facts are. It doesn't change the facts and obviously
11 there's deception. There's everything. There's
12 premeditation. Everything as bad as it gets. The question
13 is does it constitute a separate crime of kidnapping.

14 That's my issue because you're -- as the State often
15 throws in many charges, you know we, at, at the essence, we
16 have a murder case. He's been murdered and these -- there's
17 premeditation leading to the murder.

18 Was there a kidnapping based on the facts of this case,
19 and in your Blacks law dictionary definition of what
20 inveigle means does not satisfy my issue with it. Not
21 saying I would -- I haven't heard from the other side. I
22 haven't given y'all the opportunity to dig deeper into it
23 unless they -- what legal authority exists that supports
24 what you just told me or someone, you know, any place in the
25 country or the world and then unknowingly kidnapped under --

1 where they're voluntarily driving a car, where they're --
2 they go into a room, they're being kidnapped without knowing
3 they're being, they're being kidnapped.

4 It's not as simple as your -- I know your position.
5 It's -- that's something that I have a concern about and
6 that I'm giving further consideration to.

7 Before we go further, is there anything either defense
8 counsel wants to say on that specific question?

9 Mr. Johnson.

10 MR. JOHNSON: No, sir.

11 THE COURT: Mr. Thompson.

12 MR. THOMPSON: Your Honor, I do plan to discuss it
13 during Mr. Dixon's sentencing for the Court to consider the,
14 the character of Mr. Dixon's actions. I realize that he has
15 been convicted and I, I am not arguing against the jury's
16 verdict. But I, I do plan on mentioning this during, during
17 mitigation for his sentencing as a, a, a, a possible
18 mitigating factor.

19 THE COURT: Not as a matter of law?

20 MR. THOMPSON: Correct, Your Honor.

21 My, my understanding is that in order for Mr. Dixon --
22 I, I, I don't believe that the, the theory of he's in the
23 house and other people are hiding and he is unknowingly
24 kidnapped in the room, I, I don't believe that that theory
25 is legally valid. The testimony at Court was, from his

1 prospective, people suddenly burst in the room and shoot him
2 and that's the end of his awareness of the event, that the
3 theory of him being kidnapped would have to be the
4 inveiglement theory, and that Mr. Dixon's -- for the jury to
5 have convicted Mr. Dixon of kidnapping, the only logical way
6 they could have done that was to have decided -- cause there
7 wasn't any evidence, forensic evidence, of any earlier plot.

8 The theory that they would of had to have used to have
9 convicted him in the jury room would have been that they
10 believed Miss Toney and believed her testimony, that they
11 believed that Mr. Dixon was present and aware of the
12 planning.

13 THE COURT: And they believed all of that.

14 MR. THOMPSON: Yes, sir, that's correct.

15 THE COURT: All right.

16 MR. THOMPSON: That, that would have been the method by
17 which they would of convicted him is they believed that he
18 was there for the planning of this and, therefore, was an
19 accessory to Miss Toney's kidnapping of him. That he is an
20 accessory before the fact would of been the logical---

21 THE COURT: Yeah.

22 MR. THOMPSON: ---theory.

23 THE COURT: Now that's pretty much been debunked in my
24 view --

25 MR. THOMPSON: Yes, sir.

1 THE COURT: -- you know, and, and, and further about
2 just the question of kidnapping, and typically the
3 kidnapping would be you, you bind someone up. You throw
4 them in the trunk. You ride them around. You -- against
5 their will. Then, then they're obviously being kidnapped at
6 that point. But, as you argue, there's no, there's no
7 kidnapping after death.

8 MR. THOMPSON: Yes, sir.

9 THE COURT: Because that would be a separate offense
10 involving the --.

11 MR. THOMPSON: But, but, Your Honor, Mr. Dixon's
12 defense would be that I made the appropriate motions and
13 arguments concerning that at the appropriate time and that,
14 that today is not -- other than arguing it as a, a
15 mitigating factor, that today is not the appropriate time
16 for me to have done that.

17 THE COURT: Yes, sir, I understand.

18 All right. Anything further on that question, Ms. --
19 prior to continuing?

20 SOLICITOR CHARBONNEAU: Judge, do you want us to submit
21 memorandum?

22 The, the jury has found him guilty of that charge.

23 THE COURT: We do know that.

24 SOLICITOR CHARBONNEAU: Do you want us to -- where do
25 you want us to go from here?

1 You want us to---

2 THE COURT: I'm gonna tell you after you, you -- I
3 asked you whether you have anything else to say and then you
4 responded asking -- interrogated me.

5 Is there anything else you want to present on the
6 question?

7 SOLICITOR CHARBONNEAU: No.

8 THE COURT: Okay. And, and one -- and just one
9 additional thought I mentioned that is that when I said
10 kidnapping, certainly if the person is alive and thrown in
11 the trunk and driven away, that's kidnapping. But under the
12 State's theory, which he's dead when he was shot in the face
13 and shot in the eye as to what he said, so, so the
14 kidnapping had to be before the death obviously. And so
15 that's the -- those are the questions.

16 So, yes, I would love some -- a memorandum on that
17 question so that, when the record is assembled in this case,
18 it will be based on something other than an emotional
19 determination that because he was tricked into going to the
20 house and the trickery constituted kidnapping. So --.

21 SOLICITOR CHARBONNEAU: Your Honor, you want---

22 THE COURT: So, y'all, withing 30 days, whoever wants
23 to submit whatever on that question be happy to --

24 SOLICITOR CHARBONNEAU: Thank you.

25 THE COURT: -- consider that. In the meanwhile I won't

1 sentence on kidnapping because I can't sentence anyway, no.

2 SOLICITOR CHARBONNEAU: Thank you.

3 THE COURT: And, and you may proceed otherwise with
4 whatever else the State has to tell me.

5 SOLICITOR CHARBONNEAU: In regards to Denzell Jackson
6 --

7 THE COURT: Yes.

8 SOLICITOR CHARBONNEAU: -- that's -- one of his family
9 members wanted to speak. Just the left side of the
10 courtroom, Your Honor, is all here to support Kenya Bush
11 with Derrick Curry.

12 THE COURT: And I'm happy to hear from anyone who has
13 anything to say.

14 (WHEREUPON, there was no response.)

15 THE COURT: Including law enforcement.

16 SOLICITOR CHARBONNEAU: I believe that's it, Your
17 Honor.

18 THE COURT: All right. Thank you.

19 From the defense, Mr. Jackson.

20 MR. JOHNSON: Yes, sir, Your Honor.

21 Denzell Jackson's 20 years old. He has an eighth grade
22 education. He is a father. He has a five year old
23 daughter. Deliah is her name. She just turned five years
24 old.

25 THE COURT: Yes.

1 How old did you say?

2 MR. JOHNSON: She's five years old.

3 THE COURT: The defendant is 20?

4 MR. JOHNSON: Yes, sir.

5 THE COURT: And has a five year old daughter?

6 MR. JOHNSON: Yes, sir.

7 THE COURT: Eighth grade education?

8 MR. JOHNSON: Yes, sir.

9 THE COURT: And the mother of the child is how old?

10 MR. JOHNSON: Twenty years old as well.

11 THE COURT: Twenty years old.

12 All right.

13 MR. JOHNSON: Yes, sir.

14 with regard to Mr. Jackson, his family is also here
15 along with Mr. Dixon's family as the Court knows. They've
16 been here all week.

17 we respect the jury's verdict. Certainly would like to
18 send my condolences to the Curry family in this situation.

19 I can tell, Judge, understand what loss means. He lost
20 his brother in January of 2019, Joaquin Jackson, as well.
21 So, he does understand what loss means.

22 I would just ask that the Court take into consideration
23 that, while Mr. Curry was young at the time of his death,
24 Mr. Jackson is 20 years old. I believe that he does have
25 the opportunity to grow and rehabilitate despite his

1 conviction, and it is a very awkward thing for me to say.
2 But I really do believe that he can evolve like all of us
3 can.

4 And so that would just be my presentation. I've done a
5 lot of talking this week. So, I know the Court is very
6 familiar with the facts, my arguments, things of that
7 nature. So, I don't want to prolong it by repeating myself
8 anymore.

9 THE COURT: And you've done an excellent job.

10 MR. JOHNSON: Thank you.

11 THE COURT: I mean from --.

12 MR. JOHNSON: Thank you, Your Honor.

13 THE COURT: I had to look up where you went to law
14 school and I said Michigan State. That's my kind of guy.

15 MR. JOHNSON: Big 10, right. Ohio State.

16 THE COURT: Well, mine is Cleveland State but---

17 SOLICITOR CHARBONNEAU: Cleveland.

18 THE COURT: ---it's in the same region.

19 MR. JOHNSON: Yes, sir.

20 THE COURT: Midwestern, midwestern education. So --.

21 MR. JOHNSON: Thank you, Your Honor.

22 THE COURT: But you have to deal with the facts that
23 you have and you've done a good job.

24 MR. JOHNSON: Thank you, Judge.

25 THE COURT: Mr. Jackson, what would you like to tell

1 me?

2 DEFENDANT JACKSON: I'd like to tell you -- I really
3 don't have nothing to tell, Your Honor. I would like to
4 tell his family.

5 THE COURT: All right.

6 DEFENDANT JACKSON: His mother.

7 Ms. Kenya, and the rest of the Curry family, I really
8 hate y'all had to go through that. I know what it feel to
9 lose someone real close to you. No mother should have to go
10 through that. I really feel sorry for you about that,
11 ma'am.

12 That's all I have to say, sir.

13 THE COURT: Do you know these people?

14 DEFENDANT JACKSON: Not really, sir.

15 THE COURT: Are you-all from the same area?

16 DEFENDANT JACKSON: No, sir.

17 THE COURT: All right. Thank you.

18 MR. JOHNSON: Thank you.

19 THE COURT: Anyone else on behalf of Mr. Jackson?

20 MR. JOHNSON: No, sir.

21 THE COURT: So, Mr. Jackson, if you'll come around for
22 sentencing.

23 (WHEREUPON, the defendant complies.)

24 THE COURT: Since being here in Aiken and, and trying
25 cases, I've had a, a number of cases that, that are similar

1 to this and, and just throughout the years. Some cases
2 similar to this. But this is the first one where the body
3 has never been recovered.

4 And I usually get presentations by the mother, the
5 grandmothers, and fathers, and grandfathers of the defendant
6 who usually tell me what a good boy a person was or attempt
7 to tell me what a good boy a person is. And then I have to
8 say he was a good boy. And I can imagine Mr. Jackson, when
9 he is seven or eight years old, and that the promise that,
10 that his family had for him and his future and kind of
11 wonder where, at what age, it took such a turn that it leads
12 him to here today.

13 Only 20 years old. Not even a man yet. And people get
14 access to guns and wild thoughts and video games and
15 everything else and make a determination. And maybe
16 Mr. Jackson decided, when he was 15 and had a child, that
17 he's a man and it's, it's not that simple.

18 And it's unfortunate that, when you become a man,
19 you'll be locked up and you'll never enjoy the freedom and
20 opportunity that Mr. Johnson mentioned to you, mentioned to
21 me as to what promise you can be rehabilitated when the
22 question comes immediately to me but at what collateral
23 expense, what collateral damage along the way.

24 We know from the conduct in the jail there's a whole
25 lot of collateral damage along the way. And without

1 attempting to judge the other criminal matters, the murder,
2 attempted murders and all that, you know, the question still
3 is at, at what collateral damage along the way.

4 But these cases that I have had even like here in
5 Aiken, you know, the one where the boy was -- well, he was a
6 young man. I forgot how, how old he was. He might of been
7 25 on that who was tricked from coming through the spoof
8 phone call from Augusta to Beech Island or something like
9 that.

10 How old was that guy?

11 SOLICITOR HAMMACK: I believe he was 22.

12 MR. THOMPSON: That -- that's correct.

13 SOLICITOR HAMMACK: That was Thomas Hill.

14 MR. THOMPSON: I represented him. That's correct.

15 THE COURT: Twenty-two. Okay.

16 SOLICITOR HAMMACK: Yes, sir.

17 THE COURT: And he was murdered and his body was
18 buried. And, fortunately, through law enforcement and tips
19 and all, his foot appeared out of the ground behind a
20 trailer a few weeks or so later and the family was searching
21 high and low and -- but he was, he was there -- and they,
22 they got him, his body, and they were able to give a proper
23 burial for him and -- but as a result of that burial, I told
24 the defendant's family there that, that, in addition to the
25 murder, I'll give him 10 years for every shovel of dirt that

1 he threw in the guy's face. And all of that equals --
2 equaled life and that's what he got.

3 Then the boy who -- I call them all boys. Oh, good
4 gracious, not disrespectful but just my sense of reality in
5 sitting here and dealing with people who have not had an
6 opportunity to grow up and end up going to prison. But
7 where they burglarized the man's trailer after he was
8 friends with them, the guy and the girl, and, and, and
9 killed him and burned -- set his body afire and, and the
10 girl -- how -- did she get life?

11 what's her name?

12 SOLICITOR HAMMACK: Kayla Moore.

13 THE COURT: Yeah.

14 SOLICITOR HAMMACK: She's a, she's a life sentence.

15 THE COURT: She got life and I had the guy -- I don't
16 think I gave him life.

17 what did I give him?

18 UNIDENTIFIED PERSON: Forty years.

19 THE COURT: Forty years.

20 So, I, I saw a little, I don't know, an athlete. He's
21 a nice looking young man. He showed respect. He, you know,
22 he wasn't the master mind in my view of it all but he was
23 trailing this girl. So he got 40 years but she got life.

24 Then last month the guy who kidnapped and killed the
25 young college student and stabbing her 120 something times

1 and then threw her body out in a field and, fortuitously,
2 some turkey hunters happened to find the body but by which
3 time ants had taken over the body, consumed the body and he
4 a got life.

5 Then had a boy over in Edgefield. He was kidnapped
6 from Augusta cause he was acting as a lookout for the main
7 guy who had some prostitutes and they accused him of taking
8 some of the money and he was thrown in the trunk. He was --
9 they took turns shooting him like he was target practice and
10 buried him over in Edgefield and, and I tried that case,
11 Barnes. I didn't try Barnes. I tried the codefendant who,
12 who got life in Georgia. Two codefendants, brothers, got
13 life in Georgia. Barnes got the death penalty and his body
14 was found by some dogs much, much later. The dogs were out
15 in a field and they came across a bone and took it to a
16 house and that's how the police ultimately uncovered that
17 body.

18 But, in every instance that I've had, the body was
19 recovered even though many of them got life based on the
20 nature of the crime. They all got life and we have the
21 factor that's even more aggravating where the body has not
22 been found.

23 And when there are condolences being given to the
24 family, sorry for your loss, you know, in all those
25 instances those families at least had the opportunity of

1 having a funeral where they could receive condolences and in
2 all those instances they've gotten condolences and well
3 wishes and, you know, people sent pound cakes and sodas and
4 chicken and everything else to the family during that period
5 of bereavement. But they had an opportunity to have such a
6 service and to receive that even though, by the time they
7 come to Court a year or two later, there's not time for
8 sympathy, that folks want justice.

9 But, in this case, you have none of that, because as a
10 witness says, he's gonna be chopped. He's gonna be used as
11 target practice and they want to know where the body is.

12 They want to know and who knows?

13 who knows the answer to the question out of all the
14 folks here in the courtroom?

15 who knows where the body has -- who knows?

16 The answer is anyone answers?

17 who knows?

18 who's the one person that you think knows, Ms.

19 Charbonneau?

20 SOLICITOR CHARBONNEAU: Mr. Jackson, Mr. Dixon know
21 where he is.

22 THE COURT: So, Mr. Jackson, and it's a tough situation
23 because I recognize that almost every case is appealed, and
24 rarely do you get confessions during a sentencing. Well, on
25 the one hand you, you get the confession. On the other hand

1 you have an appeal. The person appeals also include PCRs.

2 what's your thoughts, Mr. Jackson?

3 DEFENDANT JACKSON: I'm just waiting to see my fate,
4 sir.

5 THE COURT: Pardon?

6 DEFENDANT JACKSON: I'm just waiting to see what you
7 will give me, sir. I really don't have any thoughts on it.

8 THE COURT: You have no thoughts?
9 Zero?

10 DEFENDANT JACKSON: No, sir.

11 THE COURT: And that -- that's so unfortunate. We're
12 all born with a heart and a conscience and unfortunately
13 many, many of the hearts are malignant, deranged.

14 Sentence of the Court on the murder charge is life.
15 You're, you're remanded to the Department of Corrections for
16 the remainder of your natural life.

17 we'll take a five minute break.

18 (WHEREUPON, a short recess was taken at this time.)

19 THE COURT: Are y'all ready for Mr. Thompson?

20 MR. THOMPSON: Your Honor, would you like us at the
21 table?

22 THE COURT: Yes, sir.

23 All right. We'll proceed to the sentencing of --
24 sentencing hearing of -- the sentencing hearing of Sha'kel
25 Rakeem Dixon.

1 MR. THOMPSON: And, and, Your Honor, I, I don't believe
2 this has much of any bearing on the proceeding at all but
3 today my client informed me that his middle name is actually
4 Raheem. It's actually R-A-H-E-E-M.

5 THE COURT: All right. And do you-all wish for the
6 indictments to, indictments to be amended to reflect his
7 correct middle name?

8 MR. THOMPSON: Your Honor, I have not had -- Your, Your
9 Honor knows I have not had any chance to look at or verify
10 any of this information. I, I am taking my client's word
11 for his own name. But I hope -- I would move that the
12 documents be corrected as, as a simple scrivener's error.
13 It's, it's unlikely to have any substantive effect on this
14 proceeding, Your Honor.

15 THE COURT: All right. What says the State?

16 SOLICITOR CHARBONNEAU: Yes, that's fine, Your Honor.
17 Thank you.

18 THE COURT: Yes, ma'am.

19 How, how did you come up with Rakeem or is it some
20 different some place else or --?

21 SOLICITOR CHARBONNEAU: No, Your Honor. I don't know
22 if it was simply a -- but we have a certified conviction of
23 a prior conviction of his and it is Raheem, R-A-H-E-E-M. So
24 if we could do it as an AKA that would cover it.

25 THE COURT: Well, I don't know how we -- I, I don't

1 know. If it's Raheem it's Raheem. I accept the defense has
2 moved for the indictments to be amended to say Raheem and
3 not Rakeem.

4 MR. THOMPSON: Your, Your Honor, very briefly.
5 would you mind if I ask his mother?

6 THE COURT: No. Go right ahead.

7 MR. THOMPSON: His middle name is what?

8 UNIDENTIFIED PERSON: Raheem.

9 MR. THOMPSON: Raheem.

10 UNIDENTIFIED PERSON: Raheem.

11 MR. THOMPSON: Thank you.

12 UNIDENTIFIED PERSON: Raheem.

13 THE COURT: R-A-H-E-E-M?

14 UNIDENTIFIED PERSON: Yes, sir.

15 THE COURT: Okay. So, with the motion and the State's
16 consent, I'm gonna just turn it -- the K into an H and
17 initial it with the clerk's consent and note that he has
18 warrants under both names.

19 SOLICITOR CHARBONNEAU: Your Honor, are you making the
20 scrivener's error change on the indictments as well as the
21 sentencing sheet?

22 THE COURT: No, I'm dealing with the sentencing sheets.
23 If he has warrants under other names, then I -- then AKA may
24 be the best way to deal with those.

25 The clerk, do you have any warrants in your records

1 under Rakeem?

2 THE CLERK: Yes, sir, he has one under Raheem and three
3 under Rakeem.

4 THE COURT: So, I'm gonna write on the, on the sentence
5 sheet and the indictment AKA Sha'Kel Raheem, Rakeem, write
6 in.

7 SOLICITOR CHARBONNEAU: Thank you.

8 THE COURT: And also on the verdict form I noticed the
9 forelady did not date the verdict form. She signed it. So,
10 we'll need to get her back down here to put a date on it --
11 on the---

12 THE CLERK: We'll notify her, Your Honor.

13 THE COURT: ---on the verdict forms. She signed them.
14 She didn't put a date down.

15 All right. We'll proceed then, Ms. Charbonneau.

16 SOLICITOR CHARBONNEAU: Yes, Your Honor.

17 Sha'Kel Dixon has also been convicted of the murder,
18 possession of a weapon during a violent crime, and
19 kidnapping.

20 As stated earlier, under State v. Vick we do not feel
21 that this -- he should be sentenced on the kidnapping but
22 that his conviction, the possession of weapon during a
23 violent crime, is the mandatory five years.

24 Based on the same heinous facts that I stated earlier,
25 this defendant also actively participated in the throwing

1 away of Derrick Curry's body like a piece of garbage in that
2 tote. This defendant also was laughing while picking up his
3 eyeball from the floor. That was specifically him. He was
4 also laughing about using his body as a target when Denzell
5 Jackson said that.

6 It was this defendant who specifically said that he
7 threatened to kill Shaniyah Toney if she didn't stop crying.
8 It shows the callousness, the coldness, the fact that they
9 attempted the night before to go after him in the planning
10 all during the day of April 30th, 2019. Shows how they
11 planned this out and premeditated it. This defendant was
12 actively involved in all of that as well.

13 It's egregious, egregious behavior and that's why the
14 State is asking for life on the murder charge. Ms. Bush is
15 asking for the maximum and, again, after two and a half
16 years, every time she shows up she is asking that Mr. Dixon
17 tell her where her son is so that she can have a proper
18 burial for him, and law enforcement is also asking for life
19 on the murder charge.

20 Your Honor has already heard from Deborah Dunbar,
21 Derrick Curry's grandmother, who is asking for the same and
22 told you about the suffering that the family has gone
23 through for two and a half years waiting to have a burial
24 for Derrick Curry.

25 THE COURT: All right. Anyone would like to state

1 further from -- anything specific?

2 SOLICITOR HAMMACK: Your Honors, Ms. Dunbar wants to
3 readdress you very briefly.

4 THE COURT: All right.

5 MS. DUNBAR: My name is Deborah Dunbar, D-U-N-B-A-R.

6 THE COURT: Ms. Dunbar.

7 MS. DUNBAR: Your Honor, we -- this is from his mother.
8 It says this has taken a toll on my life. I've been a
9 hospice worker for over 20 years helping others in their
10 time of need. I often feel guilty not being with my son
11 when we -- when he took his final breath and not being able
12 to give him a proper burial.

13 Your Honor, I ask for the maximum and that she also
14 said will you please give me and my family some closure.

15 THE COURT: All right. Thank you, Ms. Dunbar.

16 SOLICITOR CHARBONNEAU: Your Honor, the only other
17 charge that Mr. Dixon has was a prior failure to stop for
18 blue lights that's irrelevant. His prior record is 2015
19 assault and battery third degree.

20 2014, burglary second degree nonviolent and 2019 giving
21 false information and possession of marijuana.

22 THE COURT: All right. Mr. Thompson.

23 MR. THOMPSON: Your Honor, if it please the Court.

24 Mr. Dixon's 22 years old.

25 Beg the Court's indulgence.

1 (Pause.)

2 MR. THOMPSON: Mr. Dixon's 22 years old. These events
3 happened when he was 20. He had graduated from Silver Bluff
4 High School, had one year of college.

5 THE COURT: Where?

6 MR. THOMPSON: I'm sorry, Your Honor?

7 THE COURT: Where?

8 MR. THOMPSON: At Denmark Tech, Your Honor.

9 Your Honor's heard his record. We're all aware of the
10 verdict and I, I, I will not speak against the verdict in
11 this case.

12 In, in context though, I, I would ask that the Court
13 consider -- and, and we don't actually know specifically how
14 the jury comes about deciding their verdicts. That's always
15 traditionally been somewhat a black box. We, we hand these
16 decisions to responsible citizens and they come up with a
17 verdict and that is the verdict of the Court.

18 I would just ask that the Court consider that, in
19 context, as mitigation, that the jury very likely came to
20 their decision about his guilt on kidnapping under a theory
21 of accessory liability, that the jury very likely came to
22 their verdict on possession of a weapon during a violent
23 crime under a theory of accessory liability, and that the
24 jury very likely came to their decision about murder under a
25 theory of accessory liability, and, in this state, the hand

1 of one is the hand of all. And I, again, I do not speak
2 against the verdict. Only the, the context of the verdict.

3 Your Honor, I, I have told Mr. Dixon on numerous
4 occasions that his opportunity to speak to the Court or to
5 give any further information about this whole terrible
6 event, and, and regardless of, of what he may think, I, I
7 wish to express my sincere, my sincere condolences to the
8 Curry family. But I've told him now is the time. If you're
9 looking for the right time, now is the time to address the
10 Court if you have anything to say.

11 He has, at all times since the beginning of my
12 representation of him, told me that he did not have anything
13 to do with this and is not aware and does not know where the
14 body is in this case. I don't, I don't express that as a
15 representation of truth or falsehood. I, I, I only express
16 it as a representation of consistency. I have asked him if
17 he wants to but I don't believe he wants to address the
18 Court at this time.

19 DEFENDANT DIXON: No, sir.

20 THE COURT: Okay.

21 MR. THOMPSON: Your Honor, he has been incarcerated for
22 829 days. I'm not aware of any significant disciplinary
23 actions against him while he's been incarcerated.

24 Your Honor, his family is here to support him, his
25 mother, and some of his brothers and sisters and their

1 significant others but they do not -- they, they have told
2 me they -- that they are very full of emotion as the Court
3 might expect and, and do not wish to address the Court.

4 THE COURT: You -- have to ask his mother something
5 before.

6 Is there a father here?

7 MR. THOMPSON: No, sir. His father's not -- is not
8 here. His mother, his brother, and his sisters. I'm, I'm
9 not aware the identity of the two women in the middle but---

10 UNIDENTIFIED PERSON: These are his sisters.

11 MR. THOMPSON: So --.

12 UNIDENTIFIED PERSON: A couple friends.

13 MR. THOMPSON: Okay.

14 THE COURT: And the other guy who was sentenced to life
15 that -- was any of his family here?

16 SOLICITOR CHARBONNEAU: Yes, sir.

17 THE COURT: All right. Who were they?
18 who was here?

19 SOLICITOR CHARBONNEAU: His mother, his father, his
20 sister, and I don't know who the others were.

21 THE COURT: And they, they had nothing to say either.
22 All right.

23 MR. THOMPSON: Your Honor---

24 THE COURT: Mr. Dixon, come around to be sentenced.

25 MR. THOMPSON: ---like us to --.

1 (WHEREUPON, the defendant complies.)

2 THE COURT: And, Mr. Dixon, the -- we had a sentencing
3 hearing before and the -- your codefendant, well not
4 codefendant, but the defendant on the other case,
5 Mr. Jackson, got a sentence of life imprisonment and he left
6 with a smile. Seemed to be kind of happy to get that life
7 sentence.

8 I don't know whether that's a, a badge of honor or if
9 you're supposed to be happy to get a life sentence. But I
10 suspect that, as it appeared that he was the ring leader of
11 this crime, and as I understand it, has been the ring leader
12 of problems at the jail and about -- how long -- how many
13 days will it take them to get him to the Department of
14 Corrections?

15 THE OFFICER: Not long.

16 THE COURT: Yeah.

17 By the end of the weekend, whatever he thought he was
18 in charge of he will be in charge of no more, and whatever
19 smile or smirk that he had on his face will be wiped away
20 forever when he encounters the people who are doing life and
21 who've been running things at the Department of Corrections.
22 He won't be in charge of anything. Everyone will be in
23 charge of him.

24 You-all have been kept separate at least during this
25 week.

1 Do y'all communicate at the jail?

2 DEFENDANT DIXON: No, Your Honor.

3 THE COURT: All right. So, so, whatever influence or
4 mechanics -- I can't imagine of -- you're -- how old are you
5 now?

6 DEFENDANT DIXON: Twenty-two.

7 THE COURT: You're 22 and he's 20. You know, usually
8 the older person gets the most severe punishment because
9 they're usually the one in charge of the younger person or
10 the younger person looks up to the older person but that's
11 not automatic. You know, you may be the older person that's
12 in charge of the younger person or I don't know what the
13 deal is with you guys and, and I don't know where your life
14 went astray.

15 You graduated from high school. The other boy went to
16 eighth grade. You went to Denmark Tech. Well, at age 15 he
17 was having a baby.

18 You may see him again. You may never see him again.

19 But the one thing this family is most interested in
20 is -- they've gotten the satisfaction of a guilty verdict
21 and justice being done as to you-all killing Mr. Curry but
22 they want to know where he is buried or what happened to his
23 body.

24 DEFENDANT DIXON: Your Honor, I honestly don't know.

25 THE COURT: Yeah.

1 well, you may not know precisely cause, from the story,
2 who all that took the body and gave it to these other two
3 guys?

4 SOLICITOR CHARBONNEAU: Yes, Your Honor.

5 THE COURT: And---

6 SOLICITOR CHARBONNEAU: Barnwell and Bacon and---

7 THE COURT: And so they, they took off with the body.

8 SOLICITOR CHARBONNEAU: Yes.

9 THE COURT: So, you know, we have these cases where,
10 you know, I've seen many cases where the person is facing
11 the death penalty and the police might say all the family
12 wants is a proper burial and we'll take life off the table
13 if you tell us where that body is and it's -- and one after
14 another, you know, they take the police down the road and
15 off a trail, up a hill, by a tree, wherever, and they help
16 recover the body.

17 You may not know but he's the -- you're -- he's the one
18 whose picture is sitting on the car --

19 MR. THOMPSON: That's correct, Your Honor.

20 THE COURT: -- where the body was taken. The day after
21 it was taken.

22 So, apparently you were there having a good time with
23 the fellows who took the body and buried the body. I'm sure
24 they, they told you where to go -- where they, where they
25 went. They went to Eureka or Wagener or Beech Island or New

1 Ellenton or -- y'all have all these towns around here that
2 I've become most familiar where.

3 where did they tell you they took him?

4 DEFENDANT DIXON: Your Honor, I honestly don't know.

5 THE COURT: You don't know that they told you?

6 DEFENDANT DIXON: No, they ain't tell me nothing.

7 THE COURT: They ain't tell you nothing.

8 well, I'm sure you know that the family, they've been
9 searching, wanting to know.

10 You've heard about that, right?

11 DEFENDANT DIXON: Yes, Your Honor.

12 THE COURT: Yeah.

13 So, what, what have you heard?

14 Not that you, you know, maybe you weren't there. So
15 you didn't bury the body but you've, you've been -- I'm sure
16 it's something that you've been curious about, wanting to
17 know about, realizing that it could possibly help you if you
18 provided that information. Like I said earlier, I've dealt
19 with a lot of cases. The one where they burned the body.

20 I had one case the guy murdered a policeman and burned
21 his body and I was a judge. He pled guilty and I gave him
22 the death penalty and he's been on death row now for 15
23 years or 16 years.

24 I've had cases where the -- they burned the body of the
25 old man, cases where they buried the body that was dug up,

1 and people gave the body -- the man a funeral and all of
2 them got life in prison based on what they did to the body.

3 But one thing that distinguishes that -- those cases
4 from this one is that they got the body and that's always
5 important to a family.

6 You know, they have soldiers overseas who are
7 kidnapped, maybe killed. Even a death -- the situation
8 they're having in Afghanistan now trying to get Americans
9 out of the -- Afghanistan. The President says they're not
10 gonna rest until every American gets out of there, and I
11 think the creed of the military, some of y'all were in the
12 military, that y'all believe -- how does it go?

13 Military people, never leave --?

14 UNIDENTIFIED PERSON: Anyone behind.

15 THE COURT: -- a soldier behind?

16 SOLICITOR CHARBONNEAU: Never leave a man behind.

17 THE COURT: Never leave --?

18 SOLICITOR CHARBONNEAU: A man behind.

19 THE COURT: A man behind.

20 Yeah, they'll invade a whole country to get the remains
21 and his remains have been out there for all this time, for
22 over two years.

23 So, can't be what you -- doesn't have to be what you
24 know. It can be what you've heard.

25 what have you heard?

1 DEFENDANT DIXON: Nothing, Your Honor.

2 THE COURT: Nothing?

3 DEFENDANT DIXON: No.

4 THE COURT: Are you-all involved in some kind of
5 situation where you want life in prison?

6 DEFENDANT DIXON: No, Your Honor.

7 THE COURT: Now what's on your mind?

8 DEFENDANT DIXON: What's on my mind?

9 THE COURT: Yeah?

10 DEFENDANT DIXON: Honestly, Your Honor, I really don't
11 know at the time.

12 THE COURT: No, I'm talking about right now what's on
13 your mind.

14 DEFENDANT DIXON: Can't really say.

15 THE COURT: Can't say.

16 well, you know, I know that I have yet to -- been able
17 to get someone to tell me how they murdered someone. They
18 draw a blank. They wipe it off their minds as if they -- as
19 if whatever day that was they killed someone it didn't -- no
20 longer exists. You get a blank and you'd be the first one
21 to go back there and explain to me how you killed someone,
22 participated in killing someone.

23 So, I'm, I'm not even, I'm not even going there with
24 you. I don't expect you to tell me anything about that but
25 what's on your mind otherwise?

1 You're waiting up here Friday, August the 20th or
2 August the 20th about to be sentenced to prison for a long
3 time. You have your family and friends who are here and
4 everybody looking at you, wondering, and looking at me
5 wondering what kind of sentence you're gonna get. I'm sure,
6 when you leave this courtroom, you'll have a whole lot on
7 your mind and a whole lot to say, a lot of people to talk
8 to.

9 what's on your mind right now?

10 DEFENDANT DIXON: Really just my family at the moment.

11 THE COURT: What about them?

12 DEFENDANT DIXON: I mean I ain't get to see them, touch
13 them, in about two and a half years or so.

14 THE COURT: Were is your father?

15 DEFENDANT DIXON: He in prison.

16 THE COURT: In prison?

17 DEFENDANT DIXON: Yes, Your Honor.

18 THE COURT: What's his name?

19 DEFENDANT DIXON: Louis wakefall, Junior.

20 THE COURT: Louis wakefall, Junior.

21 How long has he been there?

22 DEFENDANT DIXON: I'm gonna say maybe over 15 years.

23 THE COURT: For killing someone?

24 DEFENDANT DIXON: Yes, Your Honor.

25 THE COURT: Who did he kill?

1 DEFENDANT DIXON: I'm not sure.

2 THE COURT: Did he get life or 30 years?

3 DEFENDANT DIXON: I think he got like 20.

4 THE COURT: Twenty.

5 So, he must of been in a fight with someone.

6 DEFENDANT DIXON: I'm not sure.

7 THE COURT: You know, and I've had that before. I had
8 the boy in here who shot and killed the, the Aiken Public
9 Safety Police officer. Pulled him over and he got out the
10 car with a gun in his hand and shot the officer just like
11 that. Killed him. And we had a trial I believe sitting
12 right here facing the death penalty and he pled guilty to
13 two life sentences.

14 And when I was asking him questions like you, he
15 said -- I asked where is his father. Well, his father's in
16 prison. For what. Killing his mother. Now father and son
17 are in prison together.

18 Did you think that's where your life was gonna lead
19 you?

20 DEFENDANT DIXON: Repeat that again.

21 THE COURT: Did you think your life was gonna lead you
22 to prison?

23 DEFENDANT DIXON: No, Your Honor.

24 THE COURT: When did, when did your life go ashtray?

25 DEFENDANT DIXON: I'm not sure, Your Honor.

1 THE COURT: What's the meaning of those signs that you
2 had with you on that photograph of you sitting on the car
3 the day after -- whatever day after that was. The day after
4 the murder or two to, two to three days after?

5 SOLICITOR CHARBONNEAU: May 2nd.

6 THE COURT: May 2nd.

7 DEFENDANT DIXON: Can you repeat the question again,
8 Your Honor?

9 THE COURT: What's the meaning of the -- on that
10 picture when you were holding your hands up with your
11 fingers in a certain way?

12 DEFENDANT DIXON: Your Honor, I have no comment.

13 THE COURT: You have no comment?

14 DEFENDANT DIXON: I have no comment for it.

15 THE COURT: No comment as to what, what that means?

16 DEFENDANT DIXON: Yes, Your Honor.

17 THE COURT: Does that have anything to do with you not
18 having anything on your mind?

19 DEFENDANT DIXON: Repeat that again.

20 THE COURT: Does that have anything to do with you
21 having nothing on your mind -- not having anything on your
22 mind?

23 DEFENDANT DIXON: You say does it have anything to do
24 with it?

25 THE COURT: Yes.

1 whatever it is you have no comment about, does that,
2 does that have anything to do with the fact that you have
3 nothing to say today?

4 DEFENDANT DIXON: No, it has -- no. No, Your Honor.

5 THE COURT: Well, before I give you your sentence, is
6 there anything else you would like to say?

7 DEFENDANT DIXON: No, Your Honor.

8 THE COURT: Is there anything anyone has to say on Mr.
9 Dixon's behalf?

10 MR. THOMPSON: I believe the defense has nothing
11 further, Your Honor.

12 THE COURT: Mr. Dixon, did you, did you know Mr.
13 Derrick Curry?

14 DEFENDANT DIXON: Did I---

15 THE COURT: Did you know Derrick Curry?

16 DEFENDANT DIXON: No, Your Honor.

17 THE COURT: You didn't know him?

18 DEFENDANT DIXON: No.

19 THE COURT: All right. It's so unfortunate to go to
20 prison for killing a stranger.

21 Sentence of the Court is that you be committed to the
22 State Department of Corrections for life.

23 Good luck to you.

24 All right. Well, that is it with regard to these
25 cases?

1 Anything further?

2 SOLICITOR CHARBONNEAU: No, sir.

3

4 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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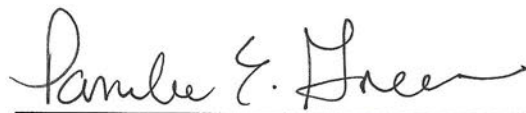
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Aiken County, South Carolina, on the 16th, 17th, 18th, 19th, and 20th day of August, 2021.

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

December 1st, 2021



PAMELA E. GREEN, Court Reporter

WITNESSES

Aiken County Sheriff

Savanna B Phillips

Law Enforcement Case #: 19-021008

DOCKET NO. 2019GS0202016

The State of South Carolina

County of Aiken

JMC

ARREST WARRANT NUMBER

FILED November 7, 2019

2019A0210200648

Robert L. White
CCAP & G.S.*Ann Sanders*
Deputy Clerk

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2019

THE STATE

vs.

SHAKEL RAKEEM DIXON

Shakel Rakeem Dixon

ACTION OF GRAND JURY

True Bill

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010; 16-03-0020

VERDICT

Guilty

J. STROM THURMOND, SOLICITOR

Sharon L. Jager
Foreperson of Petit JuryDate: *8/19/21*

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
MURDER

§ 16-03-0010; 16-03-0020

At a Court of General Sessions, convened on November 11, 2019, the Grand Jurors of Aiken County present upon their oath:

That **SHAKEL RAKEEM DIXON**, along with others, did in Aiken County on/or between the dates of April 30, 2019 and May 1, 2019, feloniously, wilfully and with malice aforethought, murder Derrick Curry by means of shooting him at [REDACTED] Nokesville Circle, Aiken, and that the victim did die as a proximate result thereof. All in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Savanna B Phillips

Law Enforcement Case #: 19-021008

JMC

ARREST WARRANT NUMBER

FILED *November 7 2019*

2019A0210700186

Robert L. White
Clerk & G.S.*Ann Sanders*
Deputy ClerkACTION OF GRAND JURY*True Bill**[Signature]*
Foreperson of Grand Jury

Date: November 07, 2019

VERDICT*Guilty**[Signature]*
Foreperson of Petit JuryDate: *8/19/21*DOCKET NO. 2019GS0202017**The State of South Carolina**

County of Aiken

COURT OF GENERAL SESSIONS**NOVEMBER TERM 2019****THE STATE
vs.****SHAKEL RAKEEM DIXON**CDR #: 0549**Indictment for****POSSESSION OF A WEAPON DURING
VIOLENT CRIME****§ 16-23-0490****J. STROM THURMOND, SOLICITOR**

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

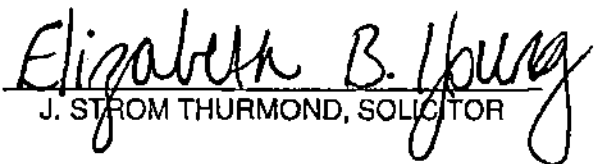
INDICTMENT FOR
POSSESSION OF A WEAPON DURING
VIOLENT CRIME

§ 16-23-0490

At a Court of General Sessions, convened on November 11, 2019, the Grand Jurors of Aiken County present upon their oath:

That **SHAKEL RAKEEM DIXON**, along with others, did in Aiken County on/or between the dates April 30, 2019 and May 01, 2019, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to wit: murder, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. STROM THURMOND, SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

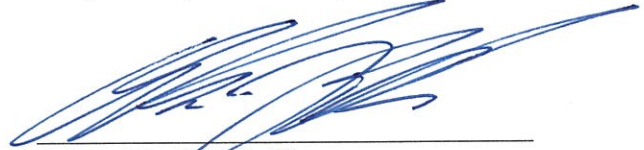
This 27th day of July, 2022.

Respectfully Submitted,

RECEIVED

Jul 27 2022

SC Court of Appeals



Adam Sinclair Ruffin
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Jul 27 2022

SC Court of Appeals

Appeal from Aiken County

Honorable Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHA'KEL RAHEEM DIXON,

APPELLANT.

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Sha'kel Raheem Dixon, #385800, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 27th day of July, 2022.



Adam Sinclair Ruffin
Appellate Defender

ATTORNEY FOR APPELLANT