

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jul 27 2022
SC Court of Appeals

Appeal from Horry County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DERRICK JAJUAN RIVERA,

APPELLANT.

APPELLATE CASE NO. 2021-001285

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 12 (BINGO VIDEO/THIMB DRIVE).

1 STATE OF SOUTH CAROLINA

2 COURT OF GENERAL SESSIONS

3 COUNTY OF HORRY

4 -----x

5 STATE OF SOUTH CAROLINA,)

6 Plaintiff,)

7 vs.)

Transcript of Record

2019-GS-26-04928 to

2019-GS-26-04933

9 DERRICK JAJUAN RIVERA,)

10 Defendant.)

11 -----x

12 Monday, October 18, 2021

13 TRIAL - DAY 1 of 5

14
15 B E F O R E:

16 The Honorable Benjamin H. Culbertson, Presiding Judge;

17 and a jury.

18
19 A P P E A R A N C E S:

20 Scott R. Hixson, Esq.

Attorney for the State

21 William S. McGuire, Esq.

22 Attorney for the Defendant

23
24
25 Court Reporter: Bobbi Fisher, RPR

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ST-1 Large Map	125	155
ST-2 Large Map	125	157
ST-3 Spreadsheet of Cash	125	204
ST-4 Photo	125	208
ST-5 Video Still Photo	125	220
ST-6 Video Still Photo	125	220
ST-7 Video Still Photo	125	220
ST-8 Video Still Photo	125	220
ST-9 Video Still Photo	125	200
ST-10 Video Still Photo	125	202
ST-11 Video Still Photo	125	220
ST-12 Bingo Video/Thumb Drive	125	228
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ST-20 Photo - Gray Pants	125	262
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ST-23 Scene Sketch	125	269
ST-24 Scene Photo	125	166
ST-25 Scene Photo	125	271
ST-26 Scene Photo	125	166
ST-27 Scene Photo	125	170
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ST-38 Photo of Guardian .32 ACP Handgun	125	183
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ST-40 Scene Photo	125	271
ST-41 Scene Photo	125	271
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ST-43 Scene Photo	125	271
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ST-45 Shoe Size Table	333	348
ST-46 Scotchman Photo	358	636
ST-47 Scotchman Photo	358	636
ST-48 Nike Shoe; Right Foot	125	240
ST-49 Backpack	125	241
ST-50 Swabs from Black Bag	125	283
ST-51 Red, Yellow and Green Wig with Dreads	125	276
ST-52 Black Knit Toboggan Cap	125	278
ST-53 Lab Photos - Gray Pants	125	271
ST-54 Lab Photos - Gray Pants	125	271
ST-55 Lab Photos - Gray Pants	125	271
ST-56 Lab Photos - Gray Pants	125	271
ST-57 Lab Photos - Gray Pants	125	271
ST-58 Swab - Gray Pants	125	292
ST-59 NO EXHIBIT USED	XXX	XXX
ST-60 NO EXHIBIT USED	XXX	XXX
ST-61 Jetta Search Photos	125	271
ST-62 Jetta Search Photos	125	271
ST-63 Jetta Search Photos	125	271

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ST-64 Jetta Search Photos	125	271
ST-65 Healthy Home Video Still Photo	125	364
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ST-67 Healthy Home Video Still Photo	125	364
ST-68 Healthy Home Video Still Photo	125	364
ST-69 Healthy Home Video Still Photo	125	364
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ST-76 Healthy Home Video Still Photo	125	364
ST-77 Healthy Home Video Still Photo	125	364
ST-78 Healthy Home Video Still Photo	125	364
ST-79 Healthy Home Video Still Photo/Thumb Drive	125	375
ST-80 License Plate Reader Video/Thumb Drive	125	401
ST-81 License Plate Reader Video	125	401
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ST-86 Bullet from Autopsy-S. Johnson, Jr.	125	353
ST-87 Jetta Photo	125	417
ST-88 Jetta Photo	125	417
ST-89 ID Stipulation	125	426
ST-90 Rivera SC DMV Photo	125	428
ST-91 Photo - Big Bro Contact	125	425
ST-92 Britton DNA Consent - Phone Number	125	430
ST-93 Swab Defendant/Standard Buccal Swab	125	440
ST-94 Scotchman 707 Video-Thumb Drive	125	636
ST-95 Scotchman Still Photo	125	636
ST-96 Verizon Rivera Account Info	125	601
ST-97 Verizon Account Model Info K8-V	125	602
ST-98 LG VS-500 K8-V Photos (set of 2)	125	603
ST-99 NO EXHIBIT USED	XXX	XXX
ST-100 Phone Call Records (843) 287-8558	125	620
ST-101 Text Messages from (843) 287-8558	125	625
ST-102 LG Phone	125	605
ST-103 Photo/Smoaks	125	700
ST-104 .357 Photo	125	702
ST-105 Firearms Report	125	685

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ST-106	DNA Scrapings: Wig; Hair Wig; Shoe	125	566
DFT-1	Britton Interrogation Transcript	450	XXX
DFT-2	HCPD Evidence Record	465	465
DFT-3	Call Log	642	643
DFT-4	Photo of Lady in Bathroom	653	655
DFT-5	Shoe Size Measuring Tool	660	XXX
DFT-6	Tape Measure	660	XXX
CT-1	Stipulation of Evidence	13	
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CT-4	8/17/29 DNA Report	45	
CT-5	Jury Note: RE: Foreperson Assignment	125	
CT-6	Shoe Size Article	332	

COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)	(DCRP only) Indicates word(s) is not known due to audio recording quality

P R O C E E D I N G S

(Whereupon, the following trial was called at 1:43 p.m.
Jury Qualifications were previously held by Judge Culbertson.)

* * *

(Court's Exhibit No. 1, Stipulation of Evidence, was
marked for identification and received into evidence for
appellate review only.)

THE COURT: All right. Thank you very much, ladies and
gentlemen. Please be seated.

First of all, I want to thank you for being prompt and
returning on time. That's a great assistance to the Court,
and we really appreciate that, and I want to thank you for
that.

Now, we are getting ready to start the trial of the case
of the *State of South Carolina vs. Derrick Jajuan Rivera*. I
have got some questions to go over with you before -- as part
of the jury selection process.

Now, all of you have been qualified to serve as jurors
for this term of General Sessions court. The next series of
questions I have to go over with you are questions referred to
as voir dire questioning. That is to determine whether or not
you're qualified to serve as jurors on this particular case,
and it also assists the attorneys in the jury selection
process.

So as I told you during jury qualifications, jurors, just

1 like witnesses, are constantly taking oaths. So if I can get
2 all members of the jury panel to stand and raise your right
3 hand and respond to these questions with the truth.

4 Do you solemnly swear or affirm that you will truthfully
5 answer the questions asked of you with the truth, the whole
6 truth, and nothing but the truth? If so, say I do.

7 COLLECTIVE JURORS: I do.

8 (The jury panel was duly sworn.)

9 JURY VOIR DIRE

10 THE COURT: Thank you very much. You may be seated.

11 Now, is there any member of the jury panel that did not
12 respond to the oath by saying, "I do"? If so, please stand.

13 (No response given.)

14 THE COURT: As I said, we're getting ready to start of
15 the case of the *State of South Carolina vs. Derrick Jajuan*
16 *Rivera*. Now, Mr. Rivera is charged with two counts of murder
17 and one count of armed robbery. The allegations in this case
18 is that, on or about July the 26th, 2019, at 2:45 p.m.,
19 Mr. Rivera robbed and killed Stephen Johnson, Sr., and killed
20 Stephen Johnson, Jr. This occurred at the Waccamaw Bingo Hall
21 located on Belle Terre Boulevard in Myrtle Beach, South
22 Carolina.

23 Now, is there any member of the jury panel that has heard
24 anything, read anything, discussed anything, or knows anything
25 about this case? If so, please stand.

1 All right. We'll start over here. Ma'am, your name and
2 number?

3 JUROR NO. 138: Terri Goldenbaum. 138, I believe.

4 THE COURT: All right. Ms. Goldenbaum, if you would come
5 forward, please.

6 If the attorneys want to come forward, that's fine.

7 BENCH CONFERENCE

8 (The following bench conference was held outside the
9 hearing of the jurors and others:)

10 THE COURT: All. Now, what have you heard about the
11 case?

12 JUROR NO. 138: I just know that my mother lives in
13 Tuscany, right behind there. So when it was happening, I was
14 concerned for her, so I was on the phone with her. That's
15 basically it.

16 THE COURT: Okay. Do you know anything about the facts
17 of the case or anything?

18 JUROR NO. 138: Not really, no. Just that -- I just knew
19 when it was happening, and I was scared for her life.

20 THE COURT: All right. Would the fact that your mother
21 lived in that area or what you have heard about this case
22 beforehand affect your ability in being impartial to the State
23 and to the defendant in this case?

24 JUROR NO. 138: I don't think it would affect it.

25 THE COURT: Okay. Could you disregard where your mother

1 lives, disregard anything you may have heard or read about the
2 case? As I understand, you haven't read anything.

3 JUROR NO. 138: Not really, no. I just got the alert.

4 THE COURT: Well, could you disregard all of that and
5 base your decision in this case exclusively on the testimony
6 and evidence in this case?

7 JUROR NO. 138: I believe so.

8 THE COURT: Thank you for bringing that to our attention.
9 You can go ahead and be seated.

10 JUROR NO. 138: Thank you.

11 THE COURT: As I go through these, if y'all have any
12 challenges, let me know. Okay?

13 MR. MCGUIRE: She's fine.

14 (Open court resumes as follows:)

15 THE COURT: All right. I'm going to move from my right
16 to the left. Your name and number?

17 JUROR NO. 172: 172, Rebecca Huggins.

18 THE COURT: All right. Ms. Huggins, if you'd come
19 forward, please.

20 BENCH CONFERENCE

21 (The following bench conference was held outside the
22 hearing of the jurors and others:)

23 THE COURT: All right, Ms. Huggins? What have you heard,
24 read, or know about the case?

25 JUROR NO. 172: Only just what was in the news at the

1 time when it all happened. Just the news media.

2 THE COURT: All right. Could you disregard everything
3 you have read and heard about the case and base your decision
4 exclusively on the testimony and the evidence you hear during
5 the trial?

6 JUROR NO. 172: Yes, sir.

7 THE COURT: Would the fact that you read anything affect
8 your ability to be fair and impartial to all parties, the
9 defendant and the State?

10 JUROR NO. 172: No, sir.

11 THE COURT: Okay. Thank you for bringing that to my
12 attention.

13 (Open court resumes as follows:)

14 THE COURT: All right. The lady in the back in the green
15 top, your name and number.

16 JUROR NO. 372: Patricia Thompson, No. 372.

17 THE COURT: All right, Ms. Thompson. If you would come
18 forward, please.

19 BENCH CONFERENCE

20 (The following bench conference was held outside the
21 hearing of the jurors and others:)

22 THE COURT: Have you read, heard or what?

23 JUROR NO. 372: I saw it on the news. I read about it
24 somewhat, but don't really have an opinion. Don't know a lot
25 of details.

1 THE COURT: Okay. Well, what you heard or read about the
2 case, would that affect your ability to be fair and impartial
3 to the defendant and to the State in this case?

4 JUROR NO. 372: No.

5 THE COURT: Could you disregard everything that you have
6 read and heard about the case?

7 JUROR NO. 372: Yes, because I don't have enough
8 information on it.

9 THE COURT: Thank you very much for bringing that to our
10 attention.

11 JUROR NO. 372: Okay.

12 THE COURT: Thank you.

13 (Open court resumes as follows:)

14 THE COURT: Yes, ma'am, in the black top, your name and
15 number.

16 JUROR NO. 31: Joann Bonds, No. 32.

17 THE COURT: All right. Ms. Bonds, if you'd come forward,
18 please.

19 BENCH CONFERENCE

20 (The following bench conference was held outside the
21 hearing of the jurors and others:)

22 THE COURT: I'm sorry; 31? You said 32 but you're Juror
23 31?

24 JUROR NO. 31. It might be 31. I'm sorry; sir.

25 THE COURT: That's all right. Ms. Bonds, did you hear

1 something, read something, or what do you know?

2 JUROR NO. 31: I just -- I saw it on the news a couple of
3 years ago. That's essentially the only thing I really
4 remember.

5 THE COURT: Did you hear anything --

6 JUROR NO. 31: Recently?

7 THE COURT: Well, have you ever heard anything that would
8 affect your ability to be fair and impartial to the defendant
9 and the State in this case?

10 JUROR NO. 31: No.

11 THE COURT: Could you disregard everything that you have
12 heard and read before now and base your decision in this case
13 exclusively on the testimony and the evidence?

14 JUROR NO. 31: I don't think so.

15 THE COURT: You don't think you can?

16 JUROR NO. 31: I don't think I can be impartial.

17 THE COURT: I appreciate it. I'm going to go ahead and
18 excuse you.

19 JUROR NO. 31: Okay. Thank you.

20 (Open court resumes as follows:)

21 THE COURT: All right. Let's excuse Juror 31. Stay with
22 us for right now though. Okay?

23 JUROR NO. 31: Okay.

24 THE COURT: All right. The lady in the black top.

25 JUROR NO. 371: Brandi Thompson, 371.

1 THE COURT: All right, Ms. Thompson. If you come
2 forward, please.

3 BENCH CONFERENCE

4 (The following bench conference was held outside the
5 hearing of the jurors and others:)

6 THE COURT: What have you seen or heard or know about the
7 case?

8 JUROR NO. 371: I read it, I saw it in the news, and one
9 of my closest friends was one of the officers on the scene.

10 THE COURT: One of your friends is the officers on the
11 scene?

12 JUROR NO. 371: One of the officers on the scene, yes,
13 sir.

14 THE COURT: Okay, Ms. Thompson. I'm going to excuse you
15 from this particular case, but stay with us for right now.

16 JUROR NO. 371: All right. Absolutely. Thank you.

17 THE COURT: Thank you.

18 (Open court resumes as follows:)

19 THE COURT: All right. We're going to excuse Juror No.
20 371. No -- I'm sorry; you were Brandi Thompson?

21 JUROR NO. 371: Yes, sir.

22 THE COURT: Okay, yeah. 371.

23 All right. The lady in the black top.

24 JUROR NO. 210: Nancy Koppel, 210.

25 THE COURT: All right, Ms. Koppel. If you'd come

1 forward, please.

2 BENCH CONFERENCE

3 (The following bench conference was held outside the
4 hearing of the jurors and others:)

5 THE COURT: All right. What do you know about the case?

6 JUROR NO. 210: I just remember hearing about it on the
7 news.

8 THE COURT: Did you hear anything that would affect your
9 ability to be fair and impartial to all of the parties?

10 JUROR NO. 210: Honestly, I can't answer that. I mean, I
11 remember it on the news.

12 THE COURT: Well, can you disregard what you heard?

13 That's fine. I'm going to go ahead and excuse you from
14 this case, but stay with us for right now. Okay?

15 JUROR NO. 210: Okay.

16 THE COURT: All right. Thank you.

17 (Open court resumes as follows:)

18 THE COURT: That's Juror 210. I have excused her.

19 Your name and number?

20 JUROR NO. 381: Robert Wagner, 381.

21 THE COURT: All right, Mr. Wagner. If you'd come
22 forward, please.

23 BENCH CONFERENCE

24 (The following bench conference was held outside the
25 hearing of the jurors and others:)

1 JUROR NO. 381: How you doing?

2 THE COURT: Fine.

3 JUROR NO. 381: I saw it on the news and read it online.

4 THE COURT: Okay. Did you hear anything or see anything
5 that would affect your ability to be fair and impartial to the
6 defendant and to the State?

7 JUROR NO. 381: No, just general news.

8 THE COURT: Could you disregard everything that you have
9 seen and heard and base your decision in this case exclusively
10 on the testimony and evidence presented at trial?

11 JUROR NO. 381: I think I could.

12 THE COURT: Okay. Thank you for bringing that to our
13 attention.

14 (Open court resumes as follows:)

15 THE COURT: All right. Is there anyone who has seen
16 anything, read anything, discussed anything, or knows anything
17 about this case? If so, please stand.

18 (No response given.)

19 THE COURT: All right. The defendant in this case is
20 Derrick Jajuan Rivera. Is there any member of the jury panel
21 related by blood or marriage, have a close personal
22 relationship, business relationship, social relationship, or
23 any other type relationship with Mr. Rivera? If so, please
24 stand.

25 (No response given.)

1 THE COURT: The victims or alleged victims in this case
2 are Stephen Johnson, Sr., and Stephen Johnson, Jr. Is there
3 any member of the jury panel related by blood or marriage,
4 have a close personal relationship, business relationship,
5 social relationship, or any other type of relationship with
6 any of these alleged victims? If so, please stand.

7 (No response given.)

8 THE COURT: Is there any member of the jury panel who
9 either personally has a family member or close personal friend
10 employed with the Waccamaw Bingo Hall or has been in the past
11 been employed with the Waccamaw Bingo Hall? If so, please
12 stand.

13 (No response given.)

14 THE COURT: All right. Ladies and gentlemen, please
15 listen carefully. There are a number of potential witnesses
16 in this case, so I'm going to need you to listen up to see if
17 you know any of these potential witnesses.

18 Charlotte Pitts of State Law Enforcement Division, also
19 known as SLED. Jackie Davis of SLED. Sara Goodman of SLED.
20 Kimberly Spainhour of SLED. Jana Weaver of SLED. Rebecca
21 Phillips -- is that Horry County Police Department?

22 MR. HIXSON: Yes, sir.

23 THE COURT: Okay. Rebecca Phillips of the Horry County
24 Police Department. Angelina Phillips of the Medical
25 University of South Carolina. Peter Cestare. Ryan Dewane of

1 SLED. Brian Church of the Horry County Police Department.
2 Detective Sean Wydra, W-y-d-r-a, of the Horry County Police
3 Department. Detective Brian Scales. Investigator Brad
4 Townsend. Ryan Keefe. Marcus Stitzer. Teresa Holyfield.
5 Christina Johnson-Brunson. Drew Edwards of the Horry County
6 Police Department. John Gregory of the GTPD. Who is that?

7 MR. HIXSON: He's with the Georgetown Police Department.

8 THE COURT: Okay. Georgetown Police Department.

9 Bailey Haynes of SLED. Sharon Lilly of the Horry County
10 Police Department. Lieutenant David Long of the Colleton
11 County Sheriff's Office. Don Kobithen, K-o-b-i-t-h-e-n, of
12 the Horry County Police Department. Juan Gregory. Bradford
13 Britton. Merrill Hawkins. Renee Hardwick of the 911 system
14 and Eric Gradsky.

15 Is there any member of the jury panel related by blood or
16 marriage, have a close personal relationship, business
17 relationship, social relationship, or any other type of
18 relationship with any of these potential witnesses? If so,
19 please stand.

20 (No response given.)

21 THE COURT: Prosecuting this case on behalf of the State
22 is Attorney Scott R. Hixson. The defendant is represented by
23 Attorney William Sean McGuire.

24 Is there any member of the jury panel related by blood or
25 marriage, have a close personal relationship, business

1 relationship, social relationship, or any other type of
2 relationship with Mr. Hixson or Mr. McGuire? If so, please
3 stand.

4 (No response given.)

5 THE COURT: Is there any member of the jury panel ever
6 been represented by either of these attorneys? If so, please
7 stand.

8 (No response given.)

9 THE COURT: Has any member of the jury panel ever been
10 involved in any legal action in which either of these
11 attorneys represented another party to that action? If so,
12 please stand.

13 (No response given.)

14 THE COURT: Is there any member of the jury panel who
15 either personally, has a family member or close personal
16 friend employed with the 15th Circuit Solicitor's Office or
17 the South Carolina Commission on Indigent Defense? If so,
18 please stand.

19 Yes, sir. Your name and number?

20 JUROR NO. 3: Trey Andrew. No. 3.

21 THE COURT: All right, Mr. Andrew. Who is it that you
22 know?

23 JUROR NO. 3: My first cousin, Leigh Andrews, with the
24 solicitor's office in Horry County here.

25 THE COURT: Okay. All right. Mr. Andrews, I'm going to

1 excuse you from this particular case but stay with us right
2 now. Okay?

3 JUROR NO. 3: Yes, sir.

4 THE COURT: Yes, ma'am. Your name and number?

5 JUROR NO. 172: Rebecca Huggins. 172. Did you ask of
6 any member of the 15th Solicitor Judicial --

7 THE COURT: Either a family member, close personal
8 friend, or anyone personally employed with the 15th Circuit
9 Solicitor's Office.

10 JUROR NO. 172: Good personal friend of Jimmy Richardson.

11 THE COURT: Okay. Now, when you say "good personal
12 friend," do y'all socialize regularly? Go to the same church?
13 Or what is the situation?

14 JUROR NO. 172: He and my husband grew up together. We
15 spend a great deal of time outside of...

16 THE COURT: Okay. Thank you. And you are Ms. Huggins?

17 JUROR NO. 172: Yes, sir.

18 THE COURT: All right, Ms. Huggins. I'm going to excuse
19 you from this particular case, but stay with us for right now.
20 Okay?

21 Anyone else?

22 (No response given.)

23 THE COURT: Has any member of the jury panel formed or
24 expressed an opinion about any issue or matter involved in
25 this case? If so, please stand.

1 (No response given.)

2 THE COURT: Is any member of the jury panel aware of any
3 bias or prejudice towards either the State of South Carolina
4 or the defendant in this case? If so, please stand.

5 (No response given.)

6 THE COURT: Is there any member of the jury panel that
7 was a member of the grand jury that issued the indictment in
8 this case? If so, please stand.

9 (No response given.)

10 THE COURT: Is there any member of the jury panel that is
11 a member of or a contributor to any organization or group
12 which has as its primary concern the promotion of law
13 enforcement or victim's rights? Some of these organizations
14 are Mothers Against Drunk Drivers, Students Against Drunk
15 Drivers, Citizens Against Violent Crime, CAVE, and other
16 similar organizations. Any member of the jury panel a member
17 of or a contributor to such organization? If so, please
18 stand.

19 (No response given.)

20 THE COURT: Is any member of the jury panel a member of
21 or a contributor to any group or organization which has as its
22 primary concern criminal justice reform? If so, please stand.

23 (No response given.)

24 THE COURT: Does any member of the jury panel know of any
25 reason whatsoever why he or she should not serve as a juror in

1 this case, with particular emphasis being placed on your
2 ability to be fair and impartial to the defendant and to the
3 State of South Carolina? If so, please stand.

4 (No response given.)

5 THE COURT: All right. Any additional questioning from
6 the State?

7 MR. HIXSON: No, sir.

8 THE COURT: Any from the defense?

9 MR. MCGUIRE: No, sir.

10 THE COURT: All right. Ladies and gentlemen, the way we
11 select juries in General Sessions cases, it's a little bit
12 different in Common Pleas. In Common Pleas, your names would
13 be generated on a list in random order, those who were not
14 excused, and you would be assigned new numbers, and the
15 attorneys would strike potential jurors based upon their jury
16 number or their new jury numbers.

17 In General Sessions Court, it's a little bit different.
18 We do create another list where your names are put on that
19 list in random order, not in alphabetical order as we do
20 through qualifications and voir dire, but it will be placed on
21 the list in random order, and then your names will be called
22 out one at a time.

23 And if your name is called, you will come and you'll
24 stand in front of the attorneys and you'll face the attorneys.
25 And Mr. Hixson is going to look at you and then look at his

1 notes and then look back at you and then look back at his
2 notes and then may discuss something with some people and
3 decides if he wants you as a juror. If he wants you as a
4 juror, then the defense is going to look at you a little while
5 and then look at their notes a little while and then look back
6 at you a little while and decide if they want you as a juror.
7 And we follow this process until we get 12 jurors.

8 And y'all said you needed three alternates in this case?

9 MR. HIXSON: Yes, sir.

10 THE COURT: All right. Three alternates in this case.

11 We're working on that list. Unfortunately, our
12 technology is keeping us from printing out the list at this
13 point in time, so they're trying to work on that list, and it
14 will be just a few minutes. So if y'all would please be
15 patient while we get this list printed and out so that we can
16 begin the jury selection process. So you can kind of sit at
17 ease for a while. Please don't leave, stay where you are, and
18 we'll hopefully have this in just a few minutes. Thank you
19 very much.

20 (Pause in the proceedings.)

21 THE COURT: I just want to make sure, ten and five;
22 right?

23 MR. MCGUIRE: Well, ten over here.

24 THE COURT: Yeah. And then the alternates, two and then
25 one?

1 MR. MCGUIRE: Two and one for each one.

2 MR. HIXSON: Each one.

3 THE COURT: For each one. That's right. That's right.
4 Okay. Now, and then the alternates, if we need an alternate,
5 then just pick out of a hat in random order. Okay?

6 MR. MCGUIRE: That would be fine with us.

7 THE COURT: Okay. Sounds good.

8 MR. HIXSON: Here's a copy of the stipulation we
9 mentioned when the time comes. That's for later.

10 THE COURT: Okay.

11 MR. MCGUIRE: We have both agreed on it.

12 THE COURT: Okay. Good. How did you mark that? Court's
13 exhibit?

14 MR. HIXSON: Court's 1.

15 THE COURT: Court's Exhibit 1? Okay. Good.

16 (Open court resumes as follows:)

17 (Pause in the proceedings.)

18 THE COURT: Ladies and gentlemen, we're getting ready to
19 start the selection process. If your name is called, I'll
20 need you to come forward, stand here in front of the attorneys
21 stand here, turn and face the attorneys. Bring with you any
22 pocketbooks, umbrellas, whatever you may have, bring that with
23 you, and come and stand in front of the attorneys and you'll
24 get some further directions. If you're selected, you'll need
25 to go over, and the bailiff will seat you in the jury box.

JURY SELECTION

31

1 If you are struck or dismissed by either the State or the
2 defense, please don't take it seriously. It means, for
3 whatever reason, you just did not fit a certain profile that
4 they're looking for in this case. There's really no rhyme or
5 reason to it. It just means, you know, you're just not what
6 they're looking for on this particular case. I have had a
7 number of terms of court where a potential juror has been
8 struck from the first case and then accepted by the same party
9 in a second case or accepted in the first case and struck in
10 the second case. So it really doesn't make any rhyme or
11 reason. So please don't take it personally if one of them
12 strikes you from serving on this jury.

13 But please listen up. As the clerk calls your name,
14 please come forward. Bring with you whatever you may have
15 with you. Stand right here in front of the court reporter and
16 turn and face the attorneys. Thank you very much.

17 JURY SELECTION

18 THE CLERK: Juror No. 13, Greg Barnhill.

19 (Juror No. 13, a white male, presented.)

20 THE CLERK: What say the State?

21 MR. HIXSON: Please present Mr. Barnhill.

22 THE CLERK: Please be seated --

23 THE COURT: Nope.

24 THE CLERK: For the defense. I'm sorry.

25 MR. MCGUIRE: Please excuse this juror from the trial of

1 this case.

2 THE CLERK: You're excused from this particular case.

3 THE COURT: You can return to your seat. Thank you.

4 THE CLERK: Juror No. 312, Leonardo Rojas.

5 (Juror No. 312, a Hispanic male, presented.)

6 THE CLERK: What say the State?

7 MR. HIXSON: Please present Mr. Rojas.

8 THE CLERK: Defense?

9 MR. MCGUIRE: Please swear in Mr. Rojas.

10 THE CLERK: Please be seated in the jury box.

11 Juror No. 268, Aaron Norris.

12 (Juror No. 268, a white male, presented.)

13 THE CLERK: What say the State?

14 MR. HIXSON: Please present Mr. Norris.

15 THE CLERK: Defense?

16 MR. MCGUIRE: Please excuse Mr. Norris.

17 THE CLERK: You're excused from this particular case.

18 Juror No. 284, Crystal Philbeck.

19 (Juror No. 284, a white female, presented.)

20 THE CLERK: What say the State?

21 MR. HIXSON: Please present Ms. Philbeck.

22 THE CLERK: Defense?

23 MR. MCGUIRE: Please swear this juror.

24 THE CLERK: Please be seated in the jury box.

25 Juror No. 256, Catherine Mollenhauer.

JURY SELECTION

33

1 (Juror No. 256, a white female, presented.)

2 THE CLERK: What say the State?

3 MR. HIXSON: Please present Ms. Mollenhauer.

4 THE CLERK: Defense?

5 MR. McGUIRE: Please excuse this juror.

6 THE CLERK: You're excused from this particular case.

7 Juror No. 138, Terri Goldenbaum.

8 (Juror No. 138, a white female, presented.)

9 THE CLERK: What say the State?

10 MR. HIXSON: Please present Ms. Goldenbaum.

11 THE CLERK: Defense?

12 MR. McGUIRE: Please swear in the juror.

13 THE CLERK: Please be seated in the jury box.

14 Juror No. 39, Wilma Brady.

15 (Juror No. 39, a white female, presented.)

16 THE CLERK: What say the State?

17 MR. HIXSON: Please present Ms. Brady.

18 THE CLERK: Defense?

19 MR. McGUIRE: Please swear in Ms. Brady.

20 THE CLERK: Please be seated in the jury box.

21 Juror No. 233, Jessica Malona.

22 (Juror No. 233, a white female, presented.)

23 THE CLERK: What say the State?

24 MR. HIXSON: Please present Ms. Malona.

25 THE CLERK: Defense?

1 MR. MCGUIRE: Please excuse this juror.

2 THE CLERK: You're excused from this particular case.

3 Juror No. 59, Jeana Carroll.

4 (Juror No. 59, a white female, presented.)

5 THE CLERK: What say the State?

6 MR. HIXSON: Please present Ms. Carroll.

7 THE CLERK: Defense?

8 MR. MCGUIRE: Please swear in this juror.

9 THE CLERK: Please be seated in the jury box.

10 Juror No. 132, Douglas Gerald.

11 (Juror No. 132, a white male, presented.)

12 THE CLERK: What say the State?

13 MR. HIXSON: Please present Mr. Gerald.

14 THE CLERK: Defense?

15 MR. MCGUIRE: Please swear in this juror.

16 THE CLERK: Please be seated in the jury box.

17 Juror No. 34, Jada Bowen.

18 (Juror No. 34, a white female, presented.)

19 THE CLERK: What say the State?

20 MR. HIXSON: Please present Ms. Bowen.

21 THE CLERK: Defense?

22 MR. MCGUIRE: Please swear this juror.

23 THE CLERK: Please be seated in the jury box.

24 Juror No. 173, Brandie Hunter.

25 (Juror No. 173, a black female, presented.)

JURY SELECTION

35

1 THE CLERK: What say the State?
2 MR. HIXSON: Please present Ms. Hunter.
3 THE CLERK: Defense?
4 MR. MCGUIRE: Please swear in this juror.
5 THE CLERK: Please be seated in the jury box.
6 Juror No. 208, Teddy Kohn.
7 (Juror No. 208, a white male, presented.)
8 THE CLERK: What say the State?
9 MR. HIXSON: Please present Mr. Kohn.
10 THE CLERK: Defense?
11 MR. MCGUIRE: Please excuse this juror.
12 THE CLERK: You're excused from this particular case.
13 Juror No. 204, Myrah Kerber.
14 (Juror No. 204, a white female, presented.)
15 THE CLERK: What say the State?
16 MR. HIXSON: Please present Ms. Kerber.
17 THE CLERK: Defense?
18 MR. MCGUIRE: Please swear in Ms. Kerber.
19 THE CLERK: Please be seated in the jury box.
20 Juror No. 163, Paul Holder.
21 (Juror No. 163, a white male, presented.)
22 THE CLERK: What say the State?
23 MR. HIXSON: Please present Mr. Holder.
24 THE CLERK: Defense?
25 MR. MCGUIRE: Please excuse this juror.

1 THE CLERK: You're excused from this particular case.
2 Juror No. 5, Thomas Appling.
3 (Juror No. 5, a white male, presented.)
4 THE CLERK: What say the State?
5 MR. HIXSON: Please present Mr. Appling.
6 THE CLERK: Defense?
7 MR. MCGUIRE: Please excuse this juror.
8 THE CLERK: You're excused from this particular case.
9 Juror No. 32, Cicero Booker.
10 (Juror No. 32, a black male, presented.)
11 THE CLERK: What say the State?
12 MR. HIXSON: Please present Mr. Booker.
13 THE CLERK: Defense?
14 MR. MCGUIRE: Please swear Mr. Booker.
15 THE CLERK: Please be seated in the jury box.
16 Juror No. 164, Elaine Holliday.
17 (Juror No. 164, a white female, presented.)
18 THE CLERK: What say the State?
19 MR. HIXSON: Please present Ms. Holliday.
20 THE CLERK: Defense?
21 MR. MCGUIRE: Please swear the juror.
22 THE CLERK: Please be seated in the jury box.
23 Juror No. 202, Michael Kelley.
24 (Juror No. 202, a white male, presented.)
25 THE CLERK: What say the State?

JURY SELECTION

37

1 MR. HIXSON: Please present Mr. Kelley.

2 THE CLERK: Defense?

3 MR. MCGUIRE: Please excuse Mr. Kelley.

4 THE CLERK: You're excused from this particular case.

5 Juror No. 306, Austin Rizzo.

6 (Juror No. 306, a white male, presented.)

7 THE CLERK: What say the State?

8 MR. HIXSON: Please present Mr. Rizzo.

9 THE CLERK: Defense?

10 MR. MCGUIRE: Please swear in this juror.

11 THE CLERK: Please be seated in the jury box.

12 THE COURT: All right. Then there are 12. Next, the
13 State gets one strike, defense gets two.

14 THE CLERK: Juror No. 381, Robert Wagner.

15 (Juror No. 381, a white male, presented.)

16 THE CLERK: What say the State?

17 MR. HIXSON: Please present Mr. Wagner.

18 THE COURT: Defense?

19 MR. MCGUIRE: Please excuse Mr. Wagner.

20 THE CLERK: You're excused from this particular case.

21 Juror No. 46, Tyrone Brown.

22 (Juror No. 46, a black male, presented.)

23 THE CLERK: What say the State?

24 MR. HIXSON: Please present Mr. Brown.

25 THE CLERK: Defense?

1 MR. MCGUIRE: Please swear in this juror.

2 THE CLERK: Please be seated in the jury box.

3 THE COURT: All right. We'll select another one. State
4 gets one and defense gets two.

5 THE CLERK: Juror No. 359, Lisa Stricker.

6 (Juror No. 359, a white female, presented.)

7 THE CLERK: What say the State?

8 MR. HIXSON: Please present Ms. Stricker.

9 THE CLERK: Defense?

10 MR. MCGUIRE: Please excuse this juror.

11 THE CLERK: You're excused from this particular case.

12 Juror No. 33, Daniel Bowen.

13 (Juror No. 33, a white male, presented.)

14 THE CLERK: What say the State?

15 MR. HIXSON: Please present Mr. Bowen.

16 THE CLERK: Defense?

17 MR. MCGUIRE: Please excuse Mr. Bowen.

18 THE CLERK: You're excused from this particular case.

19 Juror No. 385, Steven Warner.

20 (Juror No. 385, a white male, presented.)

21 THE CLERK: What say the State?

22 MR. HIXSON: Please present Mr. Warner.

23 THE CLERK: Defense?

24 MR. MCGUIRE: Please swear in the juror.

25 THE CLERK: Please be seated in the jury box.

JURY SELECTION

39

1 THE COURT: Let's go through and get one more alternate.

2 The State gets one strike, defense gets two.

3 THE CLERK: Juror No. 101, Kristina Dry.

4 (Juror No. 101, a white female, presented.)

5 THE CLERK: What say the State?

6 MR. HIXSON: Please present Ms. Dry.

7 THE CLERK: Defense?

8 MR. MCGUIRE: Please swear in Ms. Dry.

9 THE CLERK: Please be seated in the jury box.

10 THE COURT: All right. Ladies and gentlemen, you'll be
11 our jury on this first case. I'm going to excuse you to the
12 jury room for just a few minutes while I release the remainder
13 of the jury panel, and then I'll bring you back out with some
14 instructions in just a moment. So I'm going to excuse you
15 back to the jury room for just a few minutes. Thank you very
16 much.

17 Everyone else, please remain seated while the jury is
18 excused.

19 (The jury exited the courtroom at 2:37 p.m.)

20 THE COURT: All right. Any challenges to the selection
21 and composition of the jury by the State?

22 MR. HIXSON: No, sir.

23 THE COURT: Any by the defense?

24 MR. MCGUIRE: No, sir.

25 THE COURT: All right. Ladies and gentlemen, those of

1 you who remain in the jury panel, we have our jury for this
2 first case, so I'm going to excuse you for the remainder of
3 the day.

4 You should have been given a number to the clerk of
5 court's office. You need to call that number after 6 p.m.
6 today and that will give you some instructions as to when you
7 need to return or if you need to return. So please call that
8 number after 6 p.m. today.

9 Again, I want to thank you for your service, and as I
10 told you during qualifications, even if you do not get
11 selected on a jury this week, please do not feel you have not
12 fulfilled your duties. You have, and I want to thank you for
13 your service.

14 You're free to go for the remainder of the day. Please
15 call that number after 6 p.m. Thank you very much.

16 (The remaining jurors exited the courtroom at 2:39 p.m.)

17 THE COURT: All right. As I understand, we're going to
18 bring the jury back in and just cut them loose until tomorrow
19 morning; is that correct?

20 MR. HIXSON: Yes, sir.

21 MR. MCGUIRE: Yes, sir.

22 THE COURT: What time do y'all want to get started
23 tomorrow?

24 MR. HIXSON: If they're here at 9:00, we can start by
25 9:30.

1 THE COURT: I mean, I usually take the bench at 9:30, but
2 I didn't know what your situation was, whether you're
3 traveling from Columbia or what you're going to do.

4 MR. MCGUIRE: Oh, no, I can be here at 9:30.

5 THE COURT: Okay. All right. I'll probably have them
6 come back about 9:15 and then I'll take the bench at 9:30.
7 Okay? I'm going to hold off on swearing the jury until
8 tomorrow morning. Okay?

9 MR. HIXSON: Yes, sir.

10 MR. MCGUIRE: Yes, sir.

11 THE COURT: Anything from the State before we bring the
12 jury back in?

13 MR. HIXSON: Not as it relates to the jury.

14 THE COURT: All right. Anything from the defense?

15 MR. MCGUIRE: No, sir.

16 THE COURT: All right. Let's bring the jury back in.

17 MR. HIXSON: Yes, Your Honor, just your typical
18 admonitions about staying off social media and all that kind
19 of stuff.

20 THE COURT: I'm going to do that. All right.

21 I think I am going to have them come back at 9:00 because
22 I got to pick the foreperson, but I'll still take the bench at
23 9:30.

24 MR. HIXSON: Yes, sir.

25 (Pause in the proceedings.)

1 (The jury entered the courtroom at 2:43 p.m.)

2 THE COURT: Ladies and gentlemen, welcome back. We are
3 going to be starting this trial -- the evidentiary portion and
4 the witnesses and all of that we'll be starting tomorrow
5 morning. We have got some scheduling matters, we've got to
6 arrange to get some witnesses here and things of that nature.
7 So I'm getting ready to excuse you to go home for the
8 remainder of the day, and I'm going to ask that you please be
9 back at 9:00 tomorrow morning. Okay? That will give you an
10 opportunity -- I'll try to get started right at about 9:30,
11 but that will give you an opportunity to get some coffee and
12 maybe they'll have a biscuit for you or something of that
13 nature.

14 Also, when you get back, I'm going to ask that you select
15 a foreperson for this jury. You may not be able to select a
16 foreperson. If you can't, don't worry about it. I can
17 appoint someone as foreperson. Many judges appoint their own
18 foreperson. I like to give the jury the opportunity to select
19 one on their own accord if they're able to do so.

20 So if you can select a foreperson, just write his or her
21 name on a sheet of paper with the jury number, give it to the
22 bailiff, and we'll bring you back into the courtroom at that
23 time.

24 Now, the foreperson has absolutely no more authority, no
25 more influence, no more importance than any other juror. The

1 function of the foreperson is to act as a liaison between the
2 Court and the jury. If the jury has a question, the
3 foreperson lets the Court know. If the jury has a need, the
4 foreperson lets the Court know. When it's time to deliberate
5 on a verdict, the foreperson will preside over the
6 deliberations and sign the verdict form. But, other than
7 that, the foreperson has no more authority, no more influence,
8 no more importance than any other juror. The only restriction
9 is that, at this point in time, it looks like Mr. Brown,
10 Mr. Warner, and Ms. Dry, y'all are alternates at this point in
11 time, so y'all would not be eligible to serve as foreperson.
12 Any of the rest of you can serve as foreperson.

13 So, as I said, if you can select one, write his or her
14 name on a sheet of paper with the jury number, give it to the
15 bailiff, and we'll bring you back into the courtroom.

16 Now, when you come back into the courtroom, the
17 foreperson will always occupy the first seat on the front row
18 closest to the witness stand. The alternates will always
19 occupy the alternate seats. The rest of you are at liberty to
20 sit in whatever seats you'd like. If you want to sit in the
21 same seat throughout the trial, you can do that. If you want
22 to alternate the seats, you can do that as well. The only
23 restriction is the alternates occupy the alternate seats
24 unless you become a member of the 12-panel jury, and the
25 foreperson occupies the first seat on the front row.

1 I'm going to excuse you for the remainder of the day. I
2 hope you have a good evening. Do not discuss the case. Don't
3 even talk about it among yourselves; it's too early for
4 deliberations. Don't conduct any independent investigation.
5 Don't go looking on the internet. Don't go looking through
6 the newspaper. Don't try to listen to any news reports.
7 Don't try to find out anything about this case. Everything
8 you need to make a decision in this case will be presented to
9 you during the trial of this case. So don't conduct any
10 independent investigations. Don't talk about the case.

11 I hope you have a good evening, and we'll see you back at
12 9:00 tomorrow morning. Thank you very much.

13 JUROR: Do we meet back up here?

14 THE COURT: I don't know.

15 Bobby, where do they go?

16 He'll let you know. Thank you.

17 (The jury exited the courtroom at 2:47 p.m.)

18 THE COURT: All right. Are we ready to get started with
19 pretrial stuff or do we need a little break first?

20 MR. HIXSON: I wouldn't mind using the restroom and
21 coming back.

22 MR. McGUIRE: Same here.

23 THE COURT: All right. Let's take about a 10-minute
24 break. We'll come back and get started on pretrial matters.
25 All right?

1 (A brief recess was taken at 2:48 p.m.)

2 (Court's Exhibit No. 2, Stipulation of Evidence, was
3 marked for identification and received into evidence for
4 appellate review only.)

5 (Court's Exhibit 3, 9/13/21 DNA Report, was marked for
6 identification and received into evidence for appellate review
7 only.)

8 (Court's Exhibit 4, 8/17/19 DNA Report, was marked for
9 identification and received into evidence for appellate review
10 only.)

11 PRE-TRIAL MATTERS/MOTIONS

12 THE COURT: All right, gentlemen. What have we got
13 first?

14 MR. HIXSON: Your Honor, we have a couple of housekeeping
15 items that are really minor. Probably the biggest thing
16 pending is Defendant's motion to suppress the DNA evidence in
17 the case. And, of course, I'll hand it over to Mr. McGuire
18 here for a second. I think we can do the housekeeping
19 matters.

20 Do you want to do it before or after, Bill?

21 MR. MCGUIRE: Doesn't matter.

22 MR. HIXSON: The State's entered into a couple of -- the
23 State and Defense have entered into a couple of stipulations,
24 Your Honor. Court's 1 is relating to a pre-trial stipulation
25 concerning the admissibility of evidence. And, in brief,

1 there are seven different stipulation points on that. And,
2 basically, one is the indication that the telephone records in
3 this case are authenticate and may be used by either side
4 without proving the nature of the custodian of the records, to
5 bring Verizon and the Verizon engineers and everything else in
6 there. So that is a shorthand for Stipulation No. 2.

7 No. 2, there were substantial fingerprints taken on the
8 Jetta that was recovered in this case. SLED issued a report
9 that indicated many of the fingerprints were unidentified.
10 Many of them -- none of them came back to Mr. Rivera on the
11 outside of the Jetta.

12 We stipulated to the authenticity of it. And so the
13 efforts the county police put in, he could be cross-examined
14 on that. We have no problem with the foundational -- SLED
15 doesn't have to come here to testify on the fingerprint
16 report. They can do through that Ms. Phillips, Horry County's
17 testimony.

18 Pathologist reports, authenticate; that the pathologist
19 will be here to testify to the bullets.

20 They are -- rather than having the clerk have to deal
21 with the actual firearms that were not the murder weapons --
22 two were recovered -- we stipulated that we can use
23 photographs to determine the authenticity of the guns
24 recovered in the crime scene without Madam Clerk having to
25 keep firearms. You know, the Supreme Court has some rules

1 about keeping firearms in the clerk's office, so we'll
2 stipulate to those.

3 The video recordings have been stipulated that they are
4 authenticate as developed. They have been provided and seen.
5 We have all vetted them, so there's not a necessity to lay a
6 foundation. We're stipulating to the foundation of those
7 items.

8 Also, chain of custody has been proven from the place of
9 collection up until the analyst provides fungible items of
10 evidence. And then, finally, as Your Honor doesn't know that
11 much about this -- the details of this yet, but there was some
12 concern over Mr. Rivera's -- Mr. Rivera was known in the
13 community. He had some prior altercations with the law, prior
14 involvement with the law. There's some concern over the
15 identification process, getting into information the jury
16 shouldn't be aware of, such as prior record or why they knew
17 of this. And, based on that, No. 7 is the identification
18 process we're going to go through, which leads me to Court's
19 Exhibit No. 2, this -- the State intends to elicit this from
20 testimony from a law enforcement officer. So Stipulation 7,
21 pre-trial, says that we agree that we will allow the
22 identification process without a *Neil v. Biggers* hearing; that
23 Bradford Britton will identify Mr. Rivera as the person that
24 he calls by his nicknames "G," "Big Bro" and "Mug"; that he
25 didn't know Derrick's last name; he knew him as Derrick, is

1 what he'll say. And he'll also pick him out.

2 Law enforcement gave him a South Carolina driver's
3 license photograph and gave it to Mr. Britton, and Mr. Britton
4 said, "That's the guy that I know as Derrick, Mug, this." And
5 so rather than risking some -- getting into some other
6 testimony on why he knows him, that's what we're entering as
7 Stipulation No. 2. And that will say that Bradford Britton
8 told law enforcement officers that the person he drove to the
9 incident location, the Waccamaw Bingo, went by the nicknames
10 of "G," "Big Bro," and "Mug."

11 Further investigation revealed that Mug is a nickname of
12 Derrick Rivera. Horry County law enforcement officers showed
13 Bradford Britton a South Carolina DMV photo of Derrick Rivera,
14 and Bradford Britton stated that the person in the SC DMV
15 photo is the same person he knew as Mug. So, at this time,
16 the State would ask the Court to adopt and accept these two
17 stipulations, and I'm referring to Court's 1 and Court's 2.

18 THE COURT: All right. Two questions. Number one, where
19 y'all are stipulating to the authenticity of these various
20 records, videos, and things like that? Are we stipulating to
21 the introduction of -- into evidence, or is it just you still
22 have to lay the groundwork but with the exception of
23 authenticating it?

24 MR. HIXSON: That's safe to -- I think they're going to
25 be one and the same in that. People are going to watch the

1 video and say, "That's the video I saw." I don't think you
2 have quite moved them into evidence yet. I don't want to
3 quite do that yet. Just once proper foundation is laid, then
4 it's kind of a relaxed authenticity.

5 THE COURT: So, in other words, they're not coming into
6 evidence. I'll rule on that when you lay your groundwork, but
7 part of that groundwork is not going to require that they be
8 authenticated; is that correct?

9 MR. HIXSON: That's correct.

10 MR. MCGUIRE: That's right.

11 MR. HIXSON: That's right.

12 THE COURT: All right. Now, number two, with regard to
13 the identification, is there a question or is there a
14 challenge that it was a suggestive identification that would
15 require a *Biggers* hearing?

16 MR. MCGUIRE: No, sir. The underlying facts would be
17 that Bradford Britton -- the testifying co-defendant will
18 testify that he told law enforcement "I gave this guy a ride.
19 This is how I know him." They found out -- they attached a
20 name to the nickname. He got a driver's license photo, and he
21 said, "That's the guy that I know as" and then his nicknames.
22 And we don't contest that.

23 THE COURT: Okay.

24 MR. HIXSON: And let me add some texture to that for Your
25 Honor. The facts that we'll intend to show at trial --

1 Bradford Britton's role in this, he pled guilty on Thursday to
2 attempted armed robbery, zero to 20 years, and accessory after
3 the fact of a felony of murder, which is zero to 15 years.
4 That sentence will be held in abeyance upon the conclusion of
5 the disposition of trial. He's under a proffer agreement with
6 the State of South Carolina now.

7 He also entered into a written plea agreement where his
8 elocation was -- and we have provided a copy of that to
9 Mr. McGuire. Basically, he knew Mr. Rivera from Georgetown.
10 He had known him for one or two months prior to the incident.
11 This incident occurred on July 26th of 2019. So he knew him
12 from the neighborhood. That's why we're going to try to limit
13 it just knowing him from the neighborhood, and he lived down
14 the road from Gilbert -- he lived on Kaminksi Street, and
15 Mr. Rivera lived down on Gilbert Street, just in the general
16 same area.

17 So he had prior knowledge of the identity of this
18 individual. That's why we don't believe it's not a show-up ID.
19 He knew him prior to this, and the allegation in this is they
20 communicated some time prior to that about driving up to the
21 Waccamaw Bingo location ultimately where the robbery and
22 murder occurs.

23 So they were involved in -- allegedly involved in a plan
24 of Bradford driving Mr. Rivera up to that location and back.
25 The facts at trial today are identification of the person who

1 did -- most of it is captured on video in a disguise, and the
2 main issue at trial is the identity of the person in that
3 disguise.

4 THE COURT: But you're not -- or the defense isn't
5 arguing that the identification of the defendant was overly
6 suggested by law enforcement?

7 MR. MCGUIRE: No, sir.

8 THE COURT: Okay. All right. That would be fine.

9 Are these the stipulations of the defendant?

10 MR. MCGUIRE: They are.

11 THE COURT: Okay. All right. Well, then Court -- the
12 stipulations as set forth in Court's Exhibit 1 and Court's
13 Exhibit 2 are accepted by the Court and granted.

14 MR. HIXSON: Thank you, Your Honor.

15 THE COURT: Anything else?

16 MR. HIXSON: That's the housekeeping for now, and I'll
17 turn it over to Mr. McGuire relating to his motion to exclude
18 DNA evidence.

19 THE COURT: All right, Mr. McGuire. Let me hear from
20 you.

21 MR. MCGUIRE: Judge I'll be very brief. We just filed a
22 very short motion, just one page, moving to suppress the DNA
23 evidence. This is what's called a STRmix case where an
24 algorithm is used to produce likelihoods of a person's DNA
25 being part of a mixture of DNA. This is the first STR or

1 STRmix case I've ever had.

2 And we filed essentially sort of like a *Daubert* hearing
3 motion, *Jones/Counsel* hearing motion to determine if the
4 science is reliable and if it was reliable as applied to the
5 facts of this case. And I understand that Mr. Hixson has
6 three witnesses that he's prepared to call.

7 THE COURT: All right. Is that how we're going to
8 proceed, with you calling witnesses?

9 MR. HIXSON: Yes, Your Honor. I believe the State's been
10 guided by *State vs. Phillips*, our Supreme Court case, I think
11 is back in 2019 where it laid out really the Court's
12 gatekeeping role, and I think *Phillips* really stands for the
13 proposition that Your Honor has to at least hear some aspect
14 of what the import of the DNA evidence is to determine whether
15 or not, under 403, it's somewhat reliable -- or not reliable;
16 obviously, that's a 702 issue, but 403 probative or not.

17 I'll give you an example. A DNA swab from the push
18 handle of the outside of a convenience store may have a bunch
19 of stuff and it may have the Defendant's DNA, but I don't know
20 how probative that would be of an issue that the jury has to
21 decide.

22 And so the State's intention is to offer the testimony of
23 Rebecca Phillips. She's the crime scene officer that's
24 employed by the Horry County Police Department that went to
25 the scene that night and recovered certain items of evidence

1 for further DNA testing, and she submitted those items to
2 State Law Enforcement Division for testing.

3 Quite a few items were taken. It's not our intention to
4 put all of those in. There's five or I think eight total that
5 are probative in this issue. And she'll talk about the
6 collection and why in her reasoned opinion. Not -- she's not
7 being an expert, just why she thought this matters versus this
8 doesn't matter.

9 And then the two DNA analysts that performed analysis on
10 these is Ryan Dewane. She performed an analysis on some gray
11 pants that matched the appearance of the pants the suspect was
12 wearing in the robbery, because you can see what he was
13 wearing on the video.

14 And then, ultimately, Sara Goodman is a DNA analyst from
15 the State Law Enforcement Division, and she processes five
16 different -- I believe it's five different items.
17 Specifically, there was a black draw-string bag that was left
18 on the scene full of money. That was swabbed. You can see
19 the suspect wearing that into the scene by the video
20 surveillance of the bingo parlor.

21 In addition to that, you can see the clothing items,
22 including appears to be dreadlocks, some kind of long
23 dreadlock hair. You can see in the video that that becomes of
24 relevance.

25 You'll also see a black toboggan-style cap. And then

1 there's distinctive Nike shoes, gray and black Nike-style
2 tennis shoes.

3 The fact pattern that we have, testimony you'll hear from
4 the witnesses, is that there was some type of a scuffle in the
5 office when Stephen Johnson, Sr. -- I'll call him "Steve" to
6 try to keep -- because Stephen Johnson, Jr., his nickname by
7 the family was Sparky.

8 And so Steve Sr. was already in the office. Steve Jr.
9 was calling at the bingo call stand that's on the back wall
10 when they saw the perpetrator of this run in through the back
11 in the office. They all see the gray pants, gray shirt, black
12 draw-string bag, appeared to be long dreadlock hair.

13 There's a scuffle that's obscured by the wall. Shots
14 fired in there. A suspect runs out. The video machine is
15 damaged in the process, so you do not see the suspect leave
16 the scene, but there's adjoining video that shows the suspect
17 getting back into Bradford Britton's -- or not -- excuse me --
18 going away from, and then you can see the Jetta moving away
19 from there, the silver Jetta that Bradford Britton's vehicle
20 is.

21 So the testimony from the crime scene, whoever is wearing
22 that and left that stuff in the scuffle was wearing this
23 disguise, this outfit; thus, it's highly probative of who was
24 wearing it, the DNA swabs from inside those.

25 There's human hair that was swabbed from inside the

1 dreadlock wig as well as scrapings from the interior of that
2 that were processed, and the profile developed were indicative
3 of Bradford Britton.

4 Let me back up. After Bradford -- excuse me. After
5 Derrick Rivera was arrested several days later, a search
6 warrant was obtained for his buccal swabs for a DNA standards,
7 that that was compared against the items of evidence recovered
8 in the scene, as well as clothing items that were dropped on
9 the drive away from them and apparently discarded out the
10 window.

11 So that's the evidence we intend to show, where it was
12 collected, as well as the basic science behind it to the
13 satisfaction of the Court that it's reliable enough to be
14 submitted for the jury to hear this information.

15 I did submit a brief to the Court which laid out a fact
16 capsule as well as some of the analysis and probably
17 appropriate to have that discussion after the presentation of
18 some of these witnesses to get an idea where the State of
19 South Carolina is currently with DNA testing as well as STRmix
20 testing.

21 With that, I'll call my first witness, Your Honor.

22 THE COURT: All right. Go ahead.

23 MR. HIXSON: The State of South Carolina calls Rebecca
24 Phillips from the Horry County Police Department.

25 THE COURT: All right. Please place your left hand on

1 the Bible and raise your right hand.

2 REBECCA PHILLIPS,

3 the witness, after having been duly sworn, was examined and
4 testified to as follows:

5 THE WITNESS: Is it okay to take this off?

6 THE COURT: Yes. When you testify, you'll need to take
7 your mask off. And if you can give the court reporter your
8 name and spell it as well, please.

9 THE WITNESS: My name is Rebecca Phillips. R-e-b-e-c-c-a
10 P-h-i-l-l-i-p-s.

11 THE COURT: All right. Mr. Hixson.

12 DIRECT EXAMINATION

13 BY MR. HIXSON:

14 Q Good afternoon, ma'am. How are you?

15 A Good. Thank you.

16 Q Please tell this Court what you do for a living.

17 A I am a law enforcement officer. I have been assigned to
18 the Horry County Crime Scene Unit as an investigator for the
19 past three years.

20 Q So, for three years, that takes you back around July 26
21 of 2019?

22 A Correct.

23 Q Did you have any specific kind of specialized training or
24 in-service training when you began your role as a crime scene
25 investigator?

1 **A** I had multiple hours of in-service training and
2 on-the-job training in reference to crime scenes and
3 processing documentation.

4 **Q** And did you, during that period of time when you started
5 working in that capacity, have supervisors that watched over
6 you that you could ask questions to or mentor you through this
7 process?

8 **A** Yes. Yes, sir.

9 **Q** Were you working on July 26 of 2019?

10 **A** Yes, sir.

11 **Q** And did you have an occasion to be called out to the
12 location off of Highway 501 at a place called Waccamaw Bingo?

13 **A** Yes, sir. I was on call that night.

14 **Q** Okay. Please tell the Court what happened when you
15 responded that night.

16 **A** I was called by my lieutenant, Pete Cestare, in reference
17 to a double homicide that occurred at the bingo parlor. I was
18 advised that the victims were still on scene, and I was asked
19 to go document and process the scene.

20 **Q** Did you, in fact, do that?

21 **A** Yes, sir.

22 **Q** And, upon arrival, what information did you obtain about
23 where the scene was and what items of interest might be in
24 there?

25 **A** The scene is a strip mall kind of building doing business

1 as the bingo parlor. There was an active game of bingo
2 occurring with multiple people within the bingo parlor.

3 I first start, when I get to the scene to --

4 Q Just as a clarification, the game was going on after the
5 shooting or you mean, at the time of the shooting, there was a
6 game going on?

7 A There was a game going on at the time of the shooting,
8 yes.

9 Q Okay. Thank you.

10 A When I get on scene, I document the exterior of the
11 building, anybody who might be outside, some vehicles, things
12 like that. I then go to the inside. I entered the rear of
13 the building and document the inside of the way that the scene
14 is when I arrived.

15 Q Okay. At some point in time, did you come to realize
16 that the main evidentiary value of this scene was focused on
17 the office area?

18 A Yes, sir.

19 Q Tell us about that.

20 A The office was relatively small. There were two victims
21 laying near the office. It appeared to have been a scuffle.
22 There were some items that were left behind by the suspect,
23 according to one of the employees.

24 Q And what were those items?

25 A A black string, like, bookbag or bag and a shoe.

1 Q Okay. Do you recall briefly what the description of the
2 shoe looked like?

3 A It was a Nike shoe. Gray and black. It was the right
4 shoe.

5 Q And you mentioned there was some disarray in there. Was
6 furniture knocked about?

7 A There were bingo cards everywhere. A wooden tray had
8 been knocked over. The tables where the patrons were had been
9 moved out the way. EMS had been there to provide medical
10 treatment.

11 Q And then, upon moving some of the things that had been
12 knocked over, did you find a couple other things of
13 evidentiary value?

14 A We did. When you process a scene, you have to kind of
15 process it in parts, and I started at the outside of the
16 office and went to the inside of the office. And when we
17 removed the wooden tray, there was a hat -- red, green, and
18 yellow hat with fake hair or dreads; a black toboggan hat,
19 which is like a black knit hat or cap; and a firearm that was
20 up underneath the wood tray.

21 Q Were you able to determine the owner of the firearm or
22 the possessor of the firearm at the time?

23 A At the time, we were told that it was the victims'
24 firearms.

25 Q And do you, in fact, see the victim handing -- holding

1 that firearm, running towards the office on the surveillance
2 camera?

3 **A** Sparky, or Stephen Jr., is the one that appears to be
4 holding the smaller firearm.

5 **Q** Okay. Now, you mentioned you saw a black bag. You
6 mentioned a shoe. You mentioned a dreadlock wig. Red, yellow
7 and green dreadlock wig; is that right?

8 **A** Yes, sir.

9 **Q** Was there any kind of active surveillance system going on
10 inside the bingo parlor prior to your arrival?

11 **A** Prior -- I was able to view a video that was recovered or
12 was able to be played on a DVR system. There were multiple
13 cameras throughout the business on certain areas: One at the
14 office, one outside the office. I'm not sure about the
15 others, but it did show a suspect come in the building and
16 head towards the office.

17 **Q** And were you able to identify -- look at the person's
18 face and identify who was the person running into the office?

19 **A** I could not, no.

20 **Q** Okay. Were you able to generally see what the individual
21 is wearing and what they were carrying with them when they
22 were running into the bingo parlor?

23 **A** Yes, sir. It appeared -- the suspect appeared to have
24 dreads, a gray pair of pants, gray shirt, and a white --
25 something white over his face, and the black string bag he was

1 holding with his left hand.

2 Q And just generally speaking, the items that you saw in
3 the video, did that appear to you to have any evidentiary
4 value as compared to the items that you saw in the office?

5 A It did have evidentiary value. We had another witness
6 after it -- after the incident occurred, the employee had
7 placed these items on a chair for us to make sure that they
8 didn't get moved, to make sure that we knew that they were
9 there, that they had been left.

10 Q Meaning that the suspect had brought those items into
11 that and left them; is that safe to say?

12 A Correct, that the suspect had left them behind.

13 Q Did you collect those items we talked about?

14 A I did.

15 Q The string, the shoe, the hat?

16 A Yes, sir.

17 Q The other hat. Quite a few other items; isn't that
18 right?

19 A Yes, sir.

20 Q For this hearing, we'll focus on those. Safe to say?

21 A Yes, sir.

22 Q Okay. Then, ultimately, did it come to your
23 attention that -- are you generally familiar with the area
24 surrounding that? And, specifically, I'm going to draw your
25 attention to the Tuscany Grande area.

1 **A** There is some community -- some other businesses in a
2 community back behind that runs parallel to 501.

3 **Q** And just, you know, we're not in front of the jury now,
4 so we have relaxed kind of hearsay rules here under, you know,
5 106 -- 1006, in other words.

6 So did it come to your attention that there may be some
7 items of evidentiary value back in the Tuscany Grande area?

8 **A** We were told there was another shoe -- a Nike shoe and
9 some other clothing that was located and that was found in
10 Tuscany.

11 **Q** Now, it as relates to that, also were you aware -- did
12 you come to be aware, as a scene crime scene individual and
13 specifically Mr. Cestare as well, that there were video camera
14 systems and license plate reader systems in the Tuscany
15 Grande?

16 **A** I was told that, and Lieutenant Cestare had left the
17 bingo parlor to check on those other items.

18 **Q** Yeah. So for the purpose of this hearing, trying to
19 determine the relevance to the crime of the items collected,
20 did it appear to you, as a crime scene investigator, that some
21 of those items were consistent with a pathway away from the
22 crime?

23 **A** Yes, sir.

24 **Q** And they may be of evidentiary value?

25 **A** Yes, sir.

1 Q Were those items collected, to your knowledge?

2 A Yes, sir.

3 Q At some point in time, I'm going to focus your attention
4 on a pair of gray pants. Do you recall whether a pair of gray
5 pants were recovered during the course of this investigation?

6 A They were, by another individual. By another officer.

7 Q And then, at some point in time, did you process gray
8 pants?

9 A Correct. They were turned in to Evidence, and then I
10 received them from Evidence in order to process.

11 Q Okay. And as far as processing is concerned, can you
12 explain to the Court what you mean by that, as it relates to
13 just the gray pants?

14 A The gray pants?

15 Q Yes, ma'am.

16 A When we are provided an item for processing, we visually
17 inspect the item. We also take a photograph of that item, and
18 if there's anything that we thought that we needed to swab or
19 any staining or anything on the item, we would do so. We
20 would collect that evidence and -- or collect the swabs and
21 turn it into Evidence for processing -- or for testing later.

22 Q Okay. So as it relates to the gray pants, did you find
23 anything -- any locations of evidentiary value that you
24 thought needed more attention to detail?

25 A Yes, sir. There were some reddish-brown staining on the

1 pants that appeared to be a round droplet. Those areas were
2 swabbed -- photographed, swabbed, and collected.

3 Q Now, the pants, ultimately, those swabs were sent to the
4 State Law Enforcement Division for additional testing?

5 A Correct.

6 Q Okay. Let's get back to the draw-string bag now. How
7 about that one? Did you additionally -- did you process that
8 bag anymore?

9 A We first initially swabbed it on scene or we initially
10 inventoried it on scene. We took pictures. Since I knew that
11 the suspect had ahold of the string bag with their left hand,
12 I did swab that area because that was the last place that I
13 saw the suspect had touched.

14 Q Okay. And so you took swabs off the bag?

15 A Correct.

16 Q So the swabs were submitted to the State Law Enforcement
17 Division?

18 A Correct.

19 Q How about the gray and black shoes? Were there any
20 staining on the exterior of those shoes?

21 A There was some staining on the shoes, what appeared to be
22 blood, red staining. At that time, I did not swab the shoes
23 that was directly --

24 Q I'll be somewhat sensitive about that. How would you
25 categorize the amount of blood in that area in the office?

1 **A** There was a lot.

2 **Q** That's enough.

3 **A** Yeah, there was a lot of blood. It had been -- a lot of
4 people had been in the office before I had gotten there due to
5 the medical personnel and the employee.

6 **Q** So there appeared to be blood on the exterior of the
7 shoes?

8 **A** Yes, sir.

9 **Q** And then did you do swabbing of the shoes or did you
10 submit the entire shoes to State Law Enforcement Division?

11 **A** The entire shoe went to SLED law enforcement.

12 **Q** And then, finally, with the -- excuse me -- the dreadlock
13 wig -- the red, yellow, and green dreadlock wig, did you do
14 processing on that or did you submit that to the State?

15 **A** I did not process that, other than to document with
16 pictures, and it was sent to SLED.

17 MR. HIXSON: Okay. I don't have any more questions. I
18 believe that substantiates what collection this officer did.

19 CROSS-EXAMINATION

20 BY MR. MCGUIRE:

21 **Q** Good afternoon. Is it Detective Phillips or Agent?

22 **A** It's investigator. Crime scene investigator, detective.

23 **Q** Okay. Investigator Phillips, you indicated that a
24 person, Teresa Holyfield, had handled the black bookbag and
25 the shoe found at the scene; is that right?

1 **A** I was told that she had picked it up and placed it on the
2 chair in order to let the detectives know it was there.

3 **Q** Okay. So you never talked to Ms. Holyfield?

4 **A** I may have talked to her, but I don't remember asking her
5 that question.

6 **Q** Did you task an officer to interview her to determine how
7 she handled these items?

8 **A** I did not, no. That wouldn't have been -- I'm there to
9 process the scene. I'm not there to direct a detective to go
10 talk to her.

11 **Q** Okay. Would it be important to you in terms of what
12 you're swabbing to know how she handled these items?

13 **A** It may but from what I saw on the video, that was the
14 last place that the suspect had touched the bag.

15 **Q** Okay. And you're aware of a phenomena called
16 transference with regard to DNA evidence; right?

17 **A** I am familiar with transference, yes, sir.

18 **Q** Okay. And just so the record is clear, what that is,
19 that's -- if I handle something with my friend Tony's DNA on
20 it and then I touch another item, I can transfer his DNA to
21 that item; right?

22 **A** Correct.

23 **Q** Okay. And you don't know which item Ms. Holyfield
24 handled first: The shoe or the bag?

25 **A** I do not, no.

1 Q And you don't know how she touched -- whichever item she
2 handled first, you don't know where she grabbed it or how she
3 touched it?

4 A No, sir.

5 Q Or how she may have gripped the inside of the shoes or
6 the strings on the bag? You don't know that either?

7 A I have no idea how she picked up the items.

8 Q And you decide what to swab based on what you find at the
9 scene; right? What's there, present?

10 A Correct.

11 Q By what witnesses tell you.

12 A I usually don't talk to a whole lot of the witnesses.

13 Q Okay. Well, let's say you have --

14 A That's the detective's job.

15 Q Sure. That's the responding detective's job; right?

16 A Correct.

17 Q Okay.

18 A I'm there to document the scene --

19 Q Okay.

20 A -- and collect evidence.

21 Q If a detective were to come up to you, say
22 hypothetically, where a business was robbed, broken into in
23 the middle of the night, and the detective interviewed a
24 witness who said, "I saw the suspect unscrew a light bulb at
25 the back of the business," you would want to go ahead and swab

1 that light bulb?

2 A I would want to swab the light bulb.

3 Q Right. So some of the things you decide on when it comes
4 to swabbing and preserving DNA evidence does actually come
5 from what a witness might say?

6 A From what I have been told by the detectives, yes, it
7 can.

8 Q It can. And then also video surveillance evidence;
9 right?

10 A Yes, sir.

11 Q For instance, I think you said that the video in this
12 case showed the suspect clutching the black bookbag.

13 A It appeared to be holding onto the bag as they ran
14 through.

15 Q Right. And that came from video recording evidence?

16 A Correct.

17 Q And in my hypothetical of the building -- the burglary at
18 the building, if you had a video camera that captured a
19 suspect unscrewing a light bulb, you'd want to go swab that
20 light bulb; right?

21 A I would.

22 Q Again, so that would come from witness statements or
23 video surveillance?

24 A Yes, sir.

25 Q Okay. And then sometimes you test what you just find.

1 For instance, like a gun on the ground, that's just merely
2 present at a crime scene and you might not know how the gun
3 was involved or who it belongs to, but in an abundance of
4 caution, you'll swab something like that?

5 A We attempt to, yes, sir.

6 Q And you did in this case?

7 A Yes, sir.

8 Q Okay. That's all I have for you. Thank you.

9 THE COURT: Anything on redirect?

10 MR. HIXSON: No, sir.

11 THE COURT: All right. You may step down.

12 THE WITNESS: Thank you.

13 MR. HIXSON: At this time, the State would call SLED
14 Agent Ryan Dewane.

15 RYAN DEWANE,

16 the witness, after having been duly sworn, was examined and
17 testified to as follows:

18 THE CLERK: Please be seated and state your full name for
19 the Court, please.

20 THE WITNESS: Ryan Dewane. R-y-a-n D-e-w-a-n-e.

21 DIRECT EXAMINATION

22 BY MR. HIXSON:

23 Q Good afternoon, ma'am. How are you?

24 A Doing well.

25 Q Can you please tell the Court what you do for a living?

1 **A** I am senior forensic scientist assigned to the DNA case
2 work department at the South Carolina Law Enforcement
3 Division, also known as SLED.

4 **Q** Okay. And about how long have you performed in that
5 capacity?

6 **A** Approximately five and a half years.

7 **Q** Okay. And during that period of time, have you testified
8 in court?

9 **A** I have.

10 **Q** About how many times?

11 **A** Nine times.

12 **Q** Okay. And now, as it relates to your qualifications, I
13 guess you take specialized training and experience in order to
14 work for SLED; is that right? So what's your basic education?

15 MR. HIXSON: I think we'll ultimately stipulate to her
16 role as an expert.

17 BY MR. HIXSON:

18 **Q** Let's explain to the Court what you have to do in order
19 to be a SLED forensic DNA examiner.

20 **A** I have a bachelor of science degree in biology
21 preprofessional from Appalachian State University in Boone,
22 North Carolina. I also have two minors, in chemistry and
23 English. I'm currently pursuing my masters of science degree
24 in biological sciences from Clemson University in Greenville,
25 South Carolina.

1 During my education, I completed courses in molecular
2 biology, genetics, statistics, and biochemistry. These four
3 courses are considered the foundations of forensic biology.

4 **Q** Now, as it relates to your role at SLED, do you have any
5 specialized in-house training or anything like that beyond
6 your general education, which is pretty specific to your role?
7 Does SLED do anything else or other programming you attended
8 too?

9 **A** Yes. Upon being hired at SLED, I underwent an extensive
10 training program. This training program included practice
11 samples, training samples, mock cases, written exams for DNA
12 and serology, a report-writing exam, an oral exam, a mock
13 court exam, and a competency test.

14 **Q** Okay. And you were successful in all those areas?

15 **A** I was.

16 **Q** Now, as it relates to -- I want to talk about basic DNA,
17 and then we'll get into STRmix and "Star mix" here in a little
18 bit about the statistic algorithms and stuff. I guess that's
19 probabilistic genotyping, I guess, is the best way to describe
20 STRmix; is that right?

21 **A** That is correct.

22 **Q** Now, as it relates to training specifically on the use of
23 STRmix and applying STRmix to profiles, what have you had in
24 that regard?

25 **A** I underwent a four-day workshop with one of the

1 developers of the STRmix program and other developers from the
2 company. I also underwent internal training involving STRmix
3 and passed a competency test. I am also a member of the
4 STRmix validation team.

5 **Q** Okay. And that's one sentence, but that validation means
6 a lot, doesn't it?

7 **A** Yes.

8 **Q** The validation team.

9 Okay. Can you explain to the Court what a validation
10 process is as it relates to STRmix or for any scientific
11 pursuit, for that matter, what a validation test is?

12 **A** Any time we have a new technique, new chemicals, or new
13 instrument, we have to perform an internal validation. This
14 just means we're testing the accuracy, the reliability of the
15 chemicals, or the instrument to ensure that it is working as
16 it's supposed to.

17 **Q** Okay. And did STRmix -- and actually, local factors,
18 isn't it the best practice to do a validation test in the
19 location where the testing equipment and everything might be?
20 In other words, it's important for SLED to do it for SLED or
21 the FBI to do it for the FBI where their equipment, machinery,
22 and lab is; is that correct?

23 **A** That's correct.

24 **Q** Okay. So what was SLED's validation results for SLED
25 itself, not specifically -- it was validated as an accurate

1 tool?

2 **A** That is correct. STRmix software program was validated
3 and passed on accuracy, reliability, and everything else that
4 we tested for it.

5 **Q** Okay. Let's go back out, and then we'll go back into it
6 again. Okay? So just really basically, what's the concept of
7 DNA and then developing a DNA profile and then analyzing it
8 for a sole source and single source or a mixture, and then
9 what do you do then? Just kind of a 10,000-foot view of that
10 process, if that's okay.

11 **A** Sure. DNA stands for deoxyribonucleic acid. It is a
12 chemical that's found in all of our bodies. We get half of it
13 from our mother and half from our father, and aside from
14 identical twins, no two people will have the same DNA.

15 The DNA process is simply four processes, the first being
16 that we extract the DNA from the physical evidence and purify
17 it. We then quantify the DNA, meaning we're figuring out how
18 much DNA we're working with going forward.

19 The third step is called amplification, which means we're
20 making millions of copies of the DNA to a level that our
21 instruments can detect.

22 And the final step is electrophoresis, which is the
23 process of developing a visual representation of the
24 biological DNA. This visual representation is what we refer
25 to as a DNA profile, and this appears as a series of numbers,

1 and that's representing your biological DNA. We also use
2 those numbers to compare to the numbers of individuals
3 associated with the case.

4 When we are doing our comparisons, we determine if the
5 profile is single source, meaning it comes from one person, or
6 if it's a mixture, meaning multiple people are contributing to
7 the item. If we have a positive association to an individual,
8 we then report that with a statistic.

9 Q Okay. Let's go back to the electrophoresis problem,
10 which I think a lot of folks that have DNA and they're kind of
11 used to seeing an example of that, and I have an example of
12 that from this case purely for demonstrative first.

13 So is it safe to say that you're looking for a
14 combination of 24 loci where you're having -- a single-source
15 DNA would have one from Mom, one from Dad, and then you're
16 dealing with the allele information at those locations; is
17 that safe to say?

18 A Generally, yes.

19 Q Yeah, generally.

20 And so if we have one here and one here in those loci,
21 but then, suddenly, you're seeing something that doesn't quite
22 make sense -- like one key to this lock and then this key, but
23 there's only one lock but there appears to be two keys, there
24 must be a mixture here; is that safe to say?

25 A Sure, yes.

1 Q Can you describe that process where you see traditional
2 single-source DNA but something in your expert opinion is,
3 wait a minute, somebody else must be in here because I'm
4 seeing an allele that doesn't quite match or isn't quite
5 consistent with the profile that I have?

6 A Sure. A single-source profile will have one or two
7 numbers at each loci. A loci is a location on the DNA that
8 we're testing. And as you referenced, we do 24 locations on
9 the DNA.

10 So each of those locations will either have one or two
11 numbers for comparison, the one meaning that you get the same
12 number from your mom and from your dad.

13 If it's a single-source profile, we expect to see that
14 consistently throughout the entire profile, either just one or
15 two numbers at each location on the DNA. What triggers us to
16 know that there's a mixture is if we suddenly see three or
17 four numbers at each single location on the DNA or there are
18 several factors. Seeing, like, a lot of DNA in one location
19 and just a little bit in another, that can trigger the idea
20 that maybe there's more than one person contributing to that
21 profile.

22 Q Okay. Now, defense counsel mentioned about transferring
23 DNA and things like that. So let's talk about specifically
24 what DNA. Isn't it - and I'll kind of lead you a little bit
25 to the point so you can talk about that more. Isn't it true

1 that DNA is from a cell, regardless of where that cell comes
2 from, be it skin or the inside of the cheek of your mouth or
3 serological DNA from a liquid such as blood or semen?

4 A Yes, that is correct.

5 Q A cell is a cell.

6 A That's correct.

7 Q So -- and it's safe to say there's no distinction between
8 where DNA comes from. It is a cell, whether it came from the
9 skin or a vaginal swab and it's semen. It's still a skin
10 cell; right?

11 A That is correct.

12 Q So the distinction between touch DNA is the idea that the
13 epithelia -- it's not different DNA we're talking about it.
14 It's not a different science we're talking about. Is it safe
15 to say it's the mechanism on how an item of -- a cell might
16 get in a location?

17 A That is correct.

18 Q Okay. So it becomes a factual inquiry that you don't
19 know about. You're just looking at a profile; isn't that
20 right? You're determining what the DNA profile from a
21 particular swab is, but your area of expertise is not how the
22 cell got on that swab; isn't that right?

23 A That is correct.

24 Q Okay. Good. So what's the deconvolution process look
25 like for you when you look at a swab, you develop a profile,

1 and you go, Man, there's a couple of alleles in there that
2 must be -- there's a chance there's two people in this?
3 There's a mixture of it in here, and then you use your expert
4 opinion to deconvolute that. Can you tell us about that
5 process?

6 **A** Sure. When I see that there is a mixture, the first
7 thing we decide is how many people are in that mixture. With
8 our training, we are trained to know if it's two or three or
9 four, and anything over four, our lab does not interpret.

10 So if I have a two-person mixture, the next step will
11 then be to input that DNA into our software program called
12 STRmix, and that program will break down the profile, and we
13 also use that for comparisons to the known standards.

14 **Q** Okay. So the first step before you even talk about
15 STRmix is for you to develop a profile; right?

16 **A** Mm-hmm.

17 **Q** And then you develop, basically, as an example of a
18 profile that looks like this? Is that safe to say?

19 MR. HIXSON: I'm not admitting this. Showing it to
20 counsel.

21 May I approach the witness, Your Honor?

22 BY MR. HIXSON:

23 **Q** Generally speaking, it looks something like that?

24 **A** Yes, that is correct.

25 MR. HIXSON: Okay. I'll hand it to the Court. It's from

1 this case but it's not probative.

2 THE COURT: All right.

3 BY MR. HIXSON:

4 Q And when you see a loci -- particular number of loci and
5 you see multiple numbers on there, that's what you're actually
6 looking at, using your expert opinion on determining whether
7 you believe it's a mixture or just a single-source DNA
8 profile; is that right?

9 A Yes, that is one of the factors in determining.

10 Q Okay. And so you are the one that's determining that
11 before you decide on trying to use some other statistical tool
12 to deconvolute that profile; is that right?

13 A Yes, that is correct.

14 Q And it would be hard to imagine, but after you use, like,
15 GMAP or use one of the global filer systems to determine the
16 profile, then could you take a piece of paper in about 80
17 years and write down all the possible combinations that can
18 make up the profile and render an opinion based on that alone?

19 A I am trained in that, but we do not practice that.

20 Q So as far as some of your STRmix training that you went
21 to the four-day training class, do they teach you to
22 deconvolute and back up with hands-on training the output from
23 the STRmix program?

24 A Yes, that is correct.

25 Q So you're trained to do that, but at a time, similar to

1 an engineer using [verbatim] a bridge, you want to use a
2 calculator instead of long math when working on a bridge; is
3 that safe to say?

4 **A** Yes.

5 **Q** By way of example.

6 So there have been discussions about STRmix being a black
7 box concept. In other words, you reiterate to me what you
8 believe black box is. What do you take when someone accuses a
9 computer program or a technology to be a black box-type
10 program or technology?

11 **A** Generally, with these type of software programs, there
12 are algorithms -- mathematical algorithms that are
13 incorporated into the software program. Each program is going
14 to have its unique -- I'm sorry, I'm not a computer expert, so
15 I'm trying my best with the wording.

16 Each program is going to be slightly different or
17 developed differently. And so a black box theory is that you
18 do not have access to those algorithms or to exactly how the
19 program works. STRmix does offer that -- the ability to look
20 at the algorithm and look at everything involved with the
21 written code.

22 **Q** So, paraphrased, is it fair to say that a black box-type
23 attack on the science was to say we don't know what's in that,
24 we have no idea. We're just expected to buy on faith what
25 happens because the developer won't allow defense counsel or

1 defense teams or anybody inside to see how it really works to
2 challenge whether it's reliable or not?

3 **A** Yes, that is correct.

4 **Q** Okay. And I think you mentioned STRmix, the developers
5 themselves allow access to the defense teams for the source
6 code as well as actually gives them a copy to run their own
7 validation tests on their own case materials?

8 **A** They do under supervision and request, yes.

9 **Q** So you know that that -- that box is completely open to
10 the defense team in this case as well because it's open to all
11 defense teams; is that right?

12 **A** That is correct.

13 **Q** Okay. Let's talk about specifically your report, and
14 we'll talk about the application of STRmix. Let me finish the
15 process. I'm sorry. So you say -- in your expert opinion,
16 you believe that you have got a mixture of some kind. You put
17 the number of likely contributors to your mixture that you
18 have reviewed, and then you enter that information in the
19 STRmix program; is that right?

20 **A** That is correct.

21 **Q** And then what happens downstream of that?

22 **A** The software program has two basic steps. The first step
23 is to break the profile down into every possible combination
24 that could explain it. The second step is, when you compare a
25 known individual to those combinations, it will calculate a

1 statistic supporting what -- if they're included or possibly
2 excluded.

3 Q Okay. Did that happen in this case?

4 A Yes.

5 Q And specifically I'll draw your attention to your report
6 dated September 13th of 2021. And this is just a gray pants
7 report; right?

8 A That is correct.

9 Q And can you kind of guide the Court -- guide us all
10 through what that report says and means? I have a got a copy
11 that I was going to make a Court's exhibit. I think you may
12 have it right there. Do you have your own report copy?
13 Please proceed. I'll take care of this paperwork while you're
14 testifying.

15 A Okay. Item 1 submitted to us was swabs from crotch area
16 of gray pants. My results were this were a DNA profile
17 suitable for comparison was developed. Likelihood ratios for
18 this profile were calculated using STRmix.

19 And just before I set this up, a likelihood ratio is a
20 mathematical comparison of two possible scenarios that could
21 best explain the DNA profile.

22 The number that is reporting is supporting which of those
23 two situations is more likely to have developed that. The
24 situation is always, one, the individual's included or, two,
25 they're excluded.

1 So, in this first comparison set, the DNA profile was
2 interpreted as single source. Scenario 1 is Derrick Rivera
3 contributed the DNA profile versus the scenario that it's an
4 unidentified, unrelated individual contributing the profile.

5 The result of that comparison is: The DNA profile is
6 approximately 210 million times more likely if Derrick Rivera
7 contributed the profile than if an unidentified, unrelated
8 individual contributed to the profile.

9 Under these same conditions but comparing Bradford
10 Britton, the result of that comparison is: Bradford Britton
11 is excluded as the contributor to the profile under the listed
12 propositions.

13 Item 2 submitted in this case was swabs from right thigh
14 area of gray pants. The results of that were: A DNA profile
15 suitable for comparison was developed.

16 The first scenario is: The DNA profile was interpreted
17 as a mixture originating from two individuals.

18 The first scenario is: Derrick Rivera and an
19 unidentified, unrelated individual contributed to the mixture
20 versus the possibility that it's two unidentified, unrelated
21 individuals that contributed to the mixture, meaning he is not
22 a contributor.

23 The result of that comparison is: The DNA profile is
24 approximately 13 million times more likely if Derrick Rivera
25 and an unidentified, unrelated individual contributed to the

1 mixture than if two unidentified, unrelated individuals
2 contributed to the mixture.

3 The last item that was submitted in this case was Item 3,
4 swabs -- oh, I apologize. Under those same conditions but
5 comparing Bradford Britton to Item 2, Bradford Britton is
6 excluded as a contributor to the mixture under the listed
7 propositions.

8 For Item 3, swabs from right knee area of gray pants, a
9 DNA profile suitable for comparison was developed. The first
10 comparison set is: The DNA profile was interpreted as a
11 mixture originating from two individuals.

12 The first scenario is: Derrick Rivera and an
13 unidentified, unrelated individual contributed to the mixture
14 versus the possibility of it being two unidentified, unrelated
15 individuals that contributed to the mixture.

16 The result of that comparison is: The DNA profile is
17 approximately 180 septillion times more likely if Derrick
18 Rivera and an unidentified, unrelated individual contributed
19 to the mixture than if two unidentified, unrelated individuals
20 contributed to the mixture.

21 Under those same conditions but comparing Bradford
22 Britton, the result of that is Bradford Britton is excluded as
23 a contributor to the mixture under the listed propositions.

24 Q And now lay people oftentimes talk about whether things
25 are CODIS quality, the profile developed is sufficient loci in

1 order for CODIS to accept that into their system.

2 Were a couple of these to the level of location
3 information on the loci on the DNA profile enough that they
4 could be accepted into CODIS?

5 **A** Yes.

6 **Q** Let's talk a little bit more -- in more detail about the
7 high numbers that you're referring to when you're talking
8 septillion and stuff. What is it about the measuring tools
9 that STRmix looks at in the individual profile that allows
10 those data points to be so high and somewhat conclusive -- I
11 don't want to use the word "conclusive" -- that makes the
12 proposition likelihood ratio so high?

13 In other words, does STRmix, in addition to the
14 locations, measure the allele length in all of those, and
15 there's a lot more data points in STRmix than what we
16 historically had seen in single-source DNA profiling?

17 **A** Essentially, it is the same type of interpretation and
18 rarity. The difference is our older methods were
19 probabilities. They were called random match probabilities,
20 just meaning how rare is it to see a profile in the
21 population.

22 STRmix is a different type of statistic, and it's called
23 a likelihood ratio, which is just a comparison of two
24 probabilities. And so, in this case, the rarity of each
25 location has not changed.

1 Q Thank you for clarifying that.

2 So just to clarify again, if we can, in essence, the --
3 you're comparing one of your -- the expert's scenario against
4 another expert's scenario. And your opinion is, the
5 likelihood that this scenario answers the posed question over
6 this scenario answering the posed question; is that right?

7 A With the posed question being the DNA profile that was
8 developed, essentially, that is what it is.

9 Q Okay.

10 MR. HIXSON: I don't have any questions for Ms. Dewane.
11 If the Court has any questions or anything, I'm going to call
12 Ms. Goodman next.

13 THE COURT: All right.

14 MR. MCGUIRE: Just briefly.

15 CROSS-EXAMINATION

16 BY MR. MCGUIRE:

17 Q Is it Agent Dewane?

18 A That is correct.

19 Q So if you're looking at a source and there are more than
20 two alleles at a certain location, that's an indicator that
21 it's a mix of at least two people?

22 A Yes, generally.

23 Q One person cannot have three alleles at a location.

24 A There is a rare circumstance called tri-alleles. We
25 don't see it often, but we do know how to distinguish that in

1 a single-source profile from the mixture. But most of the
2 time, yes, two at the max.

3 Q Right. And how rare is that condition?

4 A Very rare.

5 Q Right. And if you see five alleles at a location, then
6 we're talking about three people?

7 A If we're just doing a counting method, that would
8 indicate, yes, the possibility of three individuals.

9 Q Right. At least. Because some individuals can have the
10 same allele from Mom and Dad, and they would show up as a
11 single allele on a location?

12 A Exactly.

13 Q So if you are identifying a source as having two
14 contributors and you come up with a likelihood ratio with a
15 very high number that -- let's say my DNA. Okay? You have a
16 buccal swab from me and then a sample. And you run a
17 two-person source, and it's 1 in 200 septillion that it's two
18 random individuals -- it's more likely that it's my DNA and
19 somebody unidentified as opposed to two unidentified people;
20 right?

21 A Sure, mm-hmm.

22 Q Okay. Can you separate out the unidentified DNA?

23 A The -- during the STRmix process of deconvolution, it
24 does propose what the minor or the secondary person will be.

25 Q Okay. And that would be a DNA profile generated by

1 STRmix?

2 **A** The DNA profile is generated by me during the process,
3 and the STRmix helps break it apart.

4 **Q** Okay. And so if you had a two-person source and then
5 STRmix says, Well, it's extremely likely, very strong support
6 that the DNA of one of the contributors is Person X, then you
7 can have a DNA profile from Person Z?

8 **A** Yes, that's correct.

9 **Q** Okay. And if you had a suspect and you got another known
10 sample, could you compare that to the DNA you separated out
11 that was previously unknown?

12 **A** Yes.

13 **Q** When were these pants tested -- or the swabs tested,
14 rather?

15 **A** This report was issued on September 13th of 2021.

16 **Q** And what's the incident date of this case?

17 **A** I apologize; I don't have the incident date in my case
18 file.

19 **Q** Sure. I'll help you out. If I said July 26, 2019, does
20 that sound right to you?

21 **A** That sounds right.

22 **Q** Okay. Why the two-year delay?

23 **A** These items were submitted to the lab in March of 2020,
24 and until they were requested, I did not receive the evidence
25 into my custody until March of this year, 2021.

1 Q So, again, how do you explain the delay? I don't
2 understand that.

3 A Can you clarify or ask in a different way? I'm sorry.

4 Q Sure, sure. Is there any interaction between you and law
5 enforcement with regard to swabs they have taken, swabs they
6 have submitted, swabs that might be in storage? Do you guys
7 talk or do you just test what comes to you?

8 A Both. In this case, the swabs that I tested were
9 submitted at a later date than the original evidence for this
10 case, and they were also submitted under a different lab
11 number. And for this case specifically, it was not known to
12 me that this was the same case as what Sara Goodman tested
13 until later, and we got a phone call from the agency
14 requesting that it be completed.

15 Q So the incident date is July of 2019 and the swabs first
16 get to SLED March of 2020?

17 A That's correct.

18 Q Do you know what explains that delay?

19 A I do not know anything before it comes to the lab.

20 Q Okay. And then you had a different case number. So, in
21 your system, it doesn't show up as being part of this case?

22 A That's right. It's up to the agency to submit it under
23 the same case.

24 Q Do you know why it wasn't?

25 A I do not know.

1 Q Okay. And then they get there in March of 2020 and you
2 tested them when?

3 A March 8th of 2021.

4 Q Okay. That's a whole year. Can you explain that delay?

5 A Yes. The items submitted in this case were pants, and we
6 do have priority cases that would include sexual assaults or
7 other violent cases. This case at the time, from my
8 understanding of it being pants, was not a prioritized case
9 until it was requested by the Agency. We do get a lot of
10 cases, so at times, we have to depend on the agency to tell us
11 if we have a court date coming up or if there needs to be a
12 priority for whatever reason, and we test it upon the order
13 that we receive it in.

14 Q Okay. So you're relying on law enforcement to tell you
15 what's important to test now or quickly as opposed to just get
16 to it when you get to it?

17 A Yes.

18 Q And, on this one, you got to it when you got to it?

19 A I -- yes.

20 Q And with regard to the testing you do, can you determine
21 if something is saliva, blood, semen?

22 A Yes, we do have serology testing. That was not performed
23 for my three items. But we can determine if something is
24 blood, semen, or saliva.

25 Q But y'all didn't do that in this case?

1 **A** In my three items, no.

2 **Q** So with regards to what is important to swab, do you
3 communicate with the law enforcement officers?

4 **A** Are you referencing before collection?

5 **Q** Yes.

6 **A** No. Generally the law enforcement agency or their crime
7 scene or our crime scene will determine what needs to be
8 collected. If we receive something like a shoe, that will go
9 to our serology department, who will then -- yes, generally,
10 contact the Agency or go off the incident report or go off
11 visually, for instance, if there's a stain. Whatever it is
12 requested to be tested.

13 **Q** This isn't like on TV where you're in close contact with
14 the law enforcement officers that are reviewing evidence in a
15 case, like taking witness statements or reviewing video
16 surveillance tapes or anything like that; right?

17 **A** That's correct.

18 **Q** Okay. You test what they send.

19 **A** Yes, that is correct.

20 **Q** And it would be rare for communication to go from you to
21 them other than the test results?

22 **A** Yeah, that's correct.

23 MR. MCGUIRE: That's all I have. Thank you.

24 THE COURT: Anything on redirect?

25 MR. HIXSON: Just one quick thing just to clarify. It

1 just came up.

2 REDIRECT EXAMINATION

3 BY MR. HIXSON:

4 Q STRmix doesn't develop DNA profiles; right? They
5 interpret ones that have been developed through a different
6 system; isn't that right?

7 A That's correct. I develop the DNA profile and then I put
8 the data into the software program.

9 MR. HIXSON: I have no further questions.

10 MR. MCGUIRE: Judge, if I could have just one or two
11 follow-up questions.

12 THE COURT: All right.

13 RE CROSS-EXAMINATION

14 BY MR. MCGUIRE:

15 Q Have you actually reviewed the algorithm? Like, looked
16 at it? Read it?

17 A I learned how to do the math, and in that, the algorithm
18 equation, yes, I did learn that.

19 Q I mean, have you looked at the algorithm that's within
20 the software that generates these likelihood ratios?

21 A Are you referencing maybe the code of the software
22 program?

23 Q Yes.

24 A I have not reviewed that.

25 Q Okay. Has anyone at SLED reviewed the code?

1 **A** I do not know that, but I would assume no.

2 **Q** Okay. Is that because there's not anybody at SLED
3 qualified to read the code from start to finish?

4 **A** No. It's more that we don't need to know the code
5 because we're not computer engineers. We need to know the
6 biology of it and how it's responding to the biological
7 pattern.

8 **Q** Sure, but a software program is not biological. It's a
9 computer algorithm.

10 **A** That's correct. We did -- I'm sorry.

11 **Q** And nobody at SLED has reviewed it in full?

12 **A** No.

13 MR. MCGUIRE: That's all I have.

14 THE COURT: All right. You may step down.

15 Call your next witness.

16 MR. MCGUIRE: Special Agent Sara Goodman from the State
17 Law Enforcement Division.

18 **SARA GOODMAN,**

19 the witness, after having been duly sworn, was examined and
20 testified to as follows:

21 MR. HIXSON: This is Court's 3 for the last report. And
22 this is Court's 4 and that's Sara's. (Document handed to the
23 Court.)

24 MS. GOODMAN: My name is Sara Goodman. S-a-r-a
25 G-o-o-d-m-a-n.

DIRECT EXAMINATION

1
2 BY MR. HIXSON:

3 Q Good afternoon, ma'am.

4 A Good afternoon.

5 Q So you're a DNA analyst for the State Law Enforcement
6 Division?

7 A I am.

8 Q And you have done that for a period of time, I know,
9 haven't you?

10 A I have. Approximately six and a half years.

11 Q Okay. And are you conversant or an expert in this field,
12 I guess? You've been qualified quite a few times?

13 A I have been.

14 MR. HIXSON: Do you want me to go through with her?

15 MR. MCGUIRE: Oh, no.

16 MR. HIXSON: I'll proffer her as an expert in DNA, as
17 well as Ryan.

18 MR. MCGUIRE: I'll stipulate.

19 MR. HIXSON: Okay. Just trying to streamline the process
20 because Ryan testified quite a bit about it.

21 BY MR. HIXSON:

22 Q Let's touch base on the validation studies. There's some
23 questions related to the source code information, and that's
24 the computer program. Describe again the validation process
25 that SLED uses to see how the statistical program applies to

1 the biological function determination that DNA testing is
2 there for.

3 **A** Sure. So on top some of our training from the developers
4 about the background of how the software works, what formulas
5 it uses, we do our own internal validation, which includes
6 generating a series of DNA profiles that kind of mirror what
7 we generally see in case work. So we've generated some
8 single-source profile, we've generated some mixtures, some
9 degraded profiles. Just a wide range of profiles. And those
10 profiles had known individuals in them.

11 So then we ran all of those profiles through STRmix to
12 make sure that it was working correctly, that it broke down
13 the profiles in the ways that we knew that it should because
14 all of the information in those profiles is information we
15 already knew.

16 So that's kind of the validation process generally. And
17 so we just test a series of reliability, accuracy, precision
18 of the software and just make sure that it's working
19 correctly.

20 **Q** Now, STRmix as it relates to its kind of acceptance in
21 the field of DNA testing, are you aware of how many different
22 labs -- forensic labs around the country, including the state,
23 utilize this type of forensic algorithm as it applies to DNA
24 testing?

25 **A** So, as of the last report, there's approximately 68

1 laboratories in the U.S. that are using STRmix, and there's
2 about 24 labs outside of the U.S. that are using it. In terms
3 of the State, I'm not sure specifically how many South
4 Carolina labs use it, but...

5 Q That's fine. The Federal Bureau of Investigation is one
6 of those labs; is that right?

7 A Sorry?

8 Q The Federal Bureau of Investigation utilizes STRmix in
9 its laboratories?

10 A Yes. The FBI came online in 2015 with STRmix.

11 Q Okay. And I guess your validation study efforts, SLED
12 mirrors the FBI's validation studies they did as well?

13 A Generally, yes.

14 Q I guess the U.S. Army criminal investigations use STRmix?

15 A Yes. They were the first laboratory to start using
16 STRmix in the U.S., so they came online in 2014.

17 Q Okay. As other related things relating to the
18 reliability of the science and things like that, you know,
19 the -- I guess the internal validation study is enough to go
20 there.

21 Let's move forward to your data report. At some point in
22 time going back to August 7th of 2019, did you perform any DNA
23 analysis in this case?

24 A I did.

25 Q Could you just please tell the judge what process that

1 you went through in determining that and what your findings
2 were?

3 **A** Yes. So similarly to how Ryan explained, I generated DNA
4 profiles from all of the evidence that I received. I went
5 through the process of determining whether each profile was
6 from one person, so single source, or for more than one
7 person, so a mixture. If it was a mixture, I determined how
8 many individuals were in that mixture. I then input all of
9 the evidence, DNA profiles that I had into STRmix.

10 STRmix would break them down into all of the different
11 possibilities that could explain that profile. Once I checked
12 all of that data and made sure that I agreed with STRmix's
13 analysis, I then input the DNA profiles from any of the known
14 standards that I received in this case, and STRmix calculated
15 likelihood ratios. And then I also checked that information.
16 I generated a report, and then my report went through two
17 rounds of peer review before it was sent -- or published.

18 **Q** Let's talk about peer review, I guess, and go back to
19 relating to the reliability of STRmix under some of the Jones
20 factors. Peer reviews is one of them, I guess. Are you aware
21 of STRmix going through that process as well to make sure that
22 it's reliable for use in the field?

23 **A** Yes. I am aware that all of the data in terms of the
24 validation of STRmix did go through peer review as well, and
25 there are also multiple developers of the program.

1 Q So just if you can give the Court your findings on --
2 specifically referring to Court's 4, I believe. I believe the
3 Court has a copy of your DNA report that you're going to go
4 through.

5 You tested several items, not just the ones that we're
6 talking about, but I'm just going to ask you, for brevity, to
7 focus on those. If defense wants to get into that, that's
8 fine.

9 A Okay.

10 Q Did you test swabs from the draw-string or black bookbag?

11 A Yes, I did.

12 Q Could you please tell us the findings relating to the
13 swabs of the black bookbag?

14 A Yes. So for my Item 2, which were swabs from the strings
15 on the black bookbag carried by the suspect, a DNA profile
16 suitable for comparison was developed. I calculated
17 likelihood ratios or, excuse me, likelihood ratios for this
18 profile were calculated using STRmix, which, again, is a
19 comparison of two different possible scenarios to explain the
20 DNA profile, and then the number is an indication of which one
21 of those scenarios is more likely.

22 For this item, I have several proposition sets. Would
23 you like me to go through all of them?

24 Q Just for this, the most probative ones, I believe. I
25 don't have it in front of me, so I'm trying to remember the

1 name of the proposition. I handed my copy up to the Court so
2 hold on a second. Go ahead and I'll catch up.

3 **A** Okay.

4 **Q** As it relates to the -- go ahead. I'm sorry. I thought
5 I had it in my hand.

6 **A** Okay. So my first proposition set, the DNA profile was
7 interpreted as a mixture originating from three individuals:
8 Teresa Holyfield and two unidentified, unrelated individuals
9 contributed to the mixture, is the first scenario. The second
10 being that it was three unidentified, unrelated individuals.

11 The result of that comparison is: The DNA profile is
12 approximately 20 times more likely if three unidentified
13 individuals -- excuse me, unrelated individuals contributed
14 than if Teresa Holyfield and two unidentified, unrelated
15 individuals contributed to the mixture.

16 **Q** I have got my copy here so I can direct your attention.
17 All told, it looks like you generated -- because they were
18 your interpretation of the DNA profile, it looked to me like
19 you said there's enough alleles in here that, my guess -- your
20 expert guess; I shouldn't say "guess" to an expert -- came
21 from three individuals.

22 **A** Correct.

23 **Q** So that generates quite a few propositions as to compare
24 all these different possible scenarios; is that right?

25 **A** Correct. And to compare all of the different known

1 standards, because I received, I believe, six known standards
2 in this case.

3 Q Right. For brevity, isn't it true that you got a known
4 standard from Stephen Johnson, Jr. --

5 A Yes.

6 Q -- from Stephen Johnson, Sr.; from Bradford Britton; from
7 Elijah Britton; from Derrick Rivera; and from Teresa
8 Holyfield?

9 A That's correct.

10 Q I'm going to draw your attention to Proposition Set 6.

11 A Okay.

12 Q And if you can highlight that to the Court. And this is
13 still in reference to the drawstring bag; correct?

14 A Correct. So for Proposition Set 6, the DNA profile was
15 interpreted as a mixture originating from three individuals.
16 The first scenario is that Derrick Rivera and two
17 unidentified, unrelated individuals contributed to the
18 mixture. The second scenario is that three unidentified,
19 unrelated individuals contributed.

20 The result of that comparison is: The DNA profile is
21 approximately 31 trillion times more likely if Derrick Rivera
22 and two unidentified, unrelated individuals contributed to the
23 mixture than if three unidentified, unrelated individuals
24 contributed.

25 Q Okay. We didn't talk about this before, but let's do it

1 this way. So you throw this likelihood ratio out there that
2 says I believe that this proposition explained in the profile
3 is quite a bit more likely to be -- explain the answer than
4 this one; right?

5 **A** Correct.

6 **Q** So you use a likelihood ratio to explain, but you also --
7 SLED also tries to use words such as support for that concept
8 too; right?

9 **A** Yes. We use what we call a verbal scale. It shows in
10 the form of a table at the end of our report, and it just
11 shows a range of numbers and what level support it is. So,
12 for instance, two to 99 would be weak support for that
13 likelihood ratio. Anything over a million would be very
14 strong support for that likelihood ratio, so it just gives a
15 little more weight to the number.

16 **Q** So that proposition set, Proposition Set 6, there's very
17 strong support in your analysis for the proposition that
18 Derrick Rivera and two other unidentified individuals explain
19 that profile?

20 **A** Versus if it were three unidentified, yes, that's
21 correct.

22 **Q** Thank you for that.

23 Let's go to the swab 4.1. Can you see that on your
24 report? That's a swab from the exterior left side, gray and
25 black Nike shoe, size nine and a half, left on the scene.

1 **A** That's correct.

2 **Q** Okay. Now, did you develop a profile from that shoe?

3 **A** I did.

4 **Q** Was that single source? A mixture? Was it two or three
5 or what did you think?

6 **A** It was a mixture originating from two individuals.

7 **Q** Okay. And under the list of propositions, was Derrick
8 Rivera excluded from the exterior swab of that shoe?

9 **A** Yes. Teresa Holyfield, Bradford Britton, Elijah Britton,
10 and Derrick Rivera were excluded from this item.

11 **Q** So your proposition -- or I guess not a proposition, an
12 exclusion based on the alleles on the left side on that
13 profile?

14 **A** Correct.

15 **Q** Okay. Now, let's get inside that shoe. Okay? That's
16 4.2.

17 Oh, let me back up. So Proposition Set 3 on 4.1.

18 **A** Yes.

19 **Q** Did you develop a -- include a proposition to explain the
20 exterior swab on that shoe?

21 **A** I did. Proposition Set 3 is also interpreted as a
22 mixture originating from two individuals. The first
23 explanation or scenario is that Stephen Johnson, Jr., and an
24 unidentified, unrelated individual contributed. The second
25 explanation is that two unidentified, unrelated individuals

1 contributed.

2 The result is that the DNA profile is approximately 100
3 septillion times more likely if Stephen Johnson, Jr. and an
4 unidentified, unrelated individual contributed to the mixture
5 than if two unidentified, unrelated individuals contributed.

6 **Q** Let's go 4.2 now. Swab from the interior of the gray and
7 black Nike shoe. So there's a swab from the outside and a
8 swab from the inside; right?

9 **A** Correct.

10 **Q** Okay. Were you able to develop a DNA profile suitable
11 for comparison from 4.2?

12 **A** I was.

13 **Q** And I'll just draw your attention, for brevity here in
14 pre-trial, to Proposition Set 6.

15 **A** For Proposition Set 6, the DNA profile was interpreted as
16 a mixture originating from three individuals. The first
17 explanation is that Derrick Rivera and two unidentified,
18 unrelated individuals contributed to the mixture versus the
19 explanation that it's three unidentified, unrelated
20 individuals contributing.

21 The result is that the DNA profile is approximately 1.2
22 billion times more likely if Derrick Rivera and two
23 unidentified, unrelated individuals contributed to the mixture
24 than if three unidentified, unrelated individuals contributed.

25 **Q** Okay. And then, finally, because of the possible

1 comparisons in the sample, you actually went all the way out
2 to ten proposition sets for the interior of that shoe; is that
3 right?

4 **A** That's correct.

5 **Q** Could you please cite for the Court your findings
6 concerning Proposition Set 10?

7 **A** Yes. So, again, the profile was interpreted as a mixture
8 of three individuals. The first scenario for this proposition
9 set is that Stephen Johnson, Jr., Derrick Rivera, and an
10 unidentified, unrelated individual contributed to the mixture
11 versus if three unidentified, unrelated individuals
12 contributed.

13 The result is that the DNA profile is approximately 33
14 quadrillion times more likely if Stephen Johnson, Jr., Derrick
15 Rivera, and an unidentified, unrelated individual contributed
16 to the mixture than if three individuals contributed.

17 **Q** So, by way of clarification, so when you propose in
18 STRmix, let's run Stephen Jr.'s profile as an explanation
19 mixed with Derrick Rivera's profile and an unrelated person as
20 Proposition HP at 1, and then you compare that proposition to
21 HD, three unknowns, the likelihood that Proposition HP is an
22 answer to the question over Proposition HD, three unknowns,
23 it's in the quadrillions that that is, in your expert opinion,
24 a more likely answer than this answer.

25 **A** That's correct.

1 Q Okay. We mention 8.1. Can you go to that? That's cited
2 in your report as a swab from scraping the interior of a red,
3 green, and yellow hat with dreadlocks -- dreads left on the
4 scene.

5 A Yes.

6 Q You received a scraping from that?

7 A I did.

8 Q Could you -- I'm going to refer you, for brevity sake, to
9 the results of that. Were you able to develop a profile from
10 that?

11 A I was.

12 Q And what did you determine, in your expert opinion? What
13 is a mixture? Was it single source? Was it three or what?

14 A It was a mixture originating from two individuals.

15 Q Okay. Were you able to make any exclusions as it relates
16 to the scraping from the interior of the wig?

17 A Yes. Teresa Holyfield; Stephen Johnson, Sr.; Stephen
18 Johnson, Jr.; Bradford Britton; and Elijah Britton are
19 excluded as contributors to the mixture under the listed
20 propositions.

21 Q And, please, could you brief the Court on Proposition Set
22 No. 2.

23 A Yes. Again, the profile is interpreted as a mixture of
24 two individuals. The first explanation is that Derrick Rivera
25 and an unidentified, unrelated individual contributed versus

1 if two unidentified, unrelated individuals contributed to the
2 mixture.

3 The result is that the DNA profile is approximately 180
4 septillion times more likely if Derrick Rivera and an
5 unidentified, unrelated individual contributed to the mixture
6 than if two unidentified, unrelated individuals contributed.

7 Q And the loci contained in that profile that you
8 developed, was that a sufficient frequency on the loci that
9 you can submit those into the CODIS system?

10 A I did enter DNA types from this profile into CODIS.

11 Q Thank you.

12 And then, finally, let's go to 8.2.2. During the course
13 of scraping of that, are you aware that a hair was recovered
14 from that red, green, and yellow hat with dreads inside from
15 the scrapings?

16 A Yes.

17 Q And did you perform testing on that?

18 A I did.

19 Q And were you able to develop profile from the hair inside
20 that hat?

21 A Yes.

22 Q And I'm going to draw your attention, for brevity sake,
23 you went all the way down to five propositions on that. Could
24 you please highlight to the Court Proposition Set 5?

25 A Yes. The DNA profile was interpreted as a mixture

1 originating from two individuals. The first scenario is that
2 Derrick Rivera and an unidentified, unrelated individual
3 contributed versus if two unidentified, unrelated individuals
4 contributed.

5 The result is that the DNA profile is approximately 47
6 septillion times more likely if Derrick Rivera and an
7 unidentified, unrelated individual contributed to the mixture
8 than if two unidentified, unrelated individuals contributed.

9 MR. HIXSON: Thank you, ma'am. I have no further
10 questions.

11 CROSS-EXAMINATION

12 BY MR. MCGUIRE:

13 Q So, Agent Goodman, these numbers that are really, really
14 high, it's more likely that the DNA is from Suspect X and an
15 unidentified person as opposed to being two identified people,
16 that doesn't -- let's say the LR, the likelihood ratio, is 1
17 in 330 billion. That's not the same thing, if I understand it
18 correctly, as saying there's a 1 in 333 -- or 30 billion
19 chance that it's somebody else's DNA and not Suspect X.

20 A No, that is not the same thing. That would be the
21 previous methods of the probabilities. These are likelihood
22 ratios, which is a different calculation.

23 Q Right. So it used to be random match back in the old
24 days; right?

25 A For single source, yes.

1 Q Okay. And it used to be that nine locations were tested
2 and then 13 and they kept getting a little bit longer.

3 A Correct.

4 Q Okay. And for a single-source analysis, before STRmix,
5 that's exactly how y'all would say it: There's a 1 in 3
6 billion chance that it's somebody else's DNA and not Suspect
7 X; right?

8 A It would be a 1 in 3 billion or whatever number chance of
9 seeing this profile.

10 Q In another person.

11 A In another random person.

12 Q Right. Okay. So it would be a misinterpretation of
13 these numbers to say it's a 1 in 330 billion whatever chance
14 that it's not Suspect X's DNA?

15 A That's correct. We would use the likelihood ratio.

16 Q Okay. So just a second ago you mentioned CODIS. If you
17 guys have a two-person source and you -- and STRmix says it's
18 way more likely that it's Bill McGuire and an unidentified
19 person as opposed to being two unidentified people, you can
20 put my DNA profile to the side and then also put the other
21 unidentified person's DNA profile and separate them; right?

22 A Potentially. It depends on if they are both suitable, if
23 they both meet the guidelines for CODIS. If they do, then we
24 would put both of those profiles into CODIS, regardless of who
25 they match.

1 Q Okay. Yeah, that's leading up to my next question.

2 Were there any results from CODIS?

3 A I am not aware. I don't have any CODIS hit letters.

4 That would be a DNA database analyst.

5 Q So you wouldn't be alerted if something came up in CODIS?

6 A Not necessarily. I could be able to see that in our
7 court records, but generally, since I don't generate that
8 CODIS hit, I'm not alerted to that.

9 Q Does law enforcement tell you that their suspects have
10 their DNA profile in CODIS based on prior records?

11 A Sometimes.

12 Q Do they provide you with that?

13 A Sometimes they tell us that, but it doesn't really make a
14 difference to our analysis. We don't make direct comparisons
15 to certain individuals within CODIS. We just input our DNA
16 profiles that are eligible and suitable into CODIS, and it
17 will search all of the profiles that are in there.

18 Q And you could have a hit but you would not be alerted.

19 A Not necessarily, no.

20 Q Who is alerted? Does it go to the law enforcement
21 agency?

22 A Yes. It goes to the submitting agency and anyone who can
23 access basically the records on iLab.

24 Q Okay. Thank you.

25 All of the items that you talked about -- the bookbag,

1 the hat, the shoe -- these are all portable items; correct?

2 A I'm sorry? What do you mean by that?

3 Q People can move them from place to place.

4 A That's correct.

5 Q People can borrow them from one person to another.

6 A That's possible.

7 Q Different people can handle them.

8 A Yes, that's possible.

9 Q In all items that you talked about, Mr. Rivera's DNA
10 could be there from what's called transference?

11 A It could be possible.

12 Q And that's possible for every item that you tested?

13 A Essentially, yes.

14 Q Okay. And you had some swabs from some firearms, and in
15 your report, it's indicated they were not tested. Why was
16 that?

17 A So, in this case, I did talk to law enforcement when I
18 received the case. When this was first submitted, it was
19 submitted as a rush or a priority case. Sometimes when we
20 have a very large number of items in a case, we'll ask if they
21 would like to narrow down any of the items in the essence of
22 time.

23 So, in this case, the investigator picked some of the
24 most probative items with the caveat that I could always go
25 back and test the rest if needed.

1 Q Were you informed that there was a violent struggle in
2 this case between victim and suspect?

3 A I had the incident report, but I don't remember the
4 specific details.

5 Q Okay. If a suspect and a victim in a shooting case
6 struggled over a gun, that would be probative -- a swab from
7 the gun could be probative to say the suspect grabbed that
8 gun?

9 A It could be. That would be more up to the crime scene
10 agents to decide what's probative.

11 Q But, in my scenario, that hypothetical, if you were
12 informed that there was a violent struggle in the case and
13 that the suspect could have grabbed the victim's gun, your
14 recommendation would be you should swab that?

15 A Typically, unless we're asked for specific
16 recommendations, we don't really have a say in what is swabbed
17 or how things are tested. The law enforcement agency will
18 decide that, and they will also request whatever testing they
19 want on the item. So if they ask that, I could say, yes, that
20 could be probative, but typically, we are not asked to decide
21 that.

22 Q Well, let me ask you if it's probative in this sense. We
23 just talked about all these items of clothing, shoe, bookbag,
24 hat. They can all be exchanged, borrowed, stolen from people.
25 They're all portable. And the suspect may have borrowed those

1 clothes from somebody else; correct? That's possible?

2 A It could be possible.

3 Q But DNA from a suspect on the victim's gun would be very
4 probative, because it would put the suspect at the scene for
5 sure; right?

6 A It could be. It would just depend on the entirety of the
7 evidence.

8 Q When you have a case with portable items, wouldn't you
9 recommend, as a DNA analysis -- technician to advise law
10 enforcement, When you're narrowing down items, make sure you
11 don't narrow down places or items that could put the suspect
12 at the scene, because right now, we don't have that with all
13 these portable items? Would you tell them that?

14 A No. I wouldn't make recommendations unless they
15 specifically asked whether or not something would be a good
16 source of DNA.

17 Q Okay.

18 A Other than that, I don't advise them as to what is most
19 probative. They choose that.

20 Q So that would be up to them.

21 A Yes.

22 Q Let's say we do -- let's go back to talking about one of
23 these items that resulted in a very high number saying it's
24 300 billion times more likely that it's Rivera DNA and an
25 unidentified person as opposed to two unidentified people.

1 Even with that number, can you testify that his DNA is
2 definitely on that item?

3 **A** No. I can testify to what the likelihood ratio is, which
4 scenario is more likely. I would never say that it is
5 definitely, without a doubt, that person.

6 **Q** How accurate is STRmix if you had to put a number on it?
7 Like 98 percent? Is there a possible way to do that?

8 **A** I'm not sure that I could put a number to it. I can just
9 speak to the reliability and accuracy testing that was done
10 throughout validations and throughout the development, but I
11 can't really put a number to that.

12 **Q** Okay. Thank you very much. That's all I have.

13 MR. HIXSON: Nothing further.

14 EXAMINATION BY THE COURT

15 THE COURT: Let me ask you this: On the reliability
16 testing, what is the success rate or whatever it is that y'all
17 perform? Do you have that information?

18 THE WITNESS: I don't have that specific information.
19 It's not necessarily like a percentage of success rate. It's
20 more of, when we are doing our validation testing, are we
21 getting the answers that we should be getting? Because when
22 we generate the DNA profiles, we know who is in them and what
23 amount their DNA is in there. And so we know how STRmix
24 should break down that profile, and so that's kind of how we
25 test the reliability.

1 So if it wasn't working correctly in any of the ways we
2 tested it, then it wouldn't have been deemed reliable or
3 successfully validated.

4 THE COURT: I mean, what is the reliability level? Do
5 you have to get back ten out of ten?

6 THE WITNESS: Essentially, yes.

7 THE COURT: Or nine out of nine?

8 THE WITNESS: Right. I would say essentially it would
9 need to be 100 percent. As far as what our testing is,
10 reliable, it needs to give us 100 percent of the correct
11 answers for us to successfully validate it, so...

12 THE COURT: Any questions following up to the Court's
13 questions?

14 MR. HIXSON: No, I think that's clarified enough.

15 THE COURT: Any follow-up?

16 MR. MCGUIRE: Just briefly.

17 RECROSS-EXAMINATION

18 BY MR. MCGUIRE:

19 **Q** So to see if it was accurate, say -- let's say it would
20 have a mistake, say, 1 out of 500 times, you might have to run
21 the validation test 500 times to find the one; right? Does
22 that make sense?

23 **A** Essentially. We run a representative sample of items.
24 So we do run several hundred items, but essentially, yes.

25 **Q** So several hundred times, the machine's been tested?

1 **A** Correct.

2 **Q** And, if it was wrong, say, 1 out of 700 times, again, you
3 have to run the 700 to find the one; right?

4 **A** That's correct.

5 **Q** And, as far as you know, you haven't run it 700 times?

6 **A** As far as I know, no. We also can glean some of the
7 reliability off of the developmental validation and the fact
8 that it's been validated by several other labs in the U.S., so
9 that's kind of how we can also, I guess, essentially make up
10 for whatever number of samples we did not test. It's also
11 been tested by many other laboratories.

12 **Q** And are those -- when you say you know the source of the
13 DNA and one of the samples that you're running for a validity
14 test, is that a SLED sample or is that a sample that you have
15 gotten from someplace else?

16 **A** It's a SLED. They're samples that we generate at SLED.

17 **Q** Okay. So every lab that does this, they would be using
18 their own samples?

19 **A** That's correct. As far as I know.

20 **Q** And you wouldn't have the exact numbers that these other,
21 say, 68 labs have run?

22 **A** We could probably ask for that information. I do not
23 have it.

24 MR. MCGUIRE: That's all I have.

25 THE COURT: All right.

REDIRECT EXAMINATION

BY MR. HIXSON:

Q That's the information I believe that's available through STRmix's open source validation. Don't they post all their validation studies? You can actually go online and look at their validation studies for the instrument; isn't that correct?

A Yes, that's correct.

Q And as it relates to, I guess, the single source casework, I guess, just as a clarification about like you put it in the machine and the machine does this, this is a statistics program. It's not a DNA profile machine. It's like going into a calculator and having a calculator come up with a bad problem. It doesn't develop a profile; right?

A That's correct.

Q It just interprets statistics off of the profile.

A Yes.

Q Just like when an engineer uses probabilistic genotype or probabilistic software for a multitude of other areas, including, I guess, engineering, electrical engineering and things like that; right?

A Yes. The same type of analysis that STRmix uses is used in other areas like weather predicting, stock market predicting. So it's essentially just mathematical equations. It's not generating a DNA profile.

1 Q Sometimes it sounds like we're getting into the material
2 part of it and not the statistical part.

3 No further questions. Thank you.

4 THE COURT: All right. You may step down.

5 Anybody else?

6 MR. HIXSON: No, sir.

7 THE COURT: All right. Mr. McGuire?

8 MR. MCGUIRE: Your Honor, for the record, we would stand
9 on our motion to suppress just based on the principles of
10 *Daubert*, *Jones*, and *Council*.

11 THE COURT: All right.

12 MR. HIXSON: Your Honor, we believe we've made an
13 adequate showing to help the Court with their CO2 -- or 702
14 determinative under the *Council* standards. I kind of would
15 ask the Court if the Court made findings under *Daubert* and
16 *Council* simply because the *Phillips* opinion they kept
17 referring to it under *Daubert* and then, hyphen, *Council*.

18 It's clear that we -- that South Carolina raises the
19 *Council* standard, and that was a DNA case, and we made an
20 adequate showing, but that's led us to be confused sometimes
21 on what's standard. The authority that was presented to the
22 Court under the brief, under the federal standards of *Daubert*,
23 we believe that we have established that, you know, the
24 evidence will assist the trier of the fact. It's probative
25 of a fact at issue, and that's the identity of the person who

1 was involved in this; that the expert witnesses that will
2 testify to this information are qualified to do so. The
3 science is reliable. Those reliability factors are
4 established in *Jones*, and the witness has testified and has
5 provided information concerning those. So we believe they
6 comply with 702.

7 And then, ultimately, Your Honor needs to make an
8 on-the-record balancing determination, and that is that the
9 evidence that we intend to present in front of the jury is
10 probative to the issue of fact, and that issue we'll properly
11 tailor to not confuse the issues to the jury and won't be
12 presented in a way that will mislead the jury.

13 We believe we carried our burden on all those points, and
14 we would like the Court to deny the defendant's motion and
15 allow us to proceed and admit this evidence in front of the
16 jury.

17 THE COURT: All right. Anything in reply?

18 MR. MCGUIRE: Nothing, Your Honor.

19 THE COURT: All right. I'm going to deny the motion to
20 suppress. I think they met the burden that they require under
21 *Daubert* and *Council*.

22 All right. Anything further?

23 MR. HIXSON: Yes, just concerned over -- you make the
24 finding relating to probative value of the evidence,
25 overcoming a 403 balancing on the record. I think the Court

1 -- the *Phillips'* Court had to do something like that.

2 THE COURT: I'm making a finding at this point in time
3 that, as a motion of limine, I cannot rule as a matter of law
4 that it is unreliable or has no probative value. Now, once we
5 get into the trial of the case, I think I'm going to have to
6 do another balancing test at that point in time. But I can't
7 rule that, as a matter of law, it has no probative value and
8 that it is unreliable, and, therefore, inadmissible for the
9 motion in limine. All right?

10 MR. HIXSON: Thank you, Your Honor. Very well. Thank
11 you.

12 THE COURT: All right. Anything further?

13 MR. HIXSON: Nothing from the State, Your Honor.

14 THE COURT: Anything further from the defense?

15 MR. McGUIRE: Nothing from the defense, Your Honor.

16 THE COURT: All right. We'll be at ease until, as I
17 said, 9:30 tomorrow morning. The jury is coming in 9:00.
18 I'll take the bench -- I have them coming in a little bit
19 earlier tomorrow so that I can get them to choose the
20 foreperson.

21 Now, y'all know better than I do the length of the case,
22 how long it's going to take. I don't mind staying as late or
23 doing whatever we need to do; however, if we're going to be
24 working late, I like to give the jury a heads-up. So I doubt
25 that we'll be going much after 5:00 tomorrow. I don't mind

1 going after 5:00, but sometimes these jurors think you're
2 cutting off at 5:00 and they might have other things. I'd
3 like to at least give them a heads-up, "Okay, tomorrow, we
4 might be going a little bit late. If you've got something,
5 you might need to make arrangements for that."

6 Now, I don't want to overtax them, go too late where they
7 can't bear it, because I mean, they're not used to this, and
8 going all day might try their abilities at times. But I do
9 recognize that sometimes in trials, particularly like this, we
10 might want to go till 6:00 or something like that, but I want
11 to give the jury a heads-up ahead of time. Okay? So just
12 kind of keep that in mind as we progress through the trial.
13 Okay?

14 MR. HIXSON: Thank you, Your Honor.

15 THE COURT: All right. Also, there's a little bit
16 different with this hearing. I'll allow direct examination,
17 cross-examination, and redirect only as to matters addressed
18 on cross that were not addressed on direct. Okay? I don't
19 allow recross. So if somebody on redirect starts to exceed
20 the scope of redirect, raise your objection. All right?

21 MR. HIXSON: Yes, sir.

22 MR. MCGUIRE: Yes, sir.

23 THE COURT: Anything else?

24 MR. MCGUIRE: No, sir.

25 THE COURT: All right. Thank you very much. We'll see

1 y'all tomorrow morning.

2 Oh, I have got these Court's exhibits. Mr. Hixson, do
3 you want that back right there?

4 MR. HIXSON: Yes, sir. Thank you, Your Honor.

5 THE COURT: All right. And we have got these -- I guess,
6 for the record, I'm going to go ahead and put -- Mr. Hixson
7 has identified these as far as for the pretrial motions:
8 Court's Exhibits 1, 2, 3, and 4.

9 MR. MCGUIRE: I have seen them.

10 THE COURT: All right. Good.

11 (At 4:49 p.m., the trial was adjourned until Tuesday,
12 October 19, 2021, at 9:30 a.m.)
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CERTIFICATE OF COURT REPORTER

State of South Carolina)
)
County of Horry)

I, Bobbi J. Fisher, Registered Professional Reporter
(RPR) and 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
in the General Sessions Court for Horry County, South
Carolina, on the 18th of October, 2021.

Prepared: January 22, 2022

/s/ Bobbi Fisher

Bobbi J. Fisher, RPR

Official Court Reporter

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1 STATE OF SOUTH CAROLINA

2 COURT OF GENERAL SESSIONS

3 COUNTY OF HORRY

4 -----x

5 STATE OF SOUTH CAROLINA,)

6 Plaintiff,)

7 vs.)

Transcript of Record

2019-GS-26-04928 to

2019-GS-26-04933

9 DERRICK JAJUAN RIVERA,)

10 Defendant.)

11 -----x

12 Tuesday, October 19, 2021

13 TRIAL - DAY 2 of 5

14
15 B E F O R E:

16 The Honorable Benjamin H. Culbertson, Presiding Judge;

17 and a jury.

18
19 A P P E A R A N C E S:

20 Scott R. Hixson, Esq.

Attorney for the State

21 William S. McGuire, Esq.

22 Attorney for the Defendant

23
24
25 Court Reporter: Bobbi Fisher, RPR

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P R O C E E D I N G S

(Whereupon, the following proceedings started at 9:47 a.m.)

(State's Exhibits Nos. 1-21, 23-44, 48-58, 61-98, 100-106 were marked for identification.)

THE COURT: All right. The jury selected Juror No. 32, Cicero Booker, as the foreperson.

All right. I'm going to mark this as Court's Exhibit number what?

COURT REPORTER: Number 5.

THE COURT: Number 5. All right.

(Court's Exhibit No. 5, Jury Note re: Foreperson Assignment, was marked for identification and received into evidence for appellate review only.)

THE COURT: All right. I have been instructed by the bailiff that some of the jurors asked to take notes. I generally do allow note-taking. I'll give them instructions in that regard.

Anything the State wants to put on the record in regards to note-taking?

MR. HIXSON: No, Your Honor. Obviously, I have tried cases with Your Honor before, and I think you have them leave them in the courtroom and collect it up at the end of the day and kind of secure the notes.

THE COURT: Yeah, I'll give the standard charge or instruction to them about note-takings and how to take notes

1 and things of that nature.

2 MR. HIXSON: Thank you, Your Honor.

3 THE COURT: Anything the defense wants on the record with
4 regard to note-taking?

5 MR. MCGUIRE: No, sir.

6 THE COURT: All right. I guess we'll bring the jury in.
7 We'll swear them in, do preliminary charges, some instructions
8 on note-taking, and then opening statements and go right into
9 it.

10 Anything preliminary we need to address from the State?

11 MR. HIXSON: No, sir.

12 THE COURT: Anything from the defense?

13 MATTERS OF LAW/MOTION FOR SPEEDY TRIAL

14 MR. MCGUIRE: Just before the jury is sworn, we would put
15 on the record that Mr. Rivera made a motion for speedy trial,
16 the first term of court after his arrest back in 2019, and we
17 just want to put on the record that we're preserving that
18 motion and the fact that it's taken two years to get here for
19 this trial. Our position would be that would be a violation
20 of his right to a speedy trial, and we just want to put that
21 on the record.

22 THE COURT: All right. Any prejudice to him from the
23 delay?

24 MR. MCGUIRE: In terms of, like, not finding a witness
25 or --

1 THE COURT: As I understand -- my understanding of the
2 law is a person's constitutional right to a speedy trial is
3 violated when, number one, there's been an undue delay, and
4 number two, when the delay has created a prejudice to the
5 defendant. I guess, for the purposes of getting it on the
6 record --

7 MR. MCGUIRE: Sure. In terms of prejudice, there's
8 nothing we can point to specifically.

9 THE COURT: Okay. All right.

10 MR. HIXSON: And, just quickly, I just put a bookmark in
11 the record in the event the defendant is convicted during the
12 course of this process. There were several hearings that we
13 had pre-trial in the run-up to this case on the issues, and
14 those issues -- I'm referring it to the Attorney General and
15 the Court of Appeals if, in fact, Mr. Rivera is convicted.

16 There were several hearings before the Court concerning
17 the statutory structure to allow special terms of court versus
18 statutory terms of court, and in that case, as Your Honor is
19 well aware, Court Administration sets the terms of court, and
20 the statute doesn't control anymore. I think that's
21 ultimately the issue to be litigated.

22 But, in those hearings, that motion, speedy trial --
23 obviously, the speedy trial motion is granted, but undue delay
24 issues were adjudicated, and I'd refer to the transcripts on
25 those. The case is properly before the trial court today.

1 THE COURT: All right. Well, I guess if you're looking
2 for a ruling from this Court, my finding, since there has been
3 no expressed prejudice to the defendant, that that is not a
4 violation of his right to a speedy trial. All right?

5 MR. MCGUIRE: We understand the Court's ruling.

6 THE COURT: All right. Anything further from the defense
7 before we bring the jury in?

8 MR. MCGUIRE: No, sir.

9 THE COURT: All right. Let's go ahead and bring the jury
10 in.

11 Am I pronouncing your client's name right: Mr. Derrick
12 Jajuan Rivera?

13 MR. MCGUIRE: Yeah.

14 THE COURT: Is that the correct pronunciation?

15 THE DEFENDANT: Yes, sir.

16 MR. MCGUIRE: Yes, sir.

17 THE COURT: Okay. Thank you.

18 (The jury entered the courtroom at 9:47 a.m.)

19 THE COURT: Ladies and gentlemen, good morning. Welcome
20 back. Hope everybody had a good evening. We're getting ready
21 to start the trial of this case.

22 First of all, I want to thank you for being prompt and
23 returning on time this morning. That's a great assistance to
24 the Court.

25 Number two, I want to remind you, if you inadvertently

JURY INSTRUCTIONS

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1 brought any cell phones or pager devices or other
2 communications devices into the courtroom, make sure you turn
3 those off completely at this point in time.

4 I understand, Mr. Booker, you have been selected as the
5 foreperson.. Is that correct?

6 JUROR NO. 32: Yes, sir.

7 THE COURT: All right. Thank you for serving in that
8 capacity. I appreciate your service. If you would always
9 occupy the seat where you now sit throughout the trial of this
10 case. The alternates will occupy the alternate seats, unless
11 you become a part of the 12-panel jury.

12 As I informed the rest of you, you're at liberty to sit
13 in whatever seat you'd like, whether it be the same seat
14 throughout the trial of the case, alternating seats, it really
15 doesn't matter in that regard.

16 We are getting ready to start the trial of this case, but
17 as I told you during jury qualifications and during voir dire,
18 jurors, just like witnesses, are constantly taking notes. So
19 I'll need all members of the jury to please stand and raise
20 your right hand while the clerk of court administers the oath
21 for you to serve as jurors on this specific case.

22 (The jury was duly sworn.)

23 JURY INSTRUCTIONS

24 THE COURT: Thank you very much, ladies and gentlemen.

25 Is there any member of the jury that did not respond to

1 the oath by saying "I do"? If so, please stand.

2 (No response given.)

3 THE COURT: Very well. Thank you.

4 All right. Ladies and gentlemen, we're getting ready to
5 start the trial of the case of the *State of South Carolina vs.*
6 *Derrick Jajuan Rivera*. Now, before we begin the trial, I need
7 to go over some preliminary instructions with you. I know,
8 from watching, reading books, watching TV shows, trials are
9 often full of a lot of suspense, a lot of action. While that
10 might be the case, in this trial, it probably won't be.
11 Trials are often slow, deliberate, repetitive processes, the
12 exact opposite of what you might be accustomed to when you
13 watch trials for entertainment purposes and movies and reading
14 books and things of that nature. But I hope you do find the
15 trial entertaining, I hope you find it educational, and from
16 the outset, I want to thank you for serving as jurors in this
17 case.

18 The attorneys appearing before you are advocates for the
19 parties they represent. First and foremost, they are officers
20 of the court. They are sworn to uphold the integrity and the
21 fairness of our judicial system and to help you in a search
22 for the truth. You should expect them to be professional,
23 competent, and ethical in the representation of their client's
24 interests.

25 Now, what I now say to you is intended to serve as an

JURY INSTRUCTIONS

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1 introduction to the trial of this case. These remarks are not
2 a charge on the law. I will instruct you on the law
3 applicable to this case at the end of the trial before you
4 retire to consider your verdict. This is merely an
5 explanation of the procedure that we will follow in the trial
6 of this case so that you can better understand what may be
7 happening.

8 The defendant is charged by three indictments in this
9 case. He is charged with two counts of murder and one count
10 of armed robbery. Now, I'll explain the elements of those
11 charges of crimes to you at a later time. These indictments
12 are simply the charges by which this case is brought into this
13 court, and they are not in any sense evidence of any of the
14 allegations contained in them.

15 The defendant has pled not guilty to these indictments.
16 The State, therefore, has the burden of proving each of the
17 elements of the indictments beyond a reasonable doubt. It
18 will be your duty, ladies and gentlemen, to decide whether or
19 not the State has met that burden. Your purpose as jurors is
20 to find and determine the facts of this case. You are the
21 sole judge of the facts of this case. If, at any time, I make
22 a comment regarding the facts of this case, you must disregard
23 my comments. You are to determine the facts from the
24 testimony you hear and the other evidence introduced in court
25 during the trial of this case.

1 It is up to you to determine the inferences which you
2 feel may properly be drawn from that evidence. It is
3 especially important that you perform your duty of determining
4 the facts diligently and conscientiously, because, ordinarily,
5 there is no way to correct an erroneous determination of the
6 facts by a jury.

7 On the other hand, and with equal emphasis, the same law
8 that makes you the judge of the facts of this case makes me
9 the judge of the law. The law as given by the Court is the
10 only law you may consider. You must accept and follow the law
11 as I give it to you even though you may disagree with it.
12 Just as I cannot tell you what the facts of this case are, you
13 cannot disagree with me about the law to be applied in this
14 case. Your job is to take the law as I give it to you and
15 apply it to the facts as you find them to be from the
16 testimony of witnesses and any other evidence that is
17 introduced. After doing that, you will then render your
18 verdict -- a true and just verdict under the solemn oath you
19 just took as jurors.

20 Until I advise you to begin your deliberations, you must
21 not discuss this case with anyone, including your fellow
22 jurors. Don't discuss it with any friends, any family
23 members, or anyone involved in the case. After the case is
24 submitted to you, you can then discuss the case but only in
25 the jury room with your fellow jurors.

1 The attorneys and parties of this case have also been
2 advised that they're not to talk to you about this case at
3 all. So if anyone involved in the case doesn't speak to you,
4 they're not being rude; they're just following the
5 instructions of the Court.

6 Now, during this trial, you are not to read, listen to,
7 or watch any news reports about the case. This includes
8 anything that may be in the newspapers or on the internet, the
9 radio, or television. You must not consider anything you may
10 have read or heard about the case outside of the courtroom,
11 whether that is before or during the trial of this case. It
12 is important that you keep an open mind and not decide any
13 issue in the case until all of the evidence has been
14 presented, the parties have made their closing arguments, and
15 I have instructed you on the law to be applied in this case.

16 It is your solemn responsibility, ladies and gentlemen,
17 to determine the guilt or innocence of the defendant, and your
18 verdict must be based solely on the evidence as it is
19 presented to you in this trial and on the law as I instruct
20 you during and at the close of the trial.

21 In a moment, the solicitor will make what is called an
22 opening statement in which the solicitor will explain to you
23 the issues in this case or at least what the solicitor thinks
24 the issues in this case are. The attorney for the defendant
25 may also make an opening statement, although he is not

1 required to do so. What the attorneys tell you during their
2 opening statements is not evidence of this case; it is only
3 their contention as to what the issues in this case are. The
4 evidence in this case will be presented to you by testimony of
5 sworn witnesses from the witness stand and by any other
6 exhibits that may be introduced into evidence.

7 Now, in determining what the true facts are in this case,
8 you must decide whether or not the testimony of a witness is
9 believable. It will be my responsibility to rule as a matter
10 of law as to whether certain testimony is admissible at all or
11 not, but once testimony is admitted into evidence, whether or
12 not you believe it is solely for you to determine. In
13 deciding whether to believe the witness, you have the right to
14 consider the interest of any witness, the bias of any witness,
15 the prejudice of any witness, the opportunity for the witness
16 to have seen the matters and things about which the witness
17 may testify, and the way the witness acts on the witness
18 stand.

19 You have the right to consider anything that is in the
20 record that will help you evaluate the testimony of the
21 witnesses. That means that it is your duty to pay close
22 attention to these witnesses, to observe the witnesses, to
23 listen to the witnesses, and to pay close attention to the
24 attorneys and to the Court. Don't let your thoughts wander
25 but give strict attention to the testimony in this case, so at

1 the end of all the testimony and after the arguments of
2 counsel and the charge on the law by the Court, you will then
3 be in a position to determine what the true facts are and to
4 apply the law to those facts and thus render a true and just
5 verdict.

6 Now I understand some of you have been or have requested
7 that you be allowed to take notes during the trial of this
8 case, and I will permit you to take notes, but I must give you
9 some preliminary instructions first.

10 First of all, you are not required to take notes if you
11 do not want to. Those who want to take notes may take notes.
12 Those who do not want to take notes are not required to take
13 notes.

14 Number two: The purpose of note-taking is to refresh
15 your memory on something that you feel is important. Do not
16 try to write down everything a witness says because you're
17 going to miss part of that witness's testimony. However, if a
18 witness testifies to something that you feel is important or
19 if a piece of evidence, an exhibit comes into evidence that
20 you feel is important, make a quick note to refresh your
21 memory as to what you feel is important but don't try to write
22 down everything.

23 Number three: Your notes are private to you and cannot
24 be shared with anyone else. So we will give you a pad and we
25 will give you something to write with. On the first page,

1 write your name and then make sure you get your pad back every
2 time we take notes. You will not be allowed to take your
3 notes outside with you outside of the courtroom. There will
4 come a time later when I will allow you to do that, but
5 throughout the trial of this case, every time you leave the
6 courtroom, you will need to leave your notepads in the jury
7 box, and then, when you return to the jury box, make sure you
8 get your notepad and only your notepad, because they are
9 private to you and cannot be shared with anyone.

10 All right. Do we have the pads available?

11 THE CLERK: Yes, sir.

12 THE COURT: Let's go ahead and hand them out. And, as I
13 said, when you get your notepad, make sure you write your name
14 on the first page. Everyone write your name on the first
15 page. Begin taking your notes on the second page. But that
16 does not mean that you have to take notes. It's up to you.

17 (Pause in the proceedings while the clerk distributes
18 notepads to the jury.)

19 THE COURT: Are there any challenges or charges from the
20 State?

21 MR. HIXSON: No, sir.

22 THE COURT: Any challenge from the defense?

23 MR. MCGUIRE: No, sir.

24 THE COURT: Ladies and gentlemen, we'll now begin the
25 trial with the case with the attorneys' opening statements.

1 And as I told you during the preliminary charges, these
2 opening statements are not evidence. It is simply the
3 attorney's contention as to what they feel the issues in this
4 case are.

5 All right, Mr. Hixson.

6 MR. HIXSON: May it please the Court, Your Honor.

7 THE COURT: Yes, sir.

8 OPENING STATEMENT ON BEHALF OF THE STATE

9 MR. HIXSON: Numbers. Simple, simple numbers. Same kind
10 we learned in elementary school; right? One, two, three, four
11 five. That's what this case is about. That's what you're
12 going to hear about over the next several days. Numbers.

13 Numbers are the form of license plate numbers. Numbers
14 in the form of phone numbers. Numbers in the form of a cash
15 tally on what was taken or perhaps not taken. Numbers of
16 co-defendants, and sadly, the number of people that were
17 murdered on July 26 of 2019. And that number is two.

18 And at the end of this case, you're going to hear about
19 DNA profile numbers that link this defendant to the killing of
20 those two people. And so, at the end of this trial, when you
21 have heard all of those numbers that we're going to talk
22 about, surprisingly enough something interesting happens in
23 the courtroom. All those numbers all come back to one. One.
24 That one: Derrick Rivera. That is the one that is
25 responsible for the killing of Stephen Johnson, Sr., "Steve,"

1 and Stephen Johnson, Jr., "Sparky," at the Waccamaw Bingo Hall
2 just off Highway 501 in Horry County on or about July 26 of
3 2019.

4 So when we talk about numbers, some people kind of, Woah,
5 I'm not a numbers fan. You know, we all understand. Some
6 people are. You know, what you do for a living, some people
7 love numbers and they're in that job. Some people, not so
8 much. Totally get it.

9 The numbers aren't really complicated. They're going to
10 be straightforward, and I'll give you an example of that.

11 Let's start with the number two, like I mentioned before.
12 Two co-defendants. Two individuals. And those individuals
13 are Bradford Britton -- and I'm going to tell you what the
14 evidence will show, give you a little highlight of what you're
15 going to see over the course of the next several days, and
16 let's just talk through the numbers as we do that.

17 We have two individuals. Back around July 20 -- on the
18 run-up to July 26, Bradford Britton and Derrick Rivera knew
19 each other down in that area around Georgetown. Okay? There
20 was a conversation between the two, and during that
21 conversation, Derrick Rivera -- and the evidence will show his
22 nickname was "Big Bro" or "Mugs." That's how Mr. Britton knew
23 him. Sometime during that period of time, they discussed
24 going up towards Waccamaw Bingo for an armed robbery -- for a
25 robbery.

1 The evidence will show that Bradford Britton played the
2 role of the driver involved in that and drove a silver in
3 color Jetta with a license plate number, the evidence will
4 show, of QAK-456. That's a number for you. Okay?

5 During the drive up there, the evidence will show that
6 Mr. Britton, in the silver Jetta, drove around the bingo
7 parlor, and you'll see timestamp numbers on the video that
8 shows -- the video shows the timestamps are off, which is
9 often the case. You'll hear testimony concerning timestamp
10 videos. But the general concept of the numbers is working
11 fine. In and around the bingo parlor.

12 And then the video will show a masked individual wearing
13 a gray long-sleeve shirt and gray pants, a white face
14 covering, what appears to be dreadlock-type thing, a black
15 pack on top, going into the back of the bingo parlor.

16 And, unfortunately, you'll see video inside the bingo
17 parlor of that same masked, disguised individual going into
18 the bingo parlor. You'll hear testimony that a struggle
19 occurs in the bingo parlor. You'll hear testimony that Steve
20 Johnson, Steve Sr., was in the office area, and you'll see
21 some limited video of part of the robbery taking place.

22 You'll also see video of Steve Jr. calling the numbers.
23 You know, when I said this case is about numbers, I don't know
24 if y'all played bingo before -- we all probably did as a kid,
25 but Steven Sr. and Steve Jr. actually made a living off of

1 numbers, calling the numbers.

2 And so, during the course, you'll see video of a lot of
3 people in there enjoying the game of bingo by playing those
4 numbers, and this robbery occurred while the bingo was going
5 on. You'll see it. You'll see people getting up and panicked
6 and bailing out of there as the masked gunman goes into the
7 bingo parlor.

8 During the course of that, you'll hear testimony that the
9 video machine falls and hits the ground and was on the ground
10 at the time Crime Scene recovered it. And so you'll see the
11 video will go blank prior to the actual event occurring and
12 the masked individual running out of the -- you won't see that
13 on the video because the video machine goes blank.

14 After that, you'll hear Crime Scene testimony concerning
15 collection of items of evidence, and you'll see photographs.
16 There will be minimal photographs of minimal impact, but
17 they've got to tell a story to some degree. All right?

18 Specific items were recovered inside the office area.
19 Let me back up.

20 So when Steve, "Sparky", is calling the numbers, he sees
21 what's going on and runs towards the office to assist, to
22 confront this individual that ran past him -- the individual,
23 at the end of the trial, we'll submit to you, is Derrick
24 Rivera. We'll talk about that in a second -- to assist his
25 father and confront the gunman, and he's armed with a silver

1 -- small silver handgun. You'll see him on video attempt to
2 fire the handgun -- you'll see the video yourself-- and then
3 go in the office area. That handgun was recovered, and we'll
4 talk about that handgun later on. SLED testimony later on is
5 that handgun never fired. He tried to fire it, and it never
6 did fire. You'll see that in the report and the testimony
7 from the officer.

8 Steve Sr., "Steve," also had a handgun in there, a .45
9 caliber, 1911 Springfield, if anybody on the jury knows
10 anything about handguns. That one didn't fire either. And
11 you'll hear testimony from the State Law Enforcement Division
12 that both individuals were killed with a third handgun that
13 was never recovered. You'll hear testimony concerning that.
14 And it was a .38 caliber handgun.

15 You'll hear some numbers related to the caliber of the
16 gun that's pretty important to understand what happened.

17 Let's go back out to the video from next door, and then
18 you'll see an individual running away from the area. Go back
19 to the silver Jetta. We're going to talk about two people.
20 You'll see video from nearby neighborhood. It's called
21 Tuscany Grande. You'll hear testimony about Tuscany Grande.
22 They have what's called a license plate reader in Tuscany
23 Grande, and they have video in Tuscany Grande. You'll hear
24 testimony from those individuals that see the silver Jetta
25 that was seen before leaving the area and a license plate

1 reader confirming the license plate: QAK-456. These are
2 pretty simple numbers. License plate number, so far. Those
3 numbers link to an individual named Bradford Britton.

4 You'll hear law enforcement talk about confronting
5 Mr. Britton, getting statements from Mr. Britton, following up
6 with information concerning his involvement and who else was
7 with Mr. Britton. Because you'll see from the video, it's
8 clear the Jetta is moving when someone else is walking in.
9 Obviously, the testimony would indicate there's two people
10 involved in that. Two. All right.

11 You'll also hear testimony from Mr. Britton himself, and
12 you'll hear that Mr. Britton has pled guilty to attempted
13 armed robbery and he's plead guilty to accessory after the
14 fact of murder. He has not been sentenced, and he will sit
15 there and tell you, in the coming days, his testimony
16 concerning his level of involvement and his identification of
17 the person in the car with him is Derrick Rivera.

18 Subsequent to that, law enforcement focused their
19 attention on trying to find Mr. Rivera. Mr. Rivera was
20 arrested down towards the area in Smoaks, South Carolina,
21 which is in Colleton County, and there's some evidentiary
22 items were recovered, and most specifically of those items was
23 a cell phone -- a crushed cell phone. And we'll talk about
24 the importance of that cell phone number. The evidence will
25 show that was a VS500 model cell phone, which is a Verizon

1 prepaid. It's an 8-KV. There are some other numbers in
2 there; don't worry about it. That's the type of cell phone --
3 the cell phone testimony you'll hear is consistent with
4 Mr. Rivera's phone.

5 You'll also hear about cell phone numbers. Number A:
6 Derrick Rivera's phone. Phone B: Bradford Britton's phone.
7 The efforts of law enforcement to put these conversations
8 together and you'll hear testimony concerning that, efforts to
9 determine the location of those phones, and the insufficiency
10 of that, although it was tried, and text messages back and
11 forth concerning Mr. Rivera, and I'll let the witness's
12 testimony talk about that.

13 The biggest import during the course of this is the
14 recovery of items. I mentioned to you a struggle inside the
15 bingo parlor office. During the course of that struggle, the
16 assailant's right Nike tennis shoe was lost, a black
17 bookbag -- and you'll see on the video the individual was
18 carrying. You'll hear testimony from Teresa Holyfield who
19 knew those -- that went to the assist of Sparky to try to help
20 Sparky and save his life and try to help Steve. You'll
21 recognize that those items were not from anybody here, but
22 apparently, you'll hear testimony that it must have been lost
23 during the course of this less-than-a-minute struggle, and
24 they were saved for law enforcement for forensic testing.

25 Also in there, a dreadlock-style wig was recovered that

1 did not belong there. It was not there before. You'll hear
2 testimony concerning that. It's a novelty wig with red and
3 yellow and green stripes above it. It's almost cartoonish.
4 You'll see it in person. You'll be able to handle it but in a
5 plastic bag so you can't, you know, actually see it. You
6 can't touch it.

7 And then a black toboggan-style wig was also -- a black
8 knit toboggan cap was also recovered inside the scene. And
9 those items were all submitted for forensic DNA testing, and
10 you will hear the testimony from the forensic DNA analyst of
11 their expert opinion concerning the likelihood of the
12 proposition that Derrick Rivera is the individual -- that will
13 give you evidence to believe that he was the individual
14 wearing those items.

15 Ultimately, you'll see items recovered as the Jetta is
16 Tuscan Bay, including the other black tennis shoe, a white in
17 color T-shirt, a long-sleeve gray shirt, and a pair of gray
18 pants. Forensic DNA testing was done on the gray pants. At
19 the end of this trial, you'll hear the results of the forensic
20 DNA testing concerning DNA profiles that were developed from
21 those pants. And those numbers are big, and you'll hear those
22 at the end of this -- towards the end of this trial. Okay?

23 Once again, all those items, once presented to you, will
24 leave you inescapably to a single conclusion beyond a
25 reasonable doubt. This trial is about the number one, and

1 that number one is Derrick Rivera.

2 And, at the end of the trial, you'll find him guilty
3 beyond a reasonable doubt of the murder of Sparky, of the
4 murder of Steve, and of their armed robbery. Thanks.

5 THE COURT: Mr. McGuire, does the defense wish to make an
6 opening statement?

7 MR. MCGUIRE: Yes, sir. Thank you.

8 THE COURT: All right.

9 OPENING STATEMENT BY THE DEFENDANT

10 MR. MCGUIRE: I agree with a lot of what Mr. Hixson said,
11 but I disagree with a good bit as well. First off, this case
12 is really about a tragedy. Steve and Steve Jr. did not
13 deserve to be killed. They were murdered; I agree with that.
14 And that is a tragedy. It is a shame. And we cannot bring
15 them back. I wish we could.

16 But this is also about justice, in bringing the right
17 person to justice. Some things we know for certain. Bradford
18 Britton definitely had a plan to rob the Waccamaw Bingo, and
19 he conspired with at least one other person to do it, maybe
20 more.

21 The plan was to drive from Georgetown where Britton lives
22 to Myrtle Beach. They make a stop on the way there in
23 Surfside; I want to come back to that in a little bit.

24 But they drive to Myrtle Beach. These conspirators,
25 maybe two people, maybe three, maybe four, I don't know. The

1 plan is to have a robber go in, armed, run to the office, run
2 to the cash, grab the cash, run out, and Bradford Britton is
3 going to pick them up down the road a little bit. Bradford
4 can't park right at the front door; the car would be seen.
5 The robber would be seen getting in the car. So he parks down
6 the road a little bit. The robber comes out, runs to the car.
7 They make an escape.

8 They go to an adjacent neighborhood, and the plan is
9 let's change our clothes so we don't match the description of
10 the people seen on the scene. The robber, maybe Britton,
11 maybe he was seen. So the plan is: Let's change our clothes.

12 And some of the clothes they use belong to Derrick. When
13 they're formulating their plan to rob the bingo and the plan
14 is we're going to change our clothes, they think to
15 themselves, well, we're going to throw our clothes out of the
16 car window so we can cruise right by the bingo hall on the
17 frontage road on the way out. We can ride right by the
18 police, and we can do it safely because we will have changed
19 our clothes. And we're going to throw those clothes out of
20 the car, and they're not going to throw their own clothes
21 away.

22 You're going to hear that Bradford Britton was broke.
23 Broke, broke, broke. His mom is paying his rent. He just
24 borrowed 50 bucks from his mom. He's not going to throw his
25 own clothes away. He can barely buy clothes.

1 Derrick does know Bradford Britton. He buys marijuana
2 from him. They smoke marijuana in Bradford Britton's house.
3 Bradford Britton lets Derrick use his house when he's
4 entertaining a lady because Derrick lives with his mama, and
5 he doesn't want to bring a girlfriend home. He has the run of
6 Bradford Britton's house. He can leave clothes there, he can
7 take a shower there, and he can spend time with a lady. And
8 that's how he gets his clothes. And they find his clothes.
9 They do. They are thrown out of the car.

10 I want to talk a little bit about what happens when they
11 catch Bradford Britton. And you didn't hear about any of
12 this. They catch Bradford Britton because they get his
13 license plate number. They go to where the license plate is
14 registered and they talk to his parents. They say, "That tag
15 is on Bradford Britton, our son, it's on his car. Here's his
16 address."

17 They go and arrest Bradford Britton. They bring him into
18 the police department. They interrogate him. What does
19 Bradford Britton say? "I was not in Myrtle Beach. I gave the
20 keys to my car to my friend named Trey."

21 The police say, "Well, who's Trey?"

22 "Trey hangs out at the neighborhood convenience store.
23 He's always wearing a black T-shirt, black shorts, black
24 flip-flops, and he always carrying a bookbag."

25 "What's Trey's phone number?"

1 "I don't know. You know, he calls me. He changes his
2 phone number. I don't know."

3 "Where does he stay?"

4 "I don't know his address."

5 "Who is his girlfriend?"

6 "I don't really know his girlfriend."

7 "How about his mama? His daddy? His grandparents?"

8 "I don't know who his people are."

9 Trey is a phantom. Does not exist. And the law
10 enforcement officers pick up on that pretty quickly, and they
11 confront him with that. "Bradford, Bradford, we know you were
12 in Myrtle Beach. Got a video of the car, your license plate,
13 your cell phone." Every time you use your cell phone or just
14 driving down the road with your cell phone, you're pinging off
15 cell phone towers. And they tell Bradford, "We are going to
16 get your records."

17 What does Bradford do? "Oh, my gosh. I'm caught. They
18 are going to get my cell phone records. My cell phone is
19 going to be in Myrtle Beach right in front of the bingo hall."

20 So he changes his story. "Okay, okay. Got me. Sorry I
21 haven't been honest with you. I did go to Myrtle Beach. I
22 gave a guy a ride that I don't know his name, and he said,
23 Drive me to Myrtle Beach bingo, and I did. And I dropped him
24 off, and then I went and got gas, and then I came back and I
25 have no idea what happened." That's Story No. 2.

1 And they say, "We need the name. We need the person.
2 You have to give us a person who exists. This Trey phantom
3 person clearly does not exist. Now, you're saying you drove
4 somebody there with a nickname but you don't know their real
5 name. We need a person who exists. You're going to eat this
6 murder charge by yourself if you don't give us somebody."

7 They literally said, "Bradford, we're trying to give you
8 an out. Give us the name of somebody who exists."

9 And he says, "Derrick did it." He says, "Derrick did
10 it."

11 Somebody who, he told police, "I don't really know the
12 guy" -- you know, smoke some weed together.

13 And the police are, "You're not going to rob the bingo
14 with somebody you barely know. This is going a good friend, a
15 buddy, your partner, somebody you're tight with." And you're
16 going to find there was no real effort to find that person.

17 I do agree with Mr. Hixson, my colleague, that there are
18 some numbers that are important, but I'm going to give you one
19 right now: Nine and a half. 9.5. That's the size of the
20 shoe that the robber wore into the bingo. And you'll hear
21 there was an effort to tackle the robber, and that shoe came
22 off, maybe in the tackle, maybe in a violent struggle between
23 the robber and one of the victims.

24 They arrested Derrick based on Bradford Britton's word
25 and nothing else. And he was wearing 11-and-a-half shoes.

1 Now, that's a red flag right there. That's math. That's real
2 math. Nine-and-a-half shoe was worn by the robber, and he
3 wears 11 and a half. That's a problem. If you want to say
4 Derrick did it, that's a problem.

5 I want to go back to that stop I told you about. You
6 know, the plan was to go drive to Myrtle Beach and rob the
7 bingo hall, and I told you there was a stop made in Surfside.
8 Bradford Britton told law enforcement, "We stopped at the
9 Surfside Bingo before going to Myrtle Beach." He said, "We
10 were going down 17, and we were going to stop at the Surfside
11 Bingo and I passed it. I accidentally passed it. So I had to
12 make a U-turn, and there's a Krispy Kreme Donuts right there.
13 There's a BP station next to it. I had to make a U-turn and
14 go back. And then we went into the parking lot of the
15 Surfside Bingo."

16 Bradford Britton says that the passenger in his car --
17 now he says it's Derrick Rivera; I obviously disagree with
18 that. He says the passenger in the car makes a phone call.
19 He says Derrick Rivera makes a phone call. Called somebody.
20 And now the direction is, Let's go to Myrtle Beach, not
21 Surfside. Let's go to the Myrtle Beach Bingo.

22 Law enforcement went and got all of Derrick's phone
23 records. You know what's not on them? That phone call. You
24 know, saying that they stopped in Surfside, that's such an
25 idiosyncratic detail, it's such a collateral detail, that is

1 probably true. Bradford Britton probably did make the U-turn
2 right in front of the Krispy Kreme and the BP gas station that
3 he describes in detail, and then that passenger probably made
4 that phone call. And science tells us he didn't make it but
5 the passenger in that car did.

6 So Bradford Britton also says that he made a phone call
7 at the Myrtle Beach Bingo. Somebody in the car called the
8 robber and said, "Where are you?" I don't know who made that
9 call. Bradford may have made it, maybe somebody else in the
10 car. But Bradford Britton says, "We called Derrick Rivera.
11 Where are you, Man?"

12 You know what's not on his phone records? That phone
13 call. Science tells you that didn't happen. Science tells
14 you Bradford Britton is a liar. Every time he tries to
15 connect Derrick Rivera to this, you will see a lie.

16 He says to law enforcement officers, "I hang out with
17 Derrick. I just hung out with him Sunday between the hours of
18 1 and 2. Sir, if you go to the Money Saver where we hang out,
19 you will see all the video, me and Derrick, talking."

20 So what happens when they go and get that video?
21 Bradford Britton is not there. Derrick Rivera is not there.
22 At all.

23 Every time you see Bradford Britton trying to connect
24 Derrick Rivera to this, you will see a lie.

25 Law enforcement officers, "When we left the Myrtle Beach

1 Bingo, when I was driving Derrick Rivera back to Georgetown,
2 we stopped at a convenience store. The door opens up. You
3 will see Derrick Rivera in my car, throwing up in the parking
4 lot."

5 They go and get that video. You see Bradford Britton
6 there. You see his car parked there. You know who you don't
7 see? Derrick Rivera. You don't even see the car door open or
8 anybody throw up.

9 Every time Bradford Britton tries to connect Derrick
10 Rivera to this, you see a lie.

11 This case isn't about numbers. It's about Bradford
12 Britton. It all comes back to Bradford Britton. That's what
13 the case is about. I want you to be detectives with me as we
14 go through this trial, when you hear about physical evidence,
15 what was swabbed, what was taken into evidence, what was
16 tested, what was not tested.

17 I can tell you this: Derrick Rivera being in Georgetown
18 and not going to Myrtle Beach and not being part of this is
19 100 percent consistent with every piece of physical evidence
20 you will hear about. There's one thing that's inconsistent
21 with Derrick being completely innocent, and that one person is
22 Bradford Britton. Confirmed, proven liar, who had a motive to
23 steal, had the car, but he got caught. And he's in the
24 protection business. He's protecting himself, and when that
25 failed -- he said he was home. Alibi. "I gave my car to

1 Trey." He even had his son lie to the police. His son got
2 off work at 9:30. He said, "My dad picked me up." You know
3 where his dad was? On video in Myrtle Beach, driving a car.
4 That's his own son. It's laughable. That's the stand-up guy
5 Bradford Britton is.

6 Can you trust him? No. Can you strip a man of his life
7 and liberty based on Bradford Britton? No.

8 I'm going to ask you, at the end of this trial, to
9 deliver a not-guilty verdict, not because I asked for it but
10 because justice demands it, and the physical evidence supports
11 it. Thank you.

12 THE COURT: All right. Ladies and gentlemen, we'll now
13 begin the evidentiary portion of this trial of the State's
14 case.

15 Mr. Hixson, the State can call your first witness.

16 MR. HIXSON: Thank you. At this time, we'll call Officer
17 Brian Church with the Horry County Police Department.

18 OFFICER BRIAN CHURCH,

19 the witness, after having been duly sworn, was examined and
20 testified to as follows:

21 THE CLERK: State your full name and spell your last name
22 for the Court.

23 THE WITNESS: Brian Church. Last name is C-h-u-r-c-h.

24 DIRECT EXAMINATION

25 BY MR. HIXSON:

1 Q Good morning, sir. How are you?

2 A Good. How are you?

3 Q Please tell the jury what you do for a living.

4 A I'm a detective with Property Crimes with the Horry
5 County Police Department.

6 Q Okay. And how long have you been doing that?

7 A Recently just got transferred to CID a week ago. Prior
8 to that, I was on patrol for five years.

9 Q Okay. So my math isn't very good. So going back five
10 years, were you working for the Horry County Police around
11 July 26 of 2019?

12 A Yes, I was.

13 Q At some point in time in the evening hours of July 26,
14 did you get a call to a location for an incident off Highway
15 501?

16 A Yes, I did.

17 Q Tell us about that.

18 A I was on routine patrol, and I got a call for an armed
19 robbery with potentially two people shot at I believe it was
20 4007 Belle Trace Boulevard, which is in the Myrtle Beach
21 section of Horry County.

22 Q Did you show up on that location?

23 A Yes. I was the first officer on the scene. I arrived on
24 the scene and was pointed to the back of the building where
25 the potential victims were.

1 Q Okay. Let me show you what's been marked as State's
2 Exhibit 1. See if you recognize this item.

3 A Yes, I do.

4 Q What is it that you're looking at?

5 A It's a map of Horry County, 501 region, and the Tuscan
6 neighborhood.

7 Q So you're on patrol there and you're generally familiar
8 with that area?

9 A Yes.

10 MR. HIXSON: At this time, I move State's 1 into
11 evidence.

12 MR. McGUIRE: No objection.

13 THE COURT: State's Exhibit 1 admitted into evidence
14 without objection.

15 (State's Exhibit No. 1, Large Map, was received into
16 evidence.)

17 MR. HIXSON: Your Honor, may I ask the witness to come
18 around to point to the map in front of the jury?

19 THE COURT: Yeah. Make sure, if he's going to give
20 testimony, he's near a microphone so the court reporter can
21 pick him up.

22 MR. HIXSON: And may I publish this to the jury?

23 THE COURT: Yes.

24 BY MR. McGUIRE:

25 Q All right. Can you point to -- just describe for the

1 jury what you generally see.

2 **A** This is an overhead shot of Highway 31 and Highway 501.

3 This is Waccamaw Boulevard. And this right here is Belle

4 Trace Boulevard, and the bingo hall is right there.

5 **Q** Okay. And then Forestbrook Road is on here?

6 **A** Yes. Forestbrook Road is right here.

7 **Q** Okay. And so, if I'm on Highway 501 driving this way,
8 where do I go down that way?

9 **A** You're going towards the beach.

10 **Q** Okay. And if I'm going this way, it's heading towards
11 Conway?

12 **A** Yes, it is.

13 **Q** Okay. So that way is Georgetown, and this way is North
14 Myrtle Beach; right?

15 **A** North Myrtle Beach and Little River.

16 **Q** Okay. And once again, can you point to where Waccamaw
17 Bingo is, or was?

18 **A** This was the strip mall right here.

19 **Q** Okay. And what is this area in here? Is that a
20 residential neighborhood?

21 **A** Yes, it's a residential neighborhood. I'm not too
22 awfully familiar with that. That's out of my normal patrol
23 area, but this is the Tuscan neighborhood back there.

24 **Q** If you stay up, let me show this. Let me show you what's
25 been marked as State's 2. Do you recognize that item?

1 **A** Yes, I do.

2 **Q** What is that?

3 **A** That's a close-up view of the bingo hall, Highway 501,
4 and Tuscany Grande.

5 MR. HIXSON: Your Honor, at this time, we move State's 2
6 into evidence.

7 THE COURT: Any objection?

8 MR. McGUIRE: Without objection.

9 THE COURT: All right. State's Exhibit 2 is admitted
10 into evidence without objection.

11 MR. HIXSON: May I publish, Your Honor?

12 THE COURT: Yes.

13 (State's Exhibit No. 2, Large Map, was received into
14 evidence.)

15 BY MR. McGUIRE:

16 **Q** Would you describe this to the Court and the jury?

17 **A** This is just an overhead view of the previous one. It's
18 little bit closer. Highway 501 towards the beach. This is
19 towards Conway. Highway 31 is here towards Little River and
20 North Myrtle Beach and Georgetown. And then this is the
21 Tuscany Grande neighborhood, Belle Terre Boulevard, and the
22 bingo hall is right here.

23 **Q** Okay. How can you tell? Do you know the other names of
24 the businesses in that area?

25 **A** Yeah. I think this was a cleaning service down here.

1 I'm not familiar with the names.

2 Q Okay. Very good. And just to close the loop, as they
3 say, is this a larger version of a section of this one?

4 A Yes.

5 Q Can you point to the larger section?

6 A This right here is going to be the larger version of
7 right here.

8 Q Okay. So this is the big picture, this is the close-up
9 of just the area around the crime scene?

10 A Yes.

11 Q Very good. Thank you. Grab a seat.

12 So I think we're to the point that you said you arrive.
13 And then tell the jury what you saw when you got there.

14 A When I arrived on the scene, I went inside, and there was
15 quite a few people pointing towards the back of the building
16 where the victims were. I did locate the victim in the back
17 of the building. There was some bystanders attempting first
18 aid and CPR on one of them, and then I was able to perform
19 some basic life-saving measures on the other one.

20 THE COURT: Excuse me for interrupting. Can you speak a
21 little bit more into the mic?

22 THE WITNESS: Yes, sir. I'll just scoot this way.

23 BY MR. HIXSON:

24 Q Can you just generally describe in just a little more
25 detail so we've got the lay of the land? When you enter, are

1 there other people in there?

2 **A** Yes, there's quite a lot of people in there.

3 **Q** Did you come to understand that there was a bingo game
4 going on during that time? The business was open?

5 **A** Yes, yes. I was able to put those two together, that it
6 was an open business, and they were having an active bingo
7 game.

8 **Q** Okay. And then when you talk about trying to render
9 first aid to the gunshot victims, were they in a particular
10 location inside the bingo parlor, separate from the other
11 patrons?

12 **A** Yes. It was a smaller enclosed area with a window, kind
13 of like a concession stand at a ball game that you would see,
14 like the minor league baseball or youth baseball when you go
15 get concessions.

16 **Q** Would it be -- could you characterize that as the office
17 of the bingo parlor?

18 **A** Yeah, you could.

19 **Q** And where -- when you saw it, what were the conditions of
20 the two individuals that had been shot? Were they still with
21 us during that period of time?

22 **A** I couldn't tell on one. I just know that he was getting
23 -- there were some bystanders performing first aid. On the
24 other victim, I did have a pulse when I checked it, and that's
25 when I began my life-saving measures.

1 Q Okay. And we'll get into photographs later.

2 Were the victims -- the position of the victims, they
3 were moved during the course of your trying to help them in
4 order to try to save their lives?

5 A I don't know if the first victim was moved. That was
6 inside the office area. I personally myself moved the second
7 victim so I could have a better working space to perform first
8 aid.

9 Q And the individual that you moved, would he be the older
10 of the two victims? The older versus the younger one?

11 A Yes, it would.

12 Q And how long -- take us to the point that you're trying
13 to render first aid and then what happened after that.

14 A I attempting to render first aid. Another officer came
15 on scene, and he was finally able to assist me in getting a
16 little bit more crowd control and continuing helping first aid
17 until EMS arrived and took over.

18 Q And then did you stop rendering first aid when EMS
19 arrived?

20 A Yes, I did.

21 Q Okay. And then what did you do -- how did you perform
22 your duties after that?

23 A After that, I just began talking to witnesses, anybody
24 who was able to see anything. I would write their name down
25 and pass it on to our detectives as they arrived on-scene.

1 Q Okay. And so was the area of the office kind of
2 separated by walls or partitions away from where the other
3 patrons were?

4 A Yes, it was. It was an enclosed area with a door and,
5 like, a large window area.

6 Q And while you were there, did you do what you could to
7 protect the integrity of that scene from people, you know,
8 rendering aid and --

9 A As much as I could. I attempted my best to keep
10 everybody away from the area.

11 Q And, in situations like this, did you call for
12 assistance?

13 A Yes, absolutely.

14 Q Did you call Criminal Investigations to come and assist
15 you?

16 A Yeah, we called our Crime Scene and we called detectives.
17 They all arrived on-scene and assumed the investigation for
18 us.

19 Q And, at that point, you kind of relinquish your duties
20 and step back into your role as uniformed patrol?

21 A Yes, I was.

22 Q Did you have other any additional involvement in that
23 other than your initial response and your effort to save the
24 lives?

25 A No, I do not.

1 MR. HIXSON: I have no further questions.

2 THE COURT: Cross-examination?

3 MR. MCGUIRE: No, sir.

4 Thank you for coming, sir.

5 THE COURT: You may step down.

6 The State can call your next witness.

7 MR. HIXSON: Thank you. At this time, the State will
8 call Teresa Holyfield.

9 TERESA HOLYFIELD,

10 the witness, after having been duly sworn, was examined and
11 testified to as follows:

12 THE CLERK: State your full name and spell your last for
13 the Court.

14 THE WITNESS: My name is Teresa Holyfield.
15 H-o-l-y-f-i-e-l-d.

16 DIRECT EXAMINATION

17 BY MR. HIXSON:

18 Q Good morning, ma'am. How are you?

19 A Good.

20 Q Hold on just a second. Let me get ahead of things for a
21 second.

22 All right. How are you doing this morning?

23 A As good as possible.

24 Q Okay. And this is just us talking for a second so I know
25 how loud you're going to speak because Madam Court Reporter

1 has to hear everything you say. And I know it's
2 nerve-racking, but all these guys got to hear everything
3 you're saying too. So these first conversations are about how
4 you're doing. Okay?

5 A Okay.

6 Q All right. So what's your name?

7 A Teresa Holyfield.

8 Q Okay. And are you familiar with Waccamaw Bingo?

9 A Yes.

10 Q Okay. Are you family friends as well as you're personal
11 friends with Stephen Johnson, Sr. and Stephen Johnson, Jr.?

12 A Yes.

13 Q Okay. And just to help, because we have got juniors and
14 seniors in here, is it okay if we refer to Stephen Johnson,
15 Sr. as "Steve" and Stephen Johnson, Jr. as "Sparky"? Is that
16 okay with you?

17 A Yes.

18 Q Okay. And about how long have you known the family?

19 A Eleven years.

20 Q And is the Waccamaw Bingo a family operated and kind of
21 owned business? It's a family affair?

22 A Yes.

23 Q Okay. And it was operating as a bingo parlor, I guess,
24 around July 26 of 2019; is that right?

25 A Yes.

1 Q And were you an employee for Waccamaw Bingo?

2 A Yes.

3 Q Okay. And about how long did you work for Waccamaw
4 Bingo?

5 A At that time, ten years.

6 Q Ten years. Okay.

7 So can you give us a general idea about -- and I'll show
8 you a couple of pictures to kind of set the stage for a second
9 to calm you down. What was going on that night, the night of
10 July 26 of 2019?

11 MR. HIXSON: And I'm sorry I'm leading the witness just a
12 little bit, Judge, but you can tell she's a little nervous.

13 BY MR. HIXSON:

14 Q Was it a normal night? I mean, on the run up to
15 something terrible happening.

16 A Yes.

17 Q I mean, prior to something terrible happening. I
18 apologize.

19 So tell us about what a normal night would be.

20 A Normal night is everyone comes in and they pay for their
21 packs and they sit down and we start playing early games. And
22 we go through so many games and sell so many games, and then
23 people continue to come in until we start our program. And
24 then we start our program and...

25 Q Okay. So is it safe to say just folks come in, say, "I

1 want to play bingo." They pay money. At that time, was Steve
2 working in the office area?

3 A Yes.

4 Q And he would collect money for the cards, and then the
5 patron would go and sit at a table and playing bingo; right?

6 A Yes.

7 Q Okay. And what was Sparky's role in the normal operation
8 of a night at Waccamaw Bingo?

9 A Prior to starting --

10 Q We're setting this stage. All this is prior to anything
11 terrible happening. We're just talking about what life is
12 like prior to anything bad happening.

13 A I go there at 4:00 in the afternoon, and they come in
14 about 5:30, and we get started with the packs around 6:00.
15 And me and Sparky sold the packs, and his father sit and
16 watched while we sold the packs. And then we continued that
17 up to the time that we started the game. We sold early games,
18 and then we started our program.

19 Q Okay. Let me show you a couple of pictures.

20 MR. HIXSON: I'm going to show the witness State's 24,
21 26, and 28.

22 BY MR. HIXSON:

23 Q See if you recognize those items. Don't tell anybody
24 what they are yet. Just take a look at those and see if you
25 just recognize those. You can look at them all at once, all

1 three of them, and then tell me if you recognize them.

2 A Yes.

3 Q Okay. What are those?

4 A Pictures of after the incident.

5 Q Okay, okay.

6 MR. HIXSON: At this time, the State will publish State's
7 24 and 26 to the jury.

8 THE COURT: Any objection?

9 MR. McGUIRE: Without objection, Your Honor.

10 THE COURT: State's Exhibit 24 and State's Exhibit 26
11 admitted into evidence without objection.

12 MR. HIXSON: I may as well get State's 28 in there also
13 while we're talking about it.

14 MR. McGUIRE: No objection.

15 THE COURT: All right. State's Exhibit 28 admitted into
16 evidence without objection.

17 (State's Exhibit No. 24, 26, and 28, Scene Photographs,
18 were received into evidence.)

19 MR. HIXSON: May I publish these, Your Honor?

20 THE COURT: Yes.

21 MR. HIXSON: I'm going to show it to the jury while we
22 talk about it.

23 BY MR. HIXSON:

24 Q What is that that we're looking at?

25 A That is the front door of the bingo hall that people

1 generally come in to play bingo.

2 Q Okay. And all these pictures were taken after, by the
3 time police department got there; right?

4 A Yes.

5 Q But that's generally what it looks like during the
6 operation hours?

7 A Yes.

8 Q And then 26, do you recognize that?

9 A Yes.

10 Q What is that that we're looking at?

11 A That is the back door that usually people who come in on
12 a regular basis come in the back door.

13 Q So that back door is open to the public. You could come
14 and go in front or back?

15 A Yes.

16 Q And then, lastly, inside, what is this?

17 MR. HIXSON: I'm referring the witness to State's 28.

18 A That's the caller stand.

19 BY MR. HIXSON:

20 Q Okay. Can you describe that to the jury, what you're
21 looking at right there?

22 A They're looking at where Sparky usually called the
23 numbers from the caller stand.

24 Q So, in a normal operation bingo, Sparky would be back
25 there calling the numbers to the people that are playing?

1 **A** Yes.

2 **Q** And all the tables in the front, are those where the
3 patrons would sit and play bingo?

4 **A** Yes.

5 **Q** And then, not in this photograph, but Steve would be in
6 the office selling the program, and Sparky would be in the
7 back calling the numbers?

8 **A** Yes.

9 **Q** Okay. So that's what happens on a normal night, huh?

10 **A** Yes.

11 **Q** So let's take you into time as the night progresses to
12 around 9:45 -- roughly 9:45 p.m. on July 26, 2019. Did
13 something shocking happen around that period of time?

14 **A** Yes.

15 **Q** Tell us about what you saw.

16 **A** I had just walked out of the office and went in and went
17 out on the floor to help sell the next game, and a man runs in
18 the back door, hollering. And it was so fast, it startled me.
19 And I hollered Sparky's name. And he was -- I look over to
20 Sparky, and he is already on the floor with a gun and tells
21 everybody to get down.

22 **Q** Okay. Let's stop there for a second. A bunch of detail
23 right there.

24 So you yell to Sparky after -- did he, normally during
25 business hours, carry a handgun with him?

1 **A** Yes.

2 **Q** Do you generally recognize it? Was silver a way to
3 describe it?

4 **A** Yes, it was silver.

5 **Q** Okay. And then you're on the wall and you said you see
6 someone running in the back door. Can you generally recall
7 what -- the description of the person and type of clothing and
8 what the person was wearing?

9 **A** He was wearing sweat clothes. I don't know what color.
10 He was a bigger person, I could tell. It looked like a bigger
11 person.

12 **Q** Did you -- any hair style or anything? Did you recognize
13 it?

14 **A** Dreadlocks.

15 **Q** What direction did the person move from and into?

16 **A** He went from the back door to the office -- straight to
17 the office.

18 **Q** Okay. What did you do?

19 **A** I grabbed a lady. I hollered at Sparky, and then I
20 grabbed the lady sitting in the chair, and we got down, like
21 he said, under the table.

22 **Q** From that position, could you see anything that was going
23 on inside the office area of the bingo parlor?

24 **A** No.

25 **Q** And could you just generally describe what the office

1 looks like, I mean, the physical structure of it? Is there
2 walls or glass or what?

3 A The office where I was standing has a corner where you
4 can't see in the office. You'd have to be over to this side
5 to see inside the office. You can't see anything at all on
6 this corner wall. But you could see on this side and you
7 could on this side if you were sitting in front of that
8 office.

9 Q Let me show you what's been marked as State's 27. See if
10 you recognize that.

11 A Yes.

12 Q And what is that generally looking at?

13 A The office.

14 Q Okay. The office area.

15 MR. HIXSON: At this time, we'd move State's 27 into
16 evidence.

17 THE COURT: Any objection?

18 MR. MCGUIRE: Without objection, Your Honor.

19 THE COURT: State's Exhibit 27 admitted into evidence
20 without objection.

21 (State's Exhibit No. 27, Scene Photo, was received into
22 evidence.)

23 BY MR. HIXSON:

24 Q And, unfortunately, we're going to have to talk about
25 this sometime. So when you look at that picture right in

1 front of the office area, who is laying on the ground right in
2 front of that office area?

3 A Steve.

4 MR. HIXSON: All right. At this time, I'd publish
5 State's 27 to the jury.

6 THE COURT: All right.

7 BY MR. HIXSON:

8 Q Can you describe that, what we're looking at? If you
9 were standing in the back door going in, looking forward, is
10 that what you would see?

11 A Yes.

12 Q And that rectangular window, is that the office area
13 you're referring to?

14 A Yes.

15 Q See how this works. All right. Can you see that?

16 A Yes.

17 Q All right. Now, the jury can see it at the same time.
18 Can you describe what you're seeing for us?

19 A I'm looking straight to that door that's open. That is
20 the office door. And the window is where I stand to count
21 sheets.

22 Q And you see to the right-hand side, that's where all the
23 patrons would sit to play bingo?

24 A Yes. And at the left. Both places.

25 Q And if you look just in the center just to the right,

1 that's the doorway into the office as well as past the window
2 to the office?

3 A Yes.

4 Q That's fine. After you hear that, what happens -- what
5 do you hear is going on inside that office space after you
6 pull this patron under the table with you to hide or to get
7 out of the way?

8 A I hear shuffling noises.

9 Q When you say "shuffling noises," can you describe those
10 in more detail? What did you think was going on in there?
11 What is your impression?

12 A They were fighting against each other or something.
13 There was a shuffle going on. There was somebody moving
14 stuff. It was stuff falling everywhere.

15 Q What sounds like a physical struggle between --

16 A Yes.

17 Q -- human beings?

18 A Yes.

19 Q Can you see into that? I think you talked about it
20 before, but from the angle you're sitting at, you see the way
21 it's cut out, can you describe that more?

22 A The corner was where I was standing. That actual corner.
23 There is no windows. There is no doors where I was standing
24 at, so I couldn't actually see. I couldn't even see Steve
25 sitting in there.

1 MR. HIXSON: Okay. Beg the Court's indulgence just for a
2 moment.

3 THE COURT: All right.

4 BY MR. HIXSON:

5 Q I'll show you what's been marked as State's 29.

6 BENCH CONFERENCE

7 (The following bench conference was held outside of the
8 hearing of the jury and others:)

9 MR. HIXSON: So, Judge, this is the only scene photo I
10 have. I don't have any --

11 COURT REPORTER: Sorry; I can't hear you.

12 MR. HIXSON: I'm sorry. This is the only -- I'm trying
13 to put this -- I'm getting ready to try to introduce this.
14 This is the only scene photo I have of inside the office. All
15 the pictures have a body in it. I can't find one. My
16 understanding is his objection, that that's the least benign
17 picture I have with the scene in it.

18 MR. McGUIRE: I agree it is the least benign one.

19 THE COURT: Well, I mean, do you want me to excuse the
20 jury so you can put an objection on the record?

21 MR. McGUIRE: Yes.

22 THE COURT: Okay. All right. Let me excuse the jury
23 briefly.

24 (Open court resumes as follows:)

25 THE COURT: Ladies and gentlemen, I have to discuss a

1 matter of law with the attorneys, so I'm going to excuse you
2 back to the jury room for just a few minutes. Do not discuss
3 the case, even among yourselves. Leave your notepads in the
4 jury box.

5 And I'll tell you why we excuse you back to the jury
6 room. It's not that we're trying to hide anything from you or
7 keep anything from you, but an issue has come up where we need
8 to discuss the law to be applied in this case.

9 Oftentimes when I discuss the law with the attorneys, it
10 requires me as the judge and the attorneys to reference
11 factual issues. But what we say is not evidence. So we don't
12 want you to be influenced by anything that I might say or
13 anything that the attorneys might say when we discuss the law
14 to be applied. We don't want that to influence your decision
15 on what the facts of this case are, because you're to base
16 your decision on the testimony of witnesses and the exhibits,
17 and that's why we excuse you to the jury room.

18 In any event, it give you a few minutes to stretch your
19 legs and things of that nature. Please leave your notepads in
20 the jury box, and we'll bring you back out in just a minute.
21 Thank you very much.

22 (The jury exited the courtroom at 10:51 a.m.)

23 THE COURT: All right. Mr. McGuire, what's your
24 objection?

25 MR. MCGUIRE: Your Honor, my objection would be that the

1 photograph -- the introduction of the photograph would cause
2 the unfair prejudice -- it would cause unfair prejudice to
3 Mr. Rivera in that it's a very emotional, graphic depiction of
4 a murder victim on the floor.

5 My understanding is that the probative value is that it
6 shows that items are knocked around and that a struggle
7 ensued, which I don't object to. I agree that is what
8 happened. It's established by Ms. Holyfield's testimony. I
9 agree with that. So it's not a fact that's in dispute.

10 I agree there was a violent struggle. I'm not going to
11 suggest otherwise. And it can be established by testimony.
12 It doesn't necessarily have to be through a photograph, much
13 less a photograph that's going to cause significant emotional
14 reaction from anyone that would see it.

15 THE COURT: All right. Probative value?

16 MR. HIXSON: Yes, Your Honor. In going through all the
17 crime scene photographs, the office space -- and I'll allow
18 the Court to see it, what it depicts. Specifically, there
19 aren't any other photographs that show the condition of it
20 that does not have the victim's body in it. So I looked
21 through there to try to find one that could dictate to it. So
22 I'm limited the amount that I'm able to show the jury.

23 The location of these items recovered and the struggle
24 and the fact that these items were deposited unintentionally
25 by a scuffle, like the jury, ultimately, is going to have to

1 decide on whether they believe the items that come back
2 probative of DNA were lost unexpectedly by this defendant or
3 somehow were innocently placed there or something like that.

4 So the overall condition -- and specifically what's
5 terribly probative about this is this the only one that shows
6 the shelving, that I'll highlight to the Court. In the video,
7 you'll see Steve, or Sparky, reach through in an attempt to
8 fire a round of ammunition at the suspect inside. When he
9 does that, you'll see a shelving unit pushed down and collapse
10 inside into the -- on the shelf right here, and then
11 ultimately falls to the floor.

12 It's underneath those items that the dreadlock wig is
13 recovered by Crime Scene, the next testimony that goes in.
14 And this is the only photograph that clearly depicts all those
15 items collapsing on top of them, where they were lifted and
16 recovered. So the probative value is tremendous in that.

17 It also shows where the video machine was knocked down
18 and placed up. It is the scene that the defendant is accused
19 of leaving the victim in. That's the state that he was there,
20 shot in that regard. And, as such, this is an accurate
21 reflection. The crime scene photos themselves are not
22 excluded because they're unduly gruesome. They just have to
23 be probative and corroborative of the testimony.

24 And I'd also indicate to the Court, I didn't intend to
25 introduce these through Ms. Holyfield, but Ms. Holyfield's

1 demeanor on the witness stand, as you can see, it's a very
2 nerve-wracking experience, especially witnessing two loved
3 ones being murdered, and it will definitely assist her
4 testimony in relaxing her so she can relay issues to the jury.

5 So for all those reasons, we'd like to move State's 29
6 into evidence.

7 THE COURT: All right. Let me see it.

8 Mr. McGuire, anything in reply?

9 MR. MCGUIRE: Nothing further.

10 THE COURT: All right, sir. I'm going to allow the
11 introduction of State's Exhibit 29 over Defendant's objection.
12 It's just my finding that the probative value outweighs any
13 prejudicial effect. All right?

14 MR. HIXSON: Thank you.

15 THE COURT: I guess when we come in, I'll just say
16 State's Exhibit 29 is admitted into evidence, but I'm
17 admitting it over Defendant's objection. Okay?

18 MR. MCGUIRE: Yes, sir.

19 THE COURT: All right. Anything further from the State
20 before we bring the jury in?

21 MR. MCGUIRE: I don't believe so, Your Honor.

22 THE COURT: Anything further from the defense?

23 MR. MCGUIRE: No, sir.

24 THE COURT: All right. Let's bring the jury in.

25 (The jury entered the courtroom at 10:58 a.m.)

1 THE BAILIFF: Your Honor, may I approach?

2 THE COURT: All right. Ladies and gentlemen, welcome
3 back. Please make sure you have your own notepads and don't
4 have anybody else's notepads.

5 Mr. Hixson, State Exhibit No. 29 is admitted into
6 evidence. You can continue with your direct examination.

7 MR. HIXSON: Thank you, Your Honor.

8 (State's Exhibit No. 29, Scene Photograph, was received
9 into evidence.)

10 BY MR. MCGUIRE:

11 Q Ms. Holyfield, how are you?

12 A Good.

13 Q Let me show you what's been marked as State's 29. Take a
14 look at that. Do you recognize that item?

15 A Yes.

16 Q Okay. And is that a picture of the overall interior shot
17 of the office area of Waccamaw Bingo?

18 A Yes.

19 Q And, obviously, the concern in the middle of that, is
20 that a picture of Sparky on the floor in Waccamaw Bingo?

21 A Yes.

22 Q And is that generally the condition you saw of the
23 interior office space when you entered the office -- let me
24 back up and let me build some foundation up and to that point.

25 After you saw -- did you see the assailant leave the

1 Waccamaw Bingo area -- parlor?

2 A Yes.

3 Q And what direction did he leave?

4 A Out the back door.

5 Q Okay. Did you see which direction he went when he went
6 out the back door?

7 A No. I don't remember.

8 Q Okay. What did you do after that, after you saw that the
9 coast was clear?

10 A Well, I looked up to see why they wasn't going after him,
11 and I didn't see them come out of the office, so I ran in the
12 office. And I looked -- I looked in the office...

13 Q Take your time. Take your time. It's all right.

14 A I saw Steve sitting on -- where I have my paperwork. My
15 paper inventory. He was sitting on the end of the table, and
16 I could see where he was shot.

17 Q Was he communicating with you?

18 A Yes.

19 Q Did he say anything?

20 A He said, "Help Sparky."

21 I seen the gun -- a gun laying on my desk, a brown gun.
22 I don't know what it was. I went around the corner, looked
23 down at Sparky, and he was still breathing, and he was gasping
24 for breath, and I was trying to find the phone. And I found
25 the phone.

1 Q Now, let me try to separate it. I'm going to inject
2 every now and again. I'm actually trying to break your train
3 of thought a little bit so you calm down.

4 So was Sparking laying on the ground at that time or was
5 he still up front?

6 A He was on the floor.

7 Q Okay. And Steve was -- was Steve still upright at that
8 moment in time?

9 A Yes. So I bent down to grab Sparky's hand to see if he
10 would even hear me, trying to tell him to keep breathing, he
11 got sick. And he didn't squeeze it. Sorry.

12 Q That's all right. Take all the time in the world, my
13 friend.

14 During that time when you were down attending to Sparky,
15 how was Steve doing?

16 A He was still telling me to help him. Somebody was
17 grabbing Steve. I thought Steve was okay because he was
18 talking to me. I couldn't get Sparky to talk to me.

19 So they -- there was some people that come in to grab
20 Steve to help him, to get him to quit bleeding, which I never
21 saw a lot of blood anywhere. And I was still on the phone
22 trying to get the guy or whoever I was talking to on 911 to
23 help me with Sparky and trying to get him there. And I could
24 feel Sparky let go of my hand, so...

25 Q Okay.

1 **A** I know he wasn't breathing. I thought he wasn't. So I
2 got up --

3 **Q** Let me change your train of thought for a second so you
4 can come back up out of it a little bit. Okay?

5 Are you familiar with what, kind of, Sparky and Steve
6 wear to work?

7 **A** Yes.

8 **Q** What shoes they wear?

9 **A** Yes.

10 **Q** Stuff like that. Pretty familiar with them?

11 **A** Oh, yes.

12 **Q** When you were in that office and you're trying to help
13 them, did you see any shoes or anything in there that didn't
14 seem like they belonged?

15 **A** That was after I stood up.

16 **Q** Okay. Take us to it from there.

17 **A** I stood up and I looked straight down beside of Sparky's
18 foot or around Sparky's feet, and I saw a gray shoe. And I
19 was like this is -- this don't belong here. So I tossed it to
20 the side near a chair. I don't know if I put it in the chair
21 or beside the chair. And then I look down again and there's a
22 bag. And I do pick the bag up, and I notice the money or
23 there was some money in the bag that we have because we have
24 rubber bands around our money. So I took the bag and I threw
25 it under the chair or on the chair. And I don't remember if I

1 still talking to 911 or -- I don't -- I was just trying to
2 help Sparky.

3 Q Let me show you State's 30. Showing it to Defense. See
4 if you recognize those.

5 A Yes.

6 Q What is that a picture of?

7 A The shoe and the bag I picked up.

8 MR. HIXSON: At this time, I move State's 30 into
9 evidence.

10 THE COURT: Any objection?

11 MR. McGUIRE: No objection.

12 THE COURT: State's Exhibit No. 30 admitted into evidence
13 without objection.

14 (State's Exhibit No. 30, Scene Photograph, was received
15 into evidence.)

16 BY MR. HIXSON:

17 Q So the jury has a chance to see what we're talking about.
18 What is that that we're looking at? It's up at the top. Now,
19 when you saw it, it didn't have evidence markers next to it;
20 right?

21 A No.

22 Q Okay. Does that appear to be the shoe that looks like
23 the shoe that you saw in the office?

24 A Yes.

25 Q And does that appear to be the black bookbag that you

1 referred to?

2 A Yes.

3 Q You also mentioned in passing that you knew that Sparky
4 had a handgun. Do you think you'd recognize it if you saw a
5 picture of it?

6 A Yes.

7 Q Do you recognize -- I'm showing the witness State's 38.

8 A Yes.

9 Q And does that appear to be a picture of Steve's handgun?

10 A Sparky.

11 Q Sparky. Excuse me.

12 A Yes.

13 MR. HIXSON: At this time, I'd publish State's 38.

14 THE COURT: Any objection?

15 MR. MCGUIRE: No objection.

16 THE COURT: State's Exhibit 38 admitted into evidence
17 without objection.

18 (State's Exhibit 38 Exhibit, Photo of Guardian .32 ACP
19 Handgun, was received into evidence.)

20 BY MR. HIXSON:

21 Q Would you recognize the handgun that Steve carried to
22 work for protection if you saw that?

23 A Yes.

24 Q Let me show you what's been marked as State's 39.

25 MR. HIXSON: Bill, you good?

1 MR. McGUIRE: (Waves hand.)

2 A Yes.

3 BY MR. HIXSON:

4 Q Okay. Was is that a picture of? Is that a gun that
5 Steve carried for protection at the bingo office?

6 A Yes. Steve.

7 MR. HIXSON: We move the picture of State's 39 into
8 evidence.

9 MR. McGUIRE: No objection, Judge.

10 THE COURT: State's Exhibit 39 admitted into evidence
11 without objection.

12 (State's Exhibit No. 39, Photograph of Springfield
13 Handgun, was received into evidence.)

14 BY MR. HIXSON:

15 Q Now, then, let's go talk about State's 29 again. Okay?
16 That should kind of set the scene. Let me show you 29 again.
17 29 is in.

18 THE COURT: Admitted. State's Exhibit 29 is admitted
19 into evidence.

20 BY MR. HIXSON:

21 Q I'll publish 29. Okay?

22 All right. Now, can you take me through this just a
23 little bit. What picture are we looking at? Is this a
24 picture of the interior of the office, of the bingo parlor?

25 A Yes. Where the paper is piled up on that back board to

1 the right, that's where Steve was sitting when I walked in.

2 Q Let me get you to point to it. In this area?

3 A Yes. On the table. He was leaning on the table.

4 Q This way right in here?

5 A Yes.

6 Q Okay. That's where you saw Steve?

7 A Yes.

8 Q Okay. Now, is this the position that Sparky was in when
9 you first came into the office?

10 A No.

11 Q And if we need to take this down to take a break, please,
12 just give me a look. Okay?

13 A No.

14 Q And I'm going to help you through this. Okay? Was he
15 further over in this direction?

16 A He was further over to the right on his side.

17 Q Okay. Was that -- do you have a DVR recording system in
18 the office?

19 A Yes.

20 Q Was the DVR recording system in this location when you
21 went in or was it in another location when you went in?

22 A It was in the floor.

23 Q So this cart was knocked over when you came in?

24 A Yes.

25 Q And when you saw that, did that appear like it would have

1 been knocked over in the struggle or something? Or what are
2 your thoughts on that?

3 A Yes.

4 MR. HIXSON: Let's take that down for a little bit.

5 Thank you.

6 BY MR. HIXSON:

7 Q Okay. So the jury has an understanding where Sparky was.
8 And you see the paperwork in disarray all through the office.
9 What is that disarray or the bingo cards and things like that?
10 Is that just part of the business of the bingo operation?

11 A Yes.

12 Q I mean, all the bingo cards and things that are scattered
13 about the office.

14 A Yes.

15 Q Is that normally like that?

16 A No.

17 Q Do you keep an untidy office, or is that an indication
18 that a struggle ensued? What do you think?

19 A I clean the office, so it was not like that.

20 Q Very good. Okay.

21 So when you were staying in there, I think you were at
22 the point where you talked about pushing the items depicted in
23 the photograph aside; right? Then tell us what you did, if
24 you recall. You were at the point where you pushed the items
25 aside. You were tending to Sparky.

1 Let me ask you this: At some point, did help arrive for
2 you?

3 **A** Yes.

4 **Q** Tell us about that.

5 **A** They came -- I was bent down at Sparky, and they came and
6 pulled me off of him to leave -- wanted me to leave the area.
7 And I seen all this money laying around, and I started picking
8 it up, so I could -- so nobody would take it, because the
9 whole bingo hall was coming around. So I was trying to get
10 all the stuff fixed so I could leave the area for him to
11 leave. I didn't want to leave the area.

12 **Q** And when you say "help," were the public or other
13 employees of the bingo parlor allowed in the office area?

14 **A** No.

15 **Q** Were you allowed in the office area during business
16 hours?

17 **A** Yes.

18 **Q** So you were more of a trusted employee than folks that
19 were on the floor selling cards and things like that?

20 **A** Yes. He never let workers come behind the counter. Me
21 and Cathy, another worker. But he talked to the workers
22 usually outside the office or he would call them in the office
23 his self. They didn't come back there.

24 **Q** So when you were talking about people coming around, were
25 people that were patrons of the bingo parlor coming into the

1 office area?

2 **A** No. There was -- sorry.

3 **Q** No, please.

4 **A** They were surrounding the office.

5 **Q** Around the office.

6 But they were not in that immediate area that we saw on
7 the photograph.

8 **A** No.

9 **Q** So when you're talking about picking up money and
10 cleaning things up, were there other people around there, or
11 they were all on the outside of the window?

12 **A** They were outside the window, but the money was laying up
13 around. We had just sold a game, and it was sitting in the
14 tray, and I just moved it so nobody would -- because there was
15 so many people.

16 **Q** Sure, sure.

17 And I think you said, at some point in time, help
18 arrived. Was that in the form of other police or EMS or...

19 **A** It was some form of that. I couldn't tell you who it was
20 that come and got me, but they removed me from the room.

21 **Q** Okay. So you didn't leave that office area until law
22 enforcement or EMS arrived to try to help?

23 **A** No.

24 **Q** Then what did -- from that point in time, did you get to
25 go home or what happened after that?

1 **A** No.

2 **Q** So tell us what happened after that.

3 **A** After that, I was sitting outside at a table all night
4 long, until about 4:00 that morning. I was the last one to
5 leave.

6 **Q** And, at some period of time, did law enforcement
7 interview you and ask questions?

8 **A** Yes. I got swabbed and talked to and asked me what I
9 saw. I talked to Drew. I remember his name.

10 **Q** Drew Edwards from the County Police?

11 **A** Yes.

12 **Q** Okay. Let me ask you --

13 MR. HIXSON: Beg the Court's indulgence just for a
14 minute.

15 BY MR. HIXSON:

16 **Q** As it relates to State's 29, the photograph of the scene
17 inside there, that one photograph -- and I'll hand it up to
18 you. Can we see it on the screen? When you look at the door,
19 was that door normally left open or just depended? The door
20 into the office area.

21 **A** It was left open.

22 **Q** Okay. And the black lines that you see hanging from
23 them, are those, like, security camera cables?

24 **A** Yeah. They were the cords that Steve ran for his
25 security.

1 Q Okay. And then, just to the left by the American flag,
2 there's a window right there. Was there normally some piece
3 of furniture up in that window?

4 A Yes. It was a wooden slot box with little squares that
5 went all the way up to the window that people put sheets in
6 that I counted standing right there.

7 Q Let me point to a detail. So what is this that we see in
8 this area on the floor?

9 A That's it. That was in the window.

10 Q So prior to whatever happened in the bingo parlor, that
11 was up in the window?

12 A Yes.

13 Q And then, by the time you hear the altercation or
14 whatever is going on inside there, that furniture unit is
15 knocked down onto the floor; is that right?

16 A Yes.

17 Q And that's how you saw it; is that right?

18 A Yes.

19 MR. HIXSON: Your Honor, I don't have any further
20 questions. Thank you very much.

21 Please answer any questions Mr. McGuire may have.

22 THE COURT: Cross-examination?

23 MR. MCGUIRE: Thank you, Judge. I have no questions.

24 Sorry you had to come.

25 THE COURT: All right. You may step down.

1 Let me see the attorneys for a second.

2 BENCH CONFERENCE

3 (The following bench conference was held outside of the
4 hearing of the jury and others:)

5 THE COURT: I'm going to order lunch for the jury. It's
6 going to be here about 12:15 to 12:30, that much longer. I'd
7 like to give them a little break now.

8 MR. HIXSON: Yeah, what I have, I've got two. I'll have
9 Ter- -- talk about the money and the accounting of the money.
10 Then they basically can't determine there's money missing, but
11 they can -- it's so much going on, they're not sure what's
12 missing or not missing. Then Pete Cestare can put this video
13 in, and that's probably a good break. After that, it's --
14 Becky Phillips has got a lot, so...

15 THE COURT: So we can take about a ten-minute break now?

16 MR. MCGUIRE: Yeah, take ten minutes now and then knock
17 that out, sure.

18 MR. HIXSON: That's fine.

19 THE COURT: Okay. Sounds good.

20 (Open court resumes as follows:)

21 THE COURT: All right. Ladies and gentlemen, I've
22 discussed with the attorneys, this is a good time for us to go
23 ahead and take about a 10- or 15-minute break and let you
24 stretch your legs, use the restroom, get something to drink,
25 whatever the case may be.

1 Do not discuss the case, even among yourselves. Leave
2 your notepads in the jury box. We'll take about a 15-minute
3 break, and we'll come back out in just a minute.

4 Everyone else, please remain seated while the jury is
5 excused.

6 (The jury exited the courtroom at 11:16 a.m.)

7 THE COURT: Anything from the State before we take a
8 recess?

9 MR. HIXSON: No, sir.

10 THE COURT: Anything from the defense?

11 MR. McGUIRE: No, sir.

12 THE COURT: All right. We'll be in recess for about 10
13 or 15 minutes. Thank you very much.

14 (A brief recess was taken from 11:17 a.m. to 11:39 a.m.)

15 THE COURT: Anything from the State before we bring in
16 the jury?

17 MR. HIXSON: No, sir.

18 THE COURT: Anything from the defense?

19 MR. McGUIRE: No, sir.

20 THE COURT: All right. Let's bring the jury in.

21 (The jury entered the courtroom at 11:41 a.m.)

22 THE COURT: Ladies and gentlemen, welcome back. Please
23 make sure you have your own notepads and do not have anybody
24 else's notepad.

25 Mr. Hixson, the State can call your next witness.

1 MR. HIXSON: Thank you, Your Honor. At this time, the
2 State would call Christi Johnson-Brunson.

3 CHRISTI JOHNSON-BRUNSON,
4 the witness, after having been duly sworn, was examined and
5 testified to as follows:

6 THE COURT: State your full name for the record and spell
7 your last.

8 THE WITNESS: My name is Christi Johnson-Brunson.
9 B-r-u-n-s-o-n.

10 DIRECT EXAMINATION

11 BY MR. HIXSON:

12 Q Good morning, ma'am. How are you?

13 A Good morning.

14 Q So I notice you've got a hyphenated last name, but the
15 last name Johnson is in there, huh?

16 A Yes.

17 Q So you know Stephen Johnson, Sr.?

18 A I do.

19 Q Who is that?

20 A My dad.

21 Q And how about Stephen Johnson, Jr.?

22 A My brother.

23 Q Your brother. Okay.

24 A Yes.

25 Q And so I won't get into the universe of information

1 relating to that. We'll kind of move back to you.

2 Are you familiar with the operation of the Waccamaw
3 Bingo?

4 **A** I am.

5 **Q** And, specifically, did you kind of perform any accounting
6 functions or anything for Waccamaw Bingo?

7 **A** Yes.

8 **Q** How is -- I'm sorry.

9 **A** As long as we have been in the bingo, since the early
10 1990s, I have been the bookkeeper for all of the bingo
11 operations that we have, including Waccamaw Bingo.

12 **Q** Okay. And so I guess this is a bad question to ask, but
13 do you remember where you were when you got a phone call on
14 January [verbatim] 26th of 2019?

15 **A** I actually was in Gatlinburg on vacation. I had just
16 left the day before, and when I got back to my hotel and my
17 phone was, I guess, connected or whatever, I realized that I
18 had lots of calls that I had missed on my phone, and I noticed
19 that two were from Teresa. And so I knew it was work related.
20 So rather than calling my daughter or my mom or my son, I
21 called Teresa first. And at that point, she blurted out the
22 news, and I immediately hung up with her and called my
23 daughter and my mom and my son and was confirmed that my dad
24 and brother had been shot.

25 **Q** Now, at some point in time, I reckon you made your way

1 back to Horry County.

2 **A** The next morning, yes.

3 **Q** And so I say all that to say that you weren't there at
4 the time this -- at the moment this incident happened. That
5 you had to deal with the aftereffects of it; is that right?

6 **A** That's right.

7 **Q** And so, at some point in time -- well, let me ask you a
8 couple of basic things. Are you kind of just basically
9 familiar or maybe in-depth familiar with the way that your dad
10 and your brother kind of handled the bingo operations as well
11 as you handling the operations?

12 **A** Yes. I actually operate one in Sumter. I worked at the
13 Waccamaw Bingo for years until I opened the one in Sumter. So
14 we operate the same way, basically. And, yes, I'm very
15 familiar with the way that my dad and brother operated this
16 one.

17 **Q** To get out misconceptions maybe about when we were kids
18 and playing bingo parlor in the church basement or something,
19 you don't have the little rotating balls with the numbers like
20 that anymore, do we?

21 **A** It's a little bit more complicated than that these days.

22 **Q** That's right. And as far as the accounting of it --
23 actually, the State of South Carolina is very interested in
24 the operation of bingo parlors, aren't they?

25 **A** Yes. In 1997, they took over the bingo operation, and so

1 you basically are responsible for following their guidelines.
2 You are required to do inventories of the paper. You submit
3 quarterly reports. And not to get ahead, but that's -- that
4 was, when I got back to town, that was my responsibility, as I
5 do those quarterly reports and those inventories for the
6 bingos; that it was my responsibility to gather all of that
7 paper and that paperwork to submit back to the Department of
8 Revenue.

9 Q And the reason why is because the State of South Carolina
10 wants to be able to tax those; right?

11 A That's right. Exactly.

12 Q Tax accounting on the thing.

13 A Yes.

14 Q Those -- and excuse me for being a layperson; it's been a
15 long time since I've played bingo -- but those cards that
16 you're getting, those actually aren't just random off-copier
17 cards. Those are special cards, aren't they? They're
18 numbered cards for the Department of Revenue purposes?

19 A That's right. We purchase those according to the voucher
20 system, is what it's called. Basically for us, every two
21 weeks, we submit a voucher to the State or to the Department
22 of Revenue and request a paper. And within 15 days, we're
23 required to pay the tax on that paper regardless of whether
24 it's been sold or not. And we are responsible to the State to
25 submit these reports that confirm what we have sold, the

1 inventory that we have left in stock, and that's done for
2 us -- we chose to do it on a nightly basis personally. And
3 then, at the end of the quarter, we submit a quarterly report
4 with each of those nightly reports attached to it.

5 Q So were you present when you saw some of the pictures of
6 the office or you're familiar with the office before and after
7 that?

8 A Yes.

9 Q And there were a lot of cardboard boxes stacked up around
10 the office. What are in those cardboard boxes that I'm
11 referring to?

12 A Those are the sheets that you were referring to a few
13 moments ago that people actually play the game on, and they
14 are -- the smaller boxes that you see hold 3,000 sheets per
15 box. The larger boxes, which we call sets, which is in the
16 case of a nightly bingo game, your customers come in and they
17 purchase those larger sheets that are known as packs, and it
18 has -- not to get into megadetail but that is what my dad
19 would have been selling that night.

20 At the beginning of the night, it was probably Teresa and
21 Sparky that sold them until Sparky's responsibility was to go
22 get on the caller stand. Then my dad would take over that
23 area.

24 And then, as far as Teresa, Teresa was responsible for
25 counting those sheets, what was brought back that was not sold

1 per game. And also, in the process, she was what is called a
2 floor runner. She would help sell those sheets as well.

3 Q So if you lose a sheet, do you owe Department of Revenue
4 money?

5 A Yes.

6 Q So you owe nine bucks, is that right, per sheet? If you
7 lose a sheet, you owe them the money; right?

8 A Yes, you owe them the tax, regardless. Yes.

9 Q So what I guess I'm trying to talk to you about is you
10 have some accounting practices going on there to try to
11 determine the amount of money that you have or don't have
12 during the course of a night there?

13 A That's correct. You have to report what your payout was
14 for the night as far as what you paid out in prizes. You have
15 to report what your net was because you have to give away at
16 least 50 percent of what your take-in is.

17 So the State requires you to keep all of that
18 information. And, like I said, we did it on a nightly basis
19 for our own personal knowledge.

20 Q Let me show use what's been marked as State's No. 9.
21 Don't show that to the jury yet. Take a look at that. What,
22 generally speaking, is that? Is that a photograph of the
23 countertop where your dad was sitting, selling packets?

24 A This is actually the area where the person that counts
25 the money from the game -- from the sale of the individual

1 games would be standing.

2 Q Okay. And then is that the spot, generally speaking,
3 that your dad or Steve would sit?

4 A Yes. My dad would be on the left-hand -- to the left of
5 this box here.

6 Q Okay. And then centered in that picture is a sheet of
7 paper of some kind. Do you recognize that?

8 A That's correct. Actually, we designed that. It's called
9 a bingo accounting sheet, and it keeps track of our games and
10 how much the payouts and the net and what each game made.

11 Q Okay. This view that you're looking at, is that coming
12 from a video camera of any kind?

13 A Yes.

14 Q Do you have a video surveillance system of some kind in
15 the office?

16 A Yes, in the office.

17 Q And is that a still photograph from that, as far as you
18 can tell?

19 A It is.

20 Q And is there anything of interest that you see on the
21 left side of that photograph in that wooden box?

22 A Someone's hand.

23 Q Is that Steve's hand?

24 A No.

25 MR. HIXSON: At this time, we move State's 9 into

1 evidence.

2 THE COURT: Any objection?

3 MR. MCGUIRE: Without objection, Judge.

4 THE COURT: State's Exhibit No. 9 admitted into evidence
5 without objection.

6 (State's Exhibit No. 9, Video Still Photograph, was
7 received into evidence.)

8 BY MR. HIXSON:

9 Q And now the jury gets to see what we were talking about.
10 So, just briefly, can you point out some of the things we were
11 talking about like the sheet of paper in the middle of the
12 screen?

13 A Sure. The paper in the middle of the screen is the
14 accounting sheet that we use each night. Both your person
15 that counts the money from the sale of the games would be
16 right there. That is that person's sheet that they would be
17 writing their inventory or their tallies on.

18 And then, to the right of that, would be where Teresa
19 would have stood, that she would be counting the sheets that
20 did not get sold on the floor.

21 The area where you're looking right now is where that
22 person that counts the money would be putting the sales into
23 that wooden box --

24 Q Okay.

25 A -- from the games.

1 Q And then you mentioned -- and so if you're sitting where
2 that piece of paper is and you lift your head up and you look
3 straight out in front of you, what view are you looking at
4 that way?

5 A Straight in front of you would be the playing area.

6 Q Where the people are playing?

7 A Where the people are actually playing bingo, yes.

8 Q All right. And I mentioned that hand on the left side of
9 that picture. You see a sleeve of some kind in that hand?

10 A Yes.

11 Q And describe that to the jury, what you're seeing there.

12 A Well, I can tell you that the box itself is designed with
13 four cubbyholes, and in those cubbyholes, where the hand is
14 right now, you would have found one-dollar bills that are
15 bundled in rubber bands, which we call banks. The cubby
16 behind it would be holding your five-dollar bills that would
17 be turned in from the games. The one to the left at the back
18 beside the five-dollar bills would hold any 20-dollar bills
19 that were collected, and the one to the left of where the hand
20 is would hold ten-dollar bills.

21 Q Okay. Let me show you what's been marked as State's 10.
22 See if you recognize that camera angle right there.

23 A Yes.

24 Q What is that that you're looking at?

25 A This is actually a side view of the picture that you

1 looked at. And as I -- can I keep talking, I guess?

2 Q Or I tell you what, is that a fair and accurate
3 representation of the inside of the office of Waccamaw Bingo?

4 A It is.

5 MR. HIXSON: May we publish State's 10 for the jury?

6 THE COURT: Any objection?

7 MR. MCGUIRE: Without objection, Judge.

8 THE COURT: State's Exhibit 10 is admitted into evidence
9 without objection.

10 (State's Exhibit No. 10, Video Still Photo, was received
11 into evidence.)

12 BY MR. HIXSON:

13 Q And now we'll talk about it.

14 A Okay.

15 Q Tell us what we're looking at. Is that a still photo
16 from surveillance video from the bingo parlor?

17 A It is. It is basically the side view of the same picture
18 that we were just looking at. It's just looking at down the
19 aisle of where my -- where that person is standing is where my
20 dad would have normally been standing, to the left of the
21 wooden box.

22 You'll notice that there are packs right there. That's
23 what my dad or, earlier in the night, Sparky and Teresa would
24 have sold.

25 You'll notice that, where that person is right now, there

1 is a little basket that there is money there from the sale of
2 markers -- bingo markers, tape, little odds and ends,
3 lighters, whatever we sell behind the counter. There would
4 have been money in a basket where that person's hand is right
5 there.

6 Q So, from this angle, you can look to the right-hand side
7 and you see those folks in the background on the other side of
8 the counter. Are those patrons that are playing bingo there
9 that night?

10 A Yes, they are.

11 Q Okay. All right. We mentioned an accounting sheet that
12 we saw -- I can't remember the number; State's 28. I can't
13 remember what that was. Excuse me. State's 9. Sorry.

14 I'm going to show use what's marked as State's 3. See if
15 you recognize that.

16 A Yes.

17 Q What is that?

18 A That is our accounting sheet from that night.

19 MR. HIXSON: And we can publish State's 3 -- or, excuse
20 me, move State's 3 into evidence?

21 THE COURT: Any objection?

22 MR. McGUIRE: Without objection.

23 THE COURT: State's Exhibit 3, admitted into evidence
24 without objection.

25 MR. HIXSON: And publish it, Your Honor?

1 THE COURT: All right.

2 (State's Exhibit No. 3, Cash Spreadsheet, was received
3 into evidence.)

4 BY MR. HIXSON:

5 Q All right. Is that a Xerox copy of the actual document
6 you see in that photograph?

7 A Yes.

8 Q Tell us what the purpose of that is, basically? And the
9 ultimate question I'm going to ask you then is: Are you
10 missing money from that night?

11 A Yes.

12 Q Tell me what process you go to to determine -- and ask
13 the question: Are you missing money from that night?

14 A Okay. In looking at that sheet, you'll notice, to the
15 left hand, in that column there are names, and there is a PO
16 and a net. That is how much each payout is, the PO. The net
17 is the amount that that game made after taking out your payout
18 of \$25 dollars on that top line at the beginning.

19 Each of those numbers that are beside that net would have
20 been totalled to come up with a total for the beginning
21 session, which was earlies. And if you look right above the
22 word "early," that is how much we paid out and how much the
23 money for that session, for the early session, would have made
24 and would have been available.

25 When you look at the session itself, once early games are

1 over and the regular program starts, we play specials in
2 between some of those regular games; namely, those bottom
3 three that are at the bottom are two \$100 specials, and then
4 there's another one there. There's actually extra sheets for
5 one of the bigger games that we play in the program, and I
6 don't want to get into too many details, but at that point,
7 you'll notice that the total of the net at the bottom line is
8 basically \$224.

9 In the box that we saw a picture of a few minutes ago,
10 there were one-dollar bills that were bundled in rubber bands,
11 and we start out in that box a till or petty cash, if you'd
12 like to call it, \$100 in one-dollar bills. And so, therefore,
13 at the time of the robbery, the amount that would have been in
14 that box would have been basically \$334.

15 But when you go back and you take into account all the
16 other amounts that were on that sheet and what the inventory
17 shows that my dad sold at the beginning of the night, then
18 you're looking at over \$2700. Exactly \$2790 that's missing
19 from money.

20 Q Now, it's your understanding that, you know, that you do
21 have an accounting background; right? That's part of where
22 you're coming from too, is that you have an accounting degree
23 as well, huh?

24 A I do.

25 Q And so it is the case that some of the items didn't make

1 it out of the bingo parlor; right? They were in the office?

2 A That's correct.

3 Q In fact, there was money wrapped in rubber bands that's
4 in the black backpack?

5 A Yes.

6 Q So setting that amount of money aside, there was
7 additional monies that are unaccounted for; right?

8 A That's correct.

9 Q Let me ask you a couple of questions also relating to get
10 back to your relationship. I think you indicated, I guess
11 being that this is a cash business to some degree or a heavy
12 cash but not just cash business, did your dad take it upon
13 himself to try to arm himself concerning deposits or anything
14 like that?

15 A Yes.

16 Q Did you know if he routinely carried a firearm or had
17 access to a firearm while handling this cash?

18 A Yes.

19 Q Let me show you State's 39. It's already in evidence.
20 Do you recognize that?

21 A I do.

22 Q What is that?

23 A That is the gun that my dad carried.

24 Q And then how about Sparky, when he's calling the numbers?
25 Did Sparky routinely carry a handgun of any kind during the

1 working hours?

2 **A** Sparky always had his gun with him. He always wore cargo
3 shorts nine times out of ten, and in his right pocket, he
4 always carried a gun. It was a small gun. And I know this
5 because they used to give me heck all the time for not
6 carrying my gun with me all the time. It was a bad habit they
7 told me that I had, so...

8 **Q** I'm going to show you State's 38 that's already in
9 evidence. Do you recognize that?

10 **A** Yes. That's Sparky's.

11 **Q** That's Sparky's?

12 **A** Mm-hmm.

13 **Q** And that's the one he would carry in his cargo shorts
14 when he was calling numbers?

15 **A** Yes.

16 **Q** Okay. One last thing: You mentioned, I think, that you
17 had a surveillance system that was working, as far as you
18 know. I guess you weren't there that night, so generally
19 speaking, it was working?

20 **A** Yes.

21 **Q** I show you what's been marked as State's 4. See if you
22 recognize the big picture, and then we'll talk about details.

23 **A** Yes.

24 **Q** What is the overall picture of?

25 **A** It's a picture of the monitor to the surveillance camera.

1 It is showing my brother actually with his gun drawn, and he
2 is actually pointing it through the open window that would
3 have been facing into the office area.

4 Q So he's outside the office area, facing towards the
5 office area?

6 A Yes.

7 Q And then the stacks of cardboard boxes and things you
8 see?

9 A That's bingo paper.

10 MR. HIXSON: We'd move State's 4 into evidence.

11 THE COURT: Any objection?

12 MR. MCGUIRE: No objection.

13 THE COURT: State's Exhibit 4, admitted into evidence
14 without objection.

15 (State's Exhibit No. 4, Photo, was received into
16 evidence.)

17 BY MR. HIXSON:

18 Q And once again, just for the jury, the same thing we
19 talked about, the overall system and the screen monitor with
20 that photo.

21 A Yes.

22 Q Kind of locked in time right there; isn't it?

23 A Yes. That is Sparky.

24 Q With the silver handgun?

25 A With the silver handgun.

1 Q Is this -- let me ask you a question: This area right
2 here --

3 A Yes.

4 Q -- what is that?

5 A That is where that open window space is that -- that
6 cubbyhole for the sheets. That's where that window is
7 located.

8 Q Okay. Thank you for your time.

9 MR. HIXSON: I have no further questions, Your Honor.

10 THE COURT: All right. Cross-examination?

11 MR. MCGUIRE: Yes, sir, if I could have just one second.

12 THE COURT: All right.

13 MR. MCGUIRE: For the record, we're putting up State's
14 No. 9.

15 CROSS-EXAMINATION

16 BY MR. MCGUIRE:

17 Q Ma'am, your understanding is that this is a still
18 photograph from the video surveillance system?

19 A Yes.

20 Q The robber's hand is in the bottom left-hand corner?

21 A Correct.

22 Q And the wood box is a cash drawer?

23 A Yes.

24 Q A cash box, I guess?

25 A Mm-hmm, yes.

1 Q And each individual compartment would have different
2 denominations of bills?

3 A That's correct.

4 Q How many boxes would have been filled, do you think, the
5 night of the robbery?

6 A Well, I can't say what denominations of money there were
7 that were taken in, but I can attest to the fact that,
8 somewhere in that box, there was \$324 in whatever
9 denominations that was.

10 Q Sure. I don't dispute that with you at all.

11 A Okay.

12 Q I take you completely at your word about the missing
13 money. Okay? We're not disputing the amount of money at all.

14 A Okay.

15 Q I'm just asking you, how many boxes would have had money
16 in it?

17 A It could have been four boxes.

18 Q Or more?

19 A No. There are only four cubbies.

20 Q Ones, fives, tens, 20s? Is that how it works?

21 A Yes.

22 Q Okay. And the robber's hand does not have a glove on it?

23 A No.

24 Q Do you know if law enforcement -- any officer took this
25 box -- the wood box that held the money? Do you know if they

1 claimed that or seized it?

2 A I do not know.

3 Q And you mentioned --

4 MR. MCGUIRE: For the record, we're putting up, State's
5 No. 10.

6 BY MR. MCGUIRE:

7 Q So a couple of the boxes are empty here, but they would
8 have had money in them; right? The cash drawer?

9 A They could have, yes.

10 Q And for the robber to get money from that box, he'd have
11 to scoop it out of the box?

12 A Yes.

13 Q And I think you said where the robber is in the
14 background here, there would have been a basket of money?

15 A Yes, a small basket similar to what this young lady has
16 on her desk back here. A small pink. A little bit bigger
17 than that maybe.

18 Q Okay. So a small basket?

19 A Yes.

20 Q Okay. But that would have had money in it?

21 A Yes.

22 Q And do you know if the basket was taken by law
23 enforcement?

24 A I do not.

25 Q Or swabbed for DNA or anything like that?

1 **A** I do not.

2 **Q** Okay. Ma'am, that's all I have for you. Sorry you had
3 to come.

4 THE COURT: Any redirect?

5 MR. HIXSON: No further questions, Your Honor.

6 THE COURT: All right. You may step down.

7 The State can call your next witness.

8 MR. HIXSON: At this time, the State would call Pete
9 Cestare from the Horry County Police Department.

10 **LT. PETE CESTARE,**

11 the witness, after having been duly sworn, was examined and
12 testified to as follows:

13 THE CLERK: State your full name for the record and spell
14 your last, please.

15 THE WITNESS: My name is Peter Cestare. C-e-s-t-a-r-e.

16 **DIRECT EXAMINATION**

17 BY MR. HIXSON:

18 **Q** Good afternoon, by five minutes. How are you?

19 **A** I'm all right. How are you?

20 **Q** So you're retired now, aren't you?

21 **A** Yes, I am.

22 **Q** Congratulations.

23 **A** Thank you.

24 **Q** So prior to being retired, what did you do for a living?

25 **A** I was with the Horry County Police Department in the rank

1 of lieutenant, and I was in command of the crime scene
2 investigations unit, the property and evidence section, the
3 drug lab, and the records section.

4 Q Okay. And so it sounds like you probably were doing that
5 for awhile prior to being retired.

6 A Yes, sir. I did it for approximately 17 and a half years
7 for Horry County. Prior to that, I was with the New York City
8 Police Department. I was a detective sergeant in charge of
9 one of the homicide divisions, and I did that for 20 years.

10 Q And so you were working for the Horry County Police
11 Department back July 26 of 2019?

12 A Yes, sir, that's correct.

13 Q And did you have an occasion to be called to perform a
14 partial investigation at the Waccamaw Bingo parlor off Highway
15 501 in Horry County?

16 A Yes, I did.

17 Q So tell us what you did when you got the call and when
18 you arrived on scene?

19 A About 10 p.m. that evening on July 26, I had received two
20 phone calls in a row. The first one from Sergeant Greg Lent.
21 The second one from Lieutenant Tom DelPercio, advising me that
22 there had been an armed robbery with shots fired and two
23 victims deceased at the bingo hall.

24 I was off duty at the time. I directed a response from
25 the Crime Scene Unit to head that way, and I also began to

1 head that way.

2 I arrived on scene about 30 minutes later, at about
3 10:30. At the time of the phone call, I was told that the
4 armed robbery occurred at about 2145, or 9:45 p.m.

5 **Q** And then, once you arrived on the scene, did you develop
6 any other basic investigative details that allowed you to
7 focus your investigation on particular items or particular
8 things inside the bingo hall?

9 **A** Yes, sir. Initially, I spoke with the first responding
10 officers out in front of the building. They kind of apprised
11 me of what had happened. I asked them to explain to me what
12 they saw inside the scene.

13 At that time, there were still people inside the scene
14 who had been, I guess, attendees of the bingo game for that
15 evening as well as other workers from the bingo hall, and they
16 were sectioned into areas where they began questioning of
17 them.

18 At that time, I asked specifically, you know, where the
19 incident -- what had occurred, where it occurred within the
20 facility, where the shots were fired within the facility, and
21 I was directed to the -- I guess it would be the bingo office
22 area.

23 I then entered the building from the front, walked back
24 to the bingo office, and from where I was standing, just
25 adjacent to the office, which would be the play tables in

1 front of the office, I could see inside the office for a good
2 degree, and there were several items of interest to me.
3 Initially, particularly one was a video surveillance system
4 that had been pushed backwards on a cart or the cart was
5 tipped backwards. It appeared something had happened to it,
6 causing the unit to push backwards and almost pretty much
7 close to falling off of the cart. The cart was tipped
8 backwards.

9 Q Okay. Obviously, it goes without saying, there were two
10 deceased individuals on the scene when you arrived there?

11 A Yes, sir. There was one deceased individual within the
12 office and another one just outside the office.

13 Q Okay. And then based on -- did you -- did your other
14 investigators develop information pertaining to a basic
15 description -- I won't get into the description -- but a basic
16 description of a subject to be looking for on video?

17 A Yes, sir. Initially, when I -- at the time of the
18 notification to me, I was told that the shots fired inside the
19 store, that a male black had entered the store or entered the
20 bingo hall in a robbery attempt.

21 When I got there, they confirmed that same description to
22 me. They gave me a description that was given to a few of the
23 detectives and officers, I guess, from some of the
24 participants in the bingo game that night. It was explained
25 to me how the male entered through the back door of the

1 building, approached the office, went into the office area.
2 There was some type of commotion or struggle in the office
3 area. There were multiple shots being fired at the time.
4 That male black exited out of the office area and back out of
5 the rear of the building.

6 At the time, the description that was given to me was
7 that he appeared to have dreadlocks, long curled black hair, a
8 white cloth around his face, wearing a gray shirt, and
9 possibly a grayish-colored pants.

10 And the other thing that was significant at the time was
11 the fact that the person that had run in was wearing some type
12 of Nike brand sneakers.

13 **Q** Were you able to take a look at any kind of surveillance
14 video from inside the scene? You mentioned that the cart was
15 dislodged or whatever term; I can't remember what you used.

16 Explain what you did from that point on to try to see if
17 there was any video footage of what happened.

18 **A** Okay. Before even making entry into the office, my crime
19 scene investigator, Senior Detective Rebecca Phillips,
20 responded. She would have been the case agent handling for
21 Crime Scene that evening. I apprised her of what was going
22 on, asked her to begin to take her initial photographs, take
23 some photographs of the exterior of the building, and try to
24 get in as quickly as possible to get inside photographs.

25 I then entered into the office to try and see if the

1 video surveillance system in the office captured any images or
2 recorded anything that occurred. At the time, when I first
3 went in, with the cart being tipped backwards, several of the
4 things on the cart were dislodged. Wires were -- came
5 unhooked from everything.

6 I tried to bring the video surveillance system up. I was
7 able to get the video surveillance up. I was able to back the
8 camera system up to the time that I was given. Now, the
9 cameras -- the actual video surveillance system in the
10 building, the time was not accurate on it. As I recall, it
11 was somewhere around 30 minutes earlier, I believe, than what
12 the actual time was.

13 But consistent with what I was being told as far as the
14 time frame, I was able to back the cameras up and get a video
15 of a male entering through the back of the building, running
16 up to the office area, and I was able to freeze-frame that
17 video and take still shots with my cell phone and get them out
18 to responding patrol units.

19 We were told that -- or I was told at the time that, when
20 the male exited the building, he may have run through the
21 wooded area behind the building into a residential section
22 called Tuscany Resort. So I was concerned with trying to get
23 that video stopped and a still picture of it that responding
24 police units could then be looking for someone in particular
25 based on the clothing, description, and all.

1 Q Now, were you able to recover any video of the suspect
2 leaving the bingo parlor? At some point in time, does the
3 footage stop recording?

4 A Yes.

5 Q Describe that.

6 A Apparently, the video had been playing up until the point
7 where there was some type of commotion or a fight within the
8 office. At that point is when I believe the video system gets
9 pushed backwards and shuts off. So the only footage that I
10 could recover at that particular time was the suspect entering
11 the back of the building, running towards the office. A
12 couple of brief clips, and it pretty much stops at about that
13 point where he's inside the office.

14 Q Now, were there several different cameras attached to the
15 same recording device?

16 A Yes, sir. As I recall, the recording device had the
17 capability of holding up to 16 cameras, but there were not 16
18 cameras that were connected to it that night. I did go
19 through each of the cameras and label what they were -- you
20 know, what camera number it was plugged into on the back of
21 the recorder. There are ports that show, like, a number and
22 each camera is given a number. So I was able to tell which
23 cameras were plugged in, and I was able to look at those
24 cameras and determine what the angle of view was for each of
25 the cameras that was working that night.

1 Q Okay. So I'm going to show you several photographs. I
2 want you to authenticate them, if you don't mind. Let me show
3 you State's 4.

4 MR. HIXSON: I believe that's already in evidence, Your
5 Honor.

6 BY MR. HIXSON:

7 Q But do you recognize this?

8 A Yes, sir. That's the video surveillance system that I
9 was working on that night.

10 Q If you don't mind taking a look at just those. Just flip
11 through them kind of quickly. Tell me, at the very end of
12 them, if you recognize all of those while I publish State's 4.

13 Lieutenant, if you look on there, is that the
14 surveillance video that you reviewed on the television screen?

15 A Yes, sir, it is. That is the surveillance unit, and it
16 sits on a movable rolling cart that had wheels underneath it.
17 So the cart could be pulled around within the office area or
18 as far as the wires would allow it to go.

19 MR. HIXSON: And that's State's 4, Your Honor, that he's
20 referring to.

21 A Yes, sir. I'm looking at State's Exhibit 5, 6, 7, 8, 9,
22 10, and 11 -- and those are -- let me just confirm there's no
23 other ones here -- those are pictures recovered from the
24 recording device.

25 MR. HIXSON: Your Honor, at this time, we'd move -- do

1 you want to take --

2 (Counsel confer off the record.)

3 THE COURT: Any objection?

4 MR. McGUIRE: No objection, Judge.

5 THE COURT: All right. So State's Exhibits 5, 6, 7, 8,
6 9, 10 and 11?

7 MR. HIXSON: Yes, sir. It looks like 9 and 10 were
8 already in, so...

9 THE COURT: Admitted into evidence without objection.

10 (State's Exhibit Nos. 5, 6, 7, 8, and 11, Video Still
11 Photographs, were received into evidence.)

12 BY MR. HIXSON:

13 Q Before we start this, let me publish 29 again. So that
14 distant photo of the office, do you see that video cart you're
15 referring to in that picture?

16 A Yes, sir, I do. It is almost in the center of the
17 photograph. It's just above where one of the victims is
18 laying on the ground. And that picture is taken from the
19 large open window area of the office looking at the entry
20 door -- the only entry door that you would be able to get into
21 the office from, and that entry door and that wall back there,
22 it's kind of yellowish in color looking on the photo, that is
23 directly in front of the rear door of the bingo hall, you
24 know, several feet inside.

25 Q Okay. So I'm going to show you State's 26. It's already

1 into evidence. It's referring to some testimony.

2 All right. Do you generally recognize that item?

3 **A** Yes, sir. That's a photo of the back of the bingo hall.
4 It faces into a rear parking lot where patrons can park. And
5 that open side -- that open door there is a standard walk-in
6 door. What looks like glass doors there is generally an open
7 area like a roll-up garage door type of thing that they can
8 put screening or whatever in front of on a warm evening.

9 And looking into that photograph, if you look in through
10 the open walk-in door, you're looking back towards what would
11 be the kitchen or refreshment area within the bingo hall and
12 you're looking at the side wall of the office. In the last
13 photo where I said that that door led out and directly to the
14 back of the building, that would be the side of that office.

15 **Q** Let me show you State's 27.

16 **MR. HIXSON:** That's already in evidence, Your Honor.

17 **BY MR. HIXSON:**

18 **Q** See if you can help describe that scene -- the angle that
19 you're standing at and what you're looking into.

20 **A** Yes, sir. That is the -- looking dead center in the
21 photograph, you can see a gentleman laying on the floor there.
22 There is a door going into the office area, and to the left of
23 the photograph or just outside the photograph would be a
24 kitchen refreshment area. So that's kind of leading in from
25 the back door and coming in straight to where the office would

1 be.

2 Q So this is a window into the office?

3 A Yes, sir.

4 Q And this the man door going into the office?

5 A Yes, sir, that's correct.

6 Q Now, let me approach because it's a little hard to see
7 that far away. Let me show you State's 28. Do you recognize
8 that and specifically reference to the back door?

9 A Yes, sir. This is a picture of the backside of the bingo
10 hall.

11 Q Now, can you describe that to the jury?

12 A That photograph there, if you look straight back, you see
13 the large open garage door? To the right of it is that
14 walk-in door. That's the exact inside image of what we were
15 just looking at before from the outside image looking in.

16 And if you look to the left of that large open door is
17 the -- I don't know what they would call it, but I believe the
18 numbers calling station or whatever. One of the bingo
19 operators would have been sitting at that station, I guess,
20 calling numbers, and the other operator would have been in the
21 office at the time.

22 Q Okay. Let's get back to -- now, you reviewed the video
23 and took screen capture photos from videos; is that right?

24 A That's correct. And I then transmitted those photos to
25 the officers that were there and -- to be transmitted out to

1 some of the units in the field for who they may be looking
2 for.

3 Q And I think you previously had testimony that, when you
4 arrived on scene, you evaluated the current time, and you were
5 there with the video time on the -- is that right?

6 A Yes, sir. If memory serves me correctly, I believe it
7 was somewhere around 30 minutes off.

8 Q State's 5, describe what we're looking at.

9 A Okay. That is --

10 Q Tell you what, it's hard to see. Let me hand them up to
11 you and then we'll --

12 A Yeah, let me get a quick look before you put it up
13 because it --

14 Q Getting older with glasses, man.

15 A Yeah. Yes, okay.

16 Q You can do that. And I'll get ready with the next one
17 and hand it to me and we'll work it that way. Okay?

18 You good with State's 5 to talk about?

19 A Yes, sir.

20 Q State's 5, what are we looking at?

21 A Okay. That is a still image from the video surveillance
22 system showing the person in the middle of that photograph.
23 That would be the suspect running in through the back door
24 towards the office. And, as you can see in that photograph,
25 it matches the description that I was initially given that the

1 person may have had some type of dreadlock-style hair, a white
2 cloth around their face, a gray shirt and gray or some type of
3 color gray of pants.

4 It's fairly difficult to see in the photograph but the
5 timestamp -- and I can't even see it from here -- is going to
6 be about roughly 9:14 p.m. And as you'll recall, the time
7 that I was told that the event took place was at 9:45. That's
8 how I was able to determine that the cameras were off by
9 approximately 30 minutes, because when I looked at the
10 original what should have been or what I was trying to get as
11 9:45 on the cameras, I couldn't bring that image up. And then
12 I realized, when I was able to rewind the video, that it
13 stopped just shortly after that, so the video surveillance
14 system was actually off by roughly 30 minutes.

15 **Q** Now -- and based on your training, experience, and the
16 number of systems, is it common for privately maintained video
17 systems to have the internal clock off?

18 **A** Yes, sir, very common. Most -- because of daylight
19 savings time and everything else, most systems will not
20 automatically update unless they're connected to the internet,
21 which will pull in the time, and in some cases, auto adjust
22 the system.

23 So the time has to be manually set, and obviously,
24 whoever set it, set it improperly or something happened, the
25 unit was unplugged. Any number of things could have happened

1 that caused the time to be off.

2 Q And so, training and experience-wise, it's common to have
3 -- probably a loss of power or whatever resets the clock and
4 that no one goes back in to reset it?

5 A Yes, sir, that's very common.

6 Q Let's look at State's 6 and describe that to us.

7 A Okay. That -- wait until they put it up for the jury to
8 see. That is a couple of frames later from the previous photo
9 showing that same individual coming in. And what's fairly
10 significant in that photograph or in both of the photographs
11 is you can see some type of a sling black bag or a
12 dark-colored bag across the chest area or slung around the
13 person's body.

14 The other thing that's fairly significant in that
15 photograph was it confirmed what I was originally given as a
16 clothing description, hair description, facial description,
17 and the sneakers. That photograph was extremely helpful in
18 identifying the footwear that the suspect was wearing.

19 Q State's 7?

20 A That photograph, State's 7, also shows several frames,
21 again, after what you just saw. It's a little bit clearer
22 shot showing the sneakers, a little bit clearer shot showing
23 the white-colored garment around the person's face, a clearer
24 shot showing that sling bag or black sack across the person's
25 chest, and you can actually see where it's sitting somewhat on

1 their back or almost on their side.

2 Q State's 8?

3 A That's the next one, yeah. Okay. That photo again,
4 several frames later. And you're talking in a matter of a
5 second or two seconds in the series of those photographs.
6 That shows, again, that black satchel or sack around the
7 person. It shows the upper clothing, some type of a grayish
8 color. It shows the white garment around the person's face
9 and it shows a little bit clearer in here some type of a
10 dreadlock-type style sticking down.

11 Q And is that the -- getting ready to go into the office,
12 the wooden shelving unit going into the office?

13 A Yes, sir. At that frame, the person is just about to
14 enter into that door going into the office area.

15 Q Okay. Thank you.

16 You ready for 9?

17 A Yes.

18 Q We have already seen State's 9. Show that again.

19 A All right. State's 9 shows -- that's a photograph from
20 the camera system inside the office, and it shows the counter
21 area that, I guess, they would make change or buy bingo cards
22 over that counter area. And it's significant in that photo
23 because it shows a person's hand and arm reaching into a
24 drawer or one of the bins there, taking something out of it.

25 Q All right. I'll publish State's 10.

1 **A** State's 10 is just, again, a few frames later showing a
2 clearer picture of that person, the same person to me that I
3 saw running in the back door on the previous shots in that
4 gray-style shirt, the white face covering, the black head
5 covering, and possible dreadlocks.

6 **Q** And, finally, I believe there's State's 11.

7 MR. HIXSON: While you get that ready, I'll just
8 authenticate this and tell me how the technology works. Okay?
9 BY MR. HIXSON:

10 **Q** Let me back up and lay a foundation. So all of those
11 pictures that we just saw, minus one more to come, are all
12 those captured from the actual surveillance video that you
13 were able to download off that DVR machine recovered in the
14 Waccamaw Bingo office?

15 **A** Yes, sir. All those photos that you saw were taken from
16 the bingo hall's internal surveillance system or recording
17 device.

18 **Q** State's 11?

19 **A** Okay, State's 11. Okay. That photo there is looking out
20 of the bingo hall window towards the side of the building.
21 You'll see a couple of doorways in the background, and there's
22 actually two levels to the floor system there. One is a lower
23 level, one is a higher level. So that's looking straight out
24 through the bingo hall, looking straight out past -- in the
25 last photo where you just saw that person reaching into the

1 wooden box or drawer up top, that's looking straight out
2 through that window and the view of what you would see from
3 inside the bingo office.

4 Q Okay. So this is during the time period in the run up to
5 the actual robbery and murders. Is this how crowded that
6 place was?

7 A Yes, sir, yeah.

8 Q Once again, I'm going to show you what's been marked
9 State's 12. See if you recognize that.

10 A Yes, sir. State's 12 is a standard USB thumb drive that
11 you would use on a computer. It has my initials on it. I
12 have viewed the contents of this USB drive, and it is video
13 footage from that evening.

14 Q And so this, State's 12, is an accurate representation of
15 the video footage that you took off the DVR drive from the
16 bingo parlor?

17 A Yes, sir. And it also encompasses the photos that you
18 just saw.

19 MR. HIXSON: Your Honor, at this time, we publish State's
20 12 to the jury.

21 THE COURT: Any objection?

22 MR. MCGUIRE: Without objection, Judge.

23 THE COURT: State's Exhibit 12 is admitted into evidence
24 without objection.

25 (State's Exhibit 12, Bingo Hall Video/Thumb Drive, was

1 received into evidence.)

2 MR. HIXSON: May I publish, Your Honor?

3 THE COURT: Yes.

4 MR. HIXSON: Go ahead.

5 (State's Exhibit 12/Video plays.)

6 THE WITNESS: And these are individual clips from each of
7 the cameras.

8 (State's Exhibit 12/Video plays.)

9 BY MR. HIXSON:

10 Q So, Lieutenant, after acquiring that videotape -- and
11 once again, those cameras, stop -- you didn't edit that or
12 stop that, did you?

13 A No, sir, I did not. The video was stopped when I
14 initially came in. I was able to get some of the wires
15 reconnected, rewind the video, and obtain basically what you
16 saw there and enough to get some still shots on my cell phone
17 to be able to put a description out.

18 Q Very good. Thank you.

19 So, based on the description, at some point in time later
20 on in the night, are you aware of whether or not any of the
21 officers were canvassing in the areas looking for the suspect
22 that you identified in these -- with these clothing
23 descriptions?

24 A Yes, sir. Later on that evening -- and I'm going to put
25 it at about 15 minutes after midnight -- I was notified that

1 patrol officers looking in the Tuscany Resort area,
2 residential community behind there, had come across some
3 clothing items. As you recall, I mentioned -- I was informed
4 that the suspect ran out the back door -- same door that they
5 came in -- and may have run through the wooded area. And
6 right behind that wooded area is a residential area called
7 Tuscany Resort.

8 And within Tuscany Resort, it's not a -- not all of it is
9 a gated community, but it's a fairly, you know, quiet type of
10 setting, residential homes, some like apartment-style
11 buildings, and so forth. And back in the -- I guess what
12 would be some of the distant area to the back of that
13 development, patrol officers found what appeared to be a
14 sneaker, a white T-shirt type of thing, and a gray shirt.
15 They were particularly of interest to me because, based on the
16 description they gave me of what they found, it sounded as
17 though it matched what I had in the office area as well.

18 Q Okay. At that point in time in your investigation, were
19 you aware of any surveillance footage involving a silver car
20 or silver Jetta at that point in time?

21 A I was not, at that particular time, no.

22 Q So that effort to go back into the Tuscany Grande area
23 was just based on just an assumption that someone may have
24 fled in that area?

25 A Yes, that's correct.

1 Q Let me show you what's marked as State's 1, already in
2 evidence. Pete, if you want to --

3 A Would it be all right if I come down?

4 THE COURT: As long as he's near a microphone when he
5 testifies so the court reporter can pick up his testimony.

6 BY MR. HIXSON:

7 Q And what I'm going to ask you to do is if you can point
8 to the area we're referring to as Tuscany Grande in the
9 neighborhood we're referring to. There's a mic right there.
10 I can hold it for you to make sure the jury can see.

11 A I'm sorry. This area here would be considered the
12 Tuscany Resort area. Okay? Up here is Belle Terre Boulevard.
13 These buildings right here is where the bingo hall would be
14 encompassed. It's in that set of buildings there.

15 Q Now, as far as entrances to Tuscany Grande, are there a
16 couple of different entrances going into the Tuscany Grande?

17 A There are three primary entrances into the Tuscany
18 Grande. One is past the Food Lion shopping center here on
19 Montalcino Boulevard.

20 Q Is there a part-time gate there at all?

21 A No, sir, there is not. But there are some gated
22 communities off of that road, like 55 and up-style
23 communities.

24 Q How about the main entrance into the Tuscany Grande?

25 A The main entrance into Tuscany is past -- you would have

1 to go past the front of the bingo hall, and the main entrance
2 of the Tuscany is here on Tuscany Grande Boulevard. And then
3 there's a third entrance that comes in this way where their
4 clubhouse and pool is.

5 Q Now, if you trace your finger around these traffic
6 circles down there, do we get back to area called Livorn Loop?

7 A Yes, sir. Livorn Loop is this area right here.

8 Q And so in order to -- how do you drive to get into here
9 and to get back out from this area?

10 A You would have to come either straight down Tuscany
11 Grande Boulevard around each of the roundabouts -- and about
12 here begins Livorn Loop -- or you would have to come back in
13 past the clubhouse and come around and come in this way. Or
14 you'd have to come in off Montalcino Boulevard near the Food
15 Lion, come in, come up, come around.

16 But, in any event, you would end up at some time on
17 Tuscany Grande Boulevard, which is their main roadway through
18 the complex.

19 Q Okay. So once you get back down here, you got to come
20 back out the same way; right?

21 A That's correct. It's a dead-end community. So, you
22 know, this is cut off from any of the other areas back here.
23 There's no way to get into this section from this section. So
24 you'd have to come back out to one of the three exits.

25 Q Very good. Okay. So let me show you a series of

1 photographs. How about this: Generally speaking, can you
2 look at -- just start with that item and give us a general
3 idea of where were those items recovered off Livorn Loop.

4 **A** Yes, sir.

5 **Q** And, generally speaking, where those items were found.

6 **A** Can you hold that for just a moment? Let me just get my
7 notes here.

8 **Q** If you want to sit back down, I can hold it.

9 **A** That's fine. Okay. I'm looking at State's 13, 14, 15,
10 16, 17, and State's 18.

11 **Q** Do you recognize all those?

12 **A** Yes, sir, I do. Those are photographs that I took.

13 **MR. HIXSON:** Now, at this time, I'd move these into
14 evidence.

15 **THE COURT:** What are the numbers? State's Exhibits --

16 **MR. HIXSON:** -- 13, 14, 15, 16, 17, and 18.

17 **THE COURT:** Any objection?

18 **MR. MCGUIRE:** No objection, Judge.

19 **THE COURT:** State's Exhibit 13 through 18 admitted into
20 evidence without objection.

21 (State's Exhibit Nos. 13 through 18, Livorn Loop
22 Photographs, were received into evidence.)

23 **MR. HIXSON:** Let's start with State's 13 and publish
24 those, Your Honor.

25 **THE COURT:** All right.

1 BY MR. HIXSON:

2 Q Look at State's 13 on the screen, Lieutenant, and tell us
3 what we're looking at.

4 A Okay. State's 13 is a sneaker and shirt. And there
5 were -- there were three items of evidence in total that I
6 collected off of the roadway in -- on Livorn Loop in Tuscany
7 Grande. Now, you as saw, Livorn Loop is all the way at the
8 back end of it.

9 Q Now, I'm going to put State's 14 up. Take a look at
10 that.

11 A That is an individual shot of Item No. 1, which is a
12 gray, white, and black Nike sneaker, which was a size 9 and a
13 half, and that was recovered in front of 4320 Livorn Loop.

14 Q And then the marker at the top?

15 A The next item is a white in color sleeveless T-shirt. It
16 was a Fruit of the Loom, size large, and that was also
17 recovered in front of 4320 Livorn Loop. Those items were in
18 close proximity to one another.

19 MR. HIXSON: May I approach the witness, Your Honor?

20 THE COURT: All right.

21 BY MR. HIXSON:

22 Q State's 19, do you recognize this?

23 A Yes, sir. That is the sneaker that I recovered in front
24 of the 4320 Livorn Loop.

25 MR. HIXSON: Admit 19 into evidence, Your Honor.

1 THE COURT: Any objection?

2 MR. MCGUIRE: No objection.

3 THE COURT: State's Exhibit 19, admitted into evidence
4 without objection.

5 (State's Exhibit No. 19, Left Nike Shoe, was received
6 into evidence.)

7 THE WITNESS: And that is Item 1 on the marker on the
8 screen.

9 BY MR. HIXSON:

10 Q And State's 15, is that a lab photo of the same shoe?

11 A Yes, sir, that's correct. You'll see on the paper it's
12 labeled T-1, and that's an evidence marker number that we use.
13 I used "T" to represent Tuscany, items that were recovered in
14 Tuscany. T-1 is the first item recovered in Tuscany.

15 Q And what is that photograph?

16 A That would be Item T-2, which is a white sleeveless
17 T-shirt, what would be referred to almost like a wife-beater
18 type of T-shirt, Fruit of the Loom, size large, and that also
19 was recovered in front of 4320 Livorn Loop in close proximity
20 to where the sneaker was.

21 Q Okay. State's 17, do you recognize that? May have to
22 get up a little closer to see what State's 17 is. It's hard
23 to see, isn't it?

24 A Yeah, I can't see the number off it, so I can't tell if
25 it's two or three.

1 Q Your crime scene marker No. 3, is what it says.

2 A Yep. Three is like a gray thermal long-sleeve T-shirt.
3 The size on it 2XL or two extra large, and that was recovered
4 just a few feet down from where the first two items were.
5 That one was recovered at 4344 Livorn Loop. The first two
6 items were 4320. This is at 4344 Livorn Loop.

7 Q And then State's 18?

8 A And that is that gray thermal shirt laid out on a bench
9 back at the lab.

10 MR. HIXSON: Okay. Beg the Court's indulgence just one
11 minute.

12 THE COURT: All right.

13 BY MR. HIXSON:

14 Q Let's go back now. As it relates to processing a fair
15 amount of these, did you collect a substantial number of
16 evidence not just from this but from -- throughout the course
17 of this investigation and then take those items to State Law
18 Enforcement Division for further forensic examination?

19 A Yes, sir. All of the items collected within the bingo
20 hall would have been collected by Senior Detective Rebecca
21 Phillips, her being the assigned investigator for Crime Scene
22 to it. All items of evidence would have been collected by
23 her.

24 And, yes, the items in Tuscan, obviously, I collected.
25 And I believe on, at least three occasions following that --

1 in fact, July 29th, July 30th, and August 2nd, I transported
2 several items of evidence to the State Law Enforcement
3 Division, we refer to as SLED, in Columbia, South Carolina.
4 It's roughly two and a half hours away. That is the State's
5 processing center for evidence where they would do DNA, where
6 they would do ballistics, firearms. Any type of crime
7 evidence would be sent to Columbia to be tested.

8 Q Let's take you back in time just for a moment. Before
9 you went off to Livorn Loop, when you were in dealing with the
10 DVD station, did you have an opportunity to discuss some items
11 of evidence with Teresa Holyfield concerning her discovery of
12 items in the crime scene?

13 A Yes, sir. One of the things that is imperative to find
14 out when you go into a crime scene is I'm not -- I can't look
15 at things blindly. So if there was someone there that's
16 familiar with how the scene should have looked or what I would
17 find in there, that person is going to be extremely helpful.

18 And, in this case, it was Teresa Holyfield. I was able
19 to, continually, throughout our time inside that building, ask
20 her questions regarding items in the office, what belonged
21 there, what didn't belong there, where things should be, where
22 they shouldn't be. That's initially how I found out that the
23 cart should have -- the video cart should have been standing
24 upright. It should have rolled freely, which it wasn't.

25 Looking through items in the office, there were things in

1 there that were of interest to me in the description of the
2 clothing and all that was given to me initially by patrol
3 officers and detectives who were on the scene, there were
4 items that -- of particular interest, what the suspect may
5 have been wearing, you know, items that were being carried by
6 the suspect, firearms being used, all of that stuff.

7 And within that office, I found a Nike sneaker, which
8 matched the description of what they told me. When I asked
9 Teresa if the sneaker belonged in the office, she said she was
10 unaware of it, that she didn't believe it belonged in there.

11 When I found a sling black bag, similar to what you saw
12 in the video, in the office, I asked her again is that
13 something that belonged to one of the workers from the
14 facility because only their items would be in the office. And
15 I was told that she could not identify that as belonging to
16 anybody.

17 So, at that time, two items that were in the office were
18 of particular interest. Later on, when I get to Livorn Loop
19 and recover that sneaker in the roadway, it matched the
20 sneaker that I found inside the office. One was a left foot,
21 one was a right foot. They're both the same exact style
22 sneaker and both the same exact size.

23 Q I showed you State's 30. What is that that you're
24 looking at? That's already in evidence.

25 A State's 30 is a picture of the sneaker --

1 Q Go ahead, Pete.

2 A State's 30 is a picture of the Nike sneaker that was
3 found in the office with blood on it. It's in an unusual
4 place, which is why I asked questions about it. As you can
5 see, it looks like it's up on a chair or a shelf area there
6 and it's next to Marker No. 3. Just to the side of and below
7 Marker No. 2 is that black mesh beg that I referred to before.

8 So Item 3, as you see it there, the sneaker with blood on
9 it matches the same sneaker or same style sneaker that I found
10 on Livorn Loop -- that patrol officers found there and called
11 me out to recover.

12 Item 2 is a black bag that I believe was the bag being
13 carried by the suspect and that sling bag that you saw in the
14 video across the shoulder when he ran into the office area.

15 Q Okay.

16 THE COURT: Mr. Hixson, I hate to interrupt, but it's
17 almost 1:00.

18 MR. HIXSON: These are the last two items, and then I
19 would be done with this witness. If I could have a few more
20 minutes --

21 THE COURT: All right. Go ahead, please.

22 MR. HIXSON: If that's okay, Your Honor.

23 THE COURT: That will be fine.

24 BY MR. HIXSON:

25 Q Did you, in fact, collect those two items that were on

1 the chair?

2 **A** I did not. Those were collected by Senior Detective
3 Rebecca Phillips.

4 **Q** For brevity's sake, are you aware of whether or not your
5 person you supervised collected those items?

6 **A** Yes, I am. I was there during the collection of
7 everything, yes.

8 **Q** At this time, I'd hand up State's 48. Do you recognize
9 that?

10 **A** Yes, sir. State's 48 is the sneaker as I described being
11 found around the office area.

12 MR. HIXSON: At this time, I'd move State's 48 into
13 evidence.

14 MR. MCGUIRE: Without objection, Judge.

15 THE COURT: State's Exhibit No. 48 admitted into evidence
16 without objection.

17 (State's Exhibit No. 48, right Nike Shoe, was received
18 into evidence.)

19 BY MR. HIXSON:

20 **Q** And, Lieutenant, take a look at State's 49. Do you
21 recognize that item?

22 **A** Yes, sir, I do. State's 49 is that black sling bag that
23 I spoke of that I could see in the video of the suspect
24 running in, and this was also found in the office in the same
25 area where that sneaker was.

1 MR. HIXSON: At this time, we'd move State's 49 into
2 evidence.

3 MR. MCGUIRE: No objection, Judge.

4 THE COURT: State's Exhibit 49 admitted into evidence
5 without objection.

6 (State's Exhibit No. 49, Backpack, was received into
7 evidence.)

8 MR. HIXSON: Thank you, Lieutenant.

9 I have no further questions, Your Honor.

10 THE COURT: All right. I hate to do this, but we're
11 going to break. We'll come back and do cross-examination
12 after lunch.

13 MR. MCGUIRE: Yes, sir.

14 THE COURT: Ladies and gentlemen, we're going to go ahead
15 and break for lunch. We have ordered lunch for you. It's
16 here waiting on you. We'll probably take about an hour to eat
17 lunch. I'm not going to rush you. Take your time.

18 Leave your notepads in the jury box. Do not discuss the
19 case, even among yourselves. It's too early for
20 deliberations. Don't conduct any independent investigations.

21 I hope you have a good lunch, and we'll bring you back
22 probably in about an hour. Okay? Thank you very much.

23 Everybody else please remain seated while the jury is
24 excused.

25 (The jury exited the courtroom at 12:59 p.m.)

1 THE COURT: All right. Mr. Cestare, we're still in the
2 middle of your testimony, so the law says you cannot discuss
3 your testimony with anyone, whether that be what you have
4 testified to thus far or what you anticipate testifying to in
5 the future. You can't discuss it with any of the State's
6 attorneys, with any of the defense attorneys, or with anyone
7 else. Okay?

8 THE WITNESS: Yes, sir.

9 THE COURT: I'll allow you to step down off the stand.
10 We'll eat lunch, but don't talk about your testimony with
11 anyone.

12 Anything from the State before we break for lunch?

13 MR. HIXSON: No, sir.

14 THE COURT: Anything from the defense?

15 MR. MCGUIRE: No, sir.

16 THE COURT: All right. We'll be in recess for -- I'll be
17 back at about 2:00, assuming the jury is through eating then.
18 Okay?

19 MR. HIXSON: Yes, sir. Thank you.

20 THE COURT: All right. Thank you very much.

21 (A lunch recess was taken from 1:00 p.m. to 2:09 p.m.)

22 THE COURT: All right. Mr. Hixson, anything before we
23 bring the jury in?

24 MR. HIXSON: No, I believe -- no, sir.

25 THE COURT: All right. Anything from the defense?

1 MR. MCGUIRE: No, sir.

2 THE COURT: All right. Let's go ahead and bring the jury
3 in.

4 (The jury entered the courtroom at 2:11 p.m.)

5 THE COURT: Ladies and gentlemen, welcome back. Hope
6 everyone had a good lunch. We're ready to resume the trial of
7 the case. Please make sure you have your notepads and do not
8 have anybody else's notepads.

9 THE COURT: All right. Mr. McGuire, cross-examination.

10 MR. MCGUIRE: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. MCGUIRE:

13 Q Good afternoon, sir.

14 A Good afternoon.

15 Q Could you help me again with your last name? Is it
16 "Ces-stare"?

17 A "Ce-stare."

18 Q "Ce-stare." Okay. Thank you. I'm Bill McGuire. Good
19 to see you.

20 You indicated that you were able to get the video
21 recording of the surveillance system to work while you were
22 there?

23 A Yes, that's correct.

24 Q Soon after you arrived. I mean, that would be an
25 important thing, obviously, to look at, so I would imagine you

1 took a look at it pretty quickly?

2 **A** Pretty intensively. I mean, it was -- it took a little
3 bit of time to get the system back up and running.

4 **Q** Sure.

5 **A** The employees that were there, obviously, provided me
6 with the password system for it to be able to get in and
7 access the cameras, and I was able to do that.

8 **Q** Okay. And you said that part of that was so that you
9 could get a description of the suspect.

10 **A** Actually, what I wanted to see was what the cameras
11 captured. There were a number of cameras throughout the
12 place. Not all of them were connected to the video
13 surveillance system. So I was initially trying to figure out
14 which cameras were there, kind of detail what each camera's
15 view or angle was, and then see what I could learn from the
16 cameras would help us with the investigation.

17 **Q** Okay. And I wrote down, when you were testifying, that
18 part of that was so that you could get a description of the
19 suspect; is that right?

20 **A** Yes, sir.

21 **Q** Okay. And that's so you could put what's called a BOLO,
22 be on the lookout for?

23 **A** If you will, yes.

24 **Q** And, that way, if you had any suspects in the area
25 matching the description, you could detain them and question

1 them?

2 **A** I suppose, yes, sir.

3 **Q** Well, that would be in the normal course of police work?

4 **A** Yes, sir.

5 **Q** So I'm going to show you again what's marked State's No.

6 9. Is that the photograph that shows the cash drawer?

7 **A** I don't know what they refer to items as, so I don't know
8 if it's the cash drawer. There was, according to this
9 picture, cash in it.

10 **Q** Kind of like a plywood box with cash in it?

11 **A** That's correct, yes, sir.

12 **Q** Okay. And so, in the lower left-hand corner here, that's
13 what I'm referring to as a cash box or cash drawer. Does that
14 look like a plywood box with the money in it that the robber
15 had taken?

16 **A** Yes, sir. It's difficult to tell from a distance, but
17 that is a plywood box that's sectioned off into several
18 compartments.

19 **Q** And in the video that we saw recently, when you were
20 testifying, you can actually see the robber scooping stuff out
21 of there; right?

22 **A** You can see -- yes, you can see somebody taking something
23 out of the box, yes, sir.

24 **Q** And the robber was not wearing gloves?

25 **A** Not to my knowledge, no, sir.

1 Q Well, how about to your inspection of his hands? I'm
2 going to hand you what's been marked as No. 10. That shows
3 the robber's hands with no gloves; right?

4 A Yes, sir, I believe it does not show a glove on it.

5 Q So you had the video at your disposal pretty quickly.
6 You can see where the robber is touching the box there. And
7 then, in State's 10, which is up on the screen now, you can
8 see the robber also manipulating objects towards the far end;
9 is that right?

10 A That's correct, yes.

11 Q Were you able to interview any witnesses on the scene to
12 give you more information as to what the robber is dealing
13 with right there?

14 A I did not, no, sir.

15 Q But it would be important to know if the robber was that
16 manipulating an object on the bench top, like a basket or
17 something; right?

18 A Yes, sir, it would be.

19 Q If the robber was scooping stuff out of a basket and left
20 the basket behind, that would be an important object of
21 evidence?

22 A It could potentially be, yes, sir.

23 Q How could it not be?

24 A It would depend. Looking, you know, being able to
25 analyze it from the video to be able to see if there's

1 actually any contact with the hand to the basket or the arm to
2 the basket or anything of that nature.

3 Q I didn't mean to cut you off.

4 So you had access to the video. It shows the robber
5 definitely touching stuff in the office; right?

6 A Yes.

7 Q You did have witnesses available to you --
8 Ms. Holyfield -- in the second row here in the black outfit.
9 She was on the scene when you were there; right?

10 A Yes, sir.

11 Q Okay. And she's familiar with the objects that are on
12 the bench top; right?

13 A Yes.

14 Q Counter?

15 A Yes.

16 Q And she could have helped you identify what the robber is
17 manipulating on the far end; right?

18 A She may have. I did not specifically ask her.

19 Q Were you here for the victim's sister's testimony?

20 A Yes.

21 Q And did you hear her describe this as a cash basket at
22 the end where they would keep cash from selling items, like
23 cigarette lighters or markers?

24 A Yes, sir, I did hear that.

25 Q And Ms. Holyfield potentially could have told you exactly

1 what that was as well?

2 **A** She could have. She may have told somebody, but she
3 didn't relate that to me.

4 **Q** Okay. Well, since you're the one that watched the video,
5 did you task any officer to say, "Hey, I want to know what
6 this guy is messing with down here"? Did you task anyone to
7 go talk to her?

8 **A** The detectives watched the video along with me. They
9 would have probably questioned her more. I was more concerned
10 with items in the office that did not appear to belong in the
11 office.

12 As I mentioned earlier, I found a sneaker and a black
13 string bag. And also in the office was found a cap or a hat
14 that had, like, fake dreadlocks hanging from them. That was
15 also found in there, and I questioned whether that was
16 something that would have belonged in the office, and I was
17 told it did not.

18 **Q** I appreciate all that, but right now, we're talking about
19 the basket at the end of the counter and cash box. Were those
20 items seized by law enforcement? Did you guys seize them or
21 claim them? Take them into evidence?

22 **A** I can't answer that question. I didn't collect any
23 evidence in the store. That would have been the crime scene
24 investigator.

25 **Q** Okay. So the shoe at the scene that you have talked

1 about, the hat at the scene, the backpack, all that, that you
2 have talked about, you didn't seize any of that? You
3 personally.

4 **A** I personally did not seize it, no, sir.

5 **Q** And that would be Rebecca Phillips?

6 **A** That's correct.

7 **Q** Okay. And you were the one that seized the items in
8 Tuscany?

9 **A** Yes, sir, I did.

10 **Q** Okay. So you can't answer my question: Was the basket
11 seized or was the cash box seized? You don't know?

12 **A** I don't know the answer to that, no, sir.

13 **Q** Okay. Fair enough.

14 You just mentioned -- when you were looking at the video,
15 you told the jury that something very significant was that it
16 showed the footwear the suspect was wearing; is that correct?

17 **A** On the video of the suspect entering through the back,
18 yes. I could see the footwear that the suspect was wearing
19 when they came in.

20 **Q** Okay. And you learned that a nine-and-a-half size Nike
21 was in the office?

22 **A** Yes, sir.

23 **Q** And did not belong there.

24 **A** That's correct. That was something -- because it looked
25 to me as though it was similar to that in the video of the

1 suspect running in, so I questioned it. Also to the fact that
2 there was blood on the sneaker, obviously, there was blood in
3 a number of areas in the office, but I questioned whether or
4 not the sneaker belonged in there and was told that it did
5 not.

6 Q But you got a look at it, and then you were also on the
7 road in Tuscany; is that right?

8 A That's correct. A short time later, I went into Tuscany
9 when the officers called that they had found some evidence.

10 Q And I think you testified that you realized, when you
11 came upon a shoe, that it was a match to the one in the
12 office?

13 A It appeared to match the one in the office, yes, sir.

14 Q Okay. And these are size 9-and-a-half shoes?

15 A Yes, sir.

16 Q Okay. Have you since learned that Mr. Rivera wears 11
17 and a half?

18 A No, sir. I have no idea what he wears.

19 MR. HIXSON: Objection. That just assumes facts not in
20 evidence.

21 THE COURT: Overruled. He said he didn't know. I'll
22 allow the question.

23 Go ahead.

24 BY MR. MCGUIRE:

25 Q Were you aware of Mr. Rivera's arrest after this robbery

1 approximately four or five days later?

2 A I believe I was, yes, sir.

3 Q Okay. And were you informed that he was wearing
4 11-and-a-half size shoes?

5 A No, sir, I was not.

6 Q Okay. It's routine for law enforcement to seize the
7 clothing worn by a suspect when they're eventually arrested;
8 right?

9 A If it pertains to what they're looking for, yes, sir.

10 Q Are you aware of what was seized regarding Mr. Rivera's
11 property or clothing when he was arrested?

12 A I have no knowledge of that, no, sir.

13 Q Okay. You do have knowledge that the shoes at the scene
14 were 9 and a half, though; right?

15 A As what they were marked within each of the sneakers,
16 yes, sir.

17 Q I mean, Nike put that marking in there, 9 and a half;
18 right?

19 A I'm assuming they did. It was a Nike sneaker.

20 Q Right. And it's clearly labeled 9 and a half; right?
21 There's no doubt about that?

22 A Yes, sir.

23 Q Okay. Without regard to what size shoe Mr. Rivera was
24 wearing when he was arrested, in the two-and-some-odd months
25 since the incident occurred, you or any other law enforcement

1 officer could have gone to the jail and measured his foot?

2 A I would have had no reason to do that, sir.

3 Q Not to see if he's a nine and a half or not? That
4 doesn't matter to you?

5 A To me, in my particular role during this investigation,
6 that played no bearing on me at all.

7 Q Okay.

8 A As I said, there was an assigned detective and an
9 assigned crime scene investigator. It would have been
10 something that they may have looked into.

11 Q As far as you're aware, no one has done that.

12 A I have no knowledge of it, no, sir.

13 Q Okay. Now, were you aware of the description of the
14 struggle or fight in the office? Did anybody tell you about
15 that?

16 A I was simply told that there was some type of a struggle
17 in the office, and that, pretty much, was about all that I
18 knew. I knew that there were shots fired inside the office,
19 that there was a struggle in there, and from the fact that the
20 video cart was pushed back and tipped on an angle and several
21 other items on the floor that didn't appear to have belonged
22 on the floor, it would appear that some type of a struggle
23 occurred in the office, yes, sir.

24 Q Sure. And you were present again for Ms. Holyfield's
25 testimony where she said she keeps the office neat and

1 organized, and there was stuff all over the place; right?

2 A Yes, sir.

3 Q Okay. And there were pieces of furniture knocked over;
4 right?

5 A Yes.

6 Q Okay. So, again, consistent with a very violent
7 struggle, one might say a life-and-death struggle?

8 A One might say, yes, sir.

9 Q Did you have information that several witnesses said that
10 the robber's face covering was ripped off his face? Did you
11 know that?

12 A I didn't. I was not given that information, no, sir.

13 Q Okay. Without regard to whether you knew that or not,
14 did you take any measures to make sure that fingernail
15 clippings could be preserved with regard to the victims?

16 A No, sir. I did not. Again, I did not attend the autopsy
17 of them, and I was there simply in a supervisory role over the
18 Crime Scene section.

19 Q Okay. But when there's a fight or struggle between
20 people, very often the victim's fingernail clippings are taken
21 and preserved because they might have captured skin and DNA
22 from the suspect; right?

23 A Quite often that occurs, yes, and that would have been
24 done at autopsy.

25 Q And, normally, what would happen is that somebody would

1 bag the hands, put a bag over the hand, tape it up tight so
2 that everything is preserved. That's normal procedure; right?

3 A Not necessarily. Not in all cases.

4 Q Do you know what happened in this case?

5 A I don't. I don't know whether his hands were bagged or
6 not. I have no idea.

7 Q Okay. The best practice, the best thing to do would be
8 to bag the hand, tape it up so it's preserved as soon as
9 possible?

10 A That's a bad statement. I wouldn't say it's the best
11 practice. It would depend on the circumstances.

12 Q Tell me the reason why it would be wiser to wait before
13 preserving fingernail clippings.

14 A It would depend on the circumstances behind it and all
15 that. I don't know.

16 Q Well, let's talk about these circumstances.

17 A Okay.

18 Q If Investigator Phillips tells you, "I want to bag these
19 hands. I want to put bags on them and tape them up right now
20 so we can preserve that evidence," what would you advise her,
21 as the supervisor on the scene?

22 A To go ahead and bag them using paper bags.

23 Q Right. Thank you.

24 Are you aware -- since we're talking about fingernail
25 clippings and ripping off the face covering, are you aware

1 that Mr. Rivera has no markings on his face when he was
2 arrested?

3 **A** No, sir. Again, I wasn't there when he was arrested. I
4 have no idea.

5 MR. HIXSON: And I'll object to this. He's
6 cross-examining him on inadmissible hearsay, and as a result,
7 phrasing questions --

8 MR. MCGUIRE: That's all I have, Judge.

9 MR. HIXSON: -- eliciting facts not in evidence from
10 inadmissible hearsay.

11 THE COURT: It's cross-examination. I'm going to allow
12 that.

13 Go ahead.

14 MR. MCGUIRE: Thanks all I have anyway. Thanks, Judge.

15 THE COURT: All right. Redirect.

16 MR. HIXSON: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. HIXSON:

19 **Q** Since this picture is up, Lieutenant, I want to talk
20 about -- do you see the backside of this photograph where you
21 see a bunch of other individuals that are involved in the
22 crime scene?

23 **A** Yes, sir.

24 **Q** From your training and experience, when you have a large
25 volume of information of individuals coming around, is it

1 important for you, in your training and expertise, to limit
2 the amount of evidence recovered to the most probative items?

3 **A** That's correct. And part of the reason why you see the
4 people in that area of the scene was also determined from the
5 cameras. By being able to tell that the suspect entered and
6 exited through the back door, we knew that the front portion
7 of the bingo hall or store, if you will, was not in play in
8 the actual crime itself.

9 So due to the amount of people that were on-scene that
10 night playing bingo, you have got to be able to separate each
11 person or each potential witness and question them and get
12 their pedigree information, name, date of birth, contact
13 number, and so forth.

14 So because of the amount of additional response that
15 ended up in that area, between news crews and everybody else,
16 it was determined best to keep them in the front portion of
17 the store where they could be questioned outside of the
18 public's view and so forth.

19 Customarily, I would not want people in the crime scene,
20 but, in this particular case, being able to tell that the
21 front of the store was not involved in it as a means of entry
22 or egress, that's why we chose to allow them to stay in the
23 scene.

24 **Q** I'll be more precise, I guess, with what I'm asking. On
25 cross-examination, you were talking about why you didn't swab

1 all the potential items in here that anybody could have
2 touched.

3 **A** Mm-hmm.

4 **Q** Is it best practice, that we're referring to, is to make
5 sure that you -- the Crime Scene pays attention to the most
6 probative items to test those items rather than casting a
7 large net on other potential items all over the crime scene to
8 test them? Which would be more probative of a fact that
9 you're trying to determine?

10 **A** Yes, sir. You'd go right for the items that showed the
11 most value to that scene, which is why things like the
12 sneaker, the dreadlocks headgear or hat, the black bag, and
13 things like that were all extremely important.

14 There were also firearms found in the office, casings,
15 projectiles, and so forth. All of that is critical to the
16 actual incident, not so much so with every item in the office.
17 You have got to make a determination what's important and
18 what's going to get you where you need to be in this
19 investigation quicker.

20 **Q** Right. I think you mentioned a little bit on your
21 training and experience. Does it appear to you, based on your
22 training and experience, that the assailant in this offense is
23 trying to conceal his identity of who that person is?

24 **A** Yes, he's definitely trying to conceal his identity by
25 the face covering. As I mentioned earlier, that white cloth

1 around his face, which I believe may have been that shirt that
2 was found in the street.

3 And, again, looking at the video, you try to determine,
4 as I was trying to indicate before, if any part of his hand or
5 body touched something, then there's a potential to maybe
6 collect DNA or fingerprint or something of that nature. But
7 without seeing that specifically happen would not make me all
8 that interested in that particular piece of basket or item or
9 whatever it is that's around there.

10 Q So it's safe to say that, generally, during the course of
11 decades that you have worked in this capacity, is it common
12 for you to see someone that's trying to conceal their identity
13 to wear clothes that identify themselves to those clothes?

14 A Yes. I mean --

15 Q In other words, would you expect to see someone
16 committing an armed robbery and a murder that says Derrick
17 Rivera's shirt?

18 A I'm sorry?

19 Q That would say Derrick Rivera's shirt on it.

20 A Yeah, no, they're going to wear nondescript clothing,
21 things without -- for the most part, things without logos and
22 things that are going to, you know, stand out a little.

23 Q Items that would not link them to those items?

24 A Yes, sir.

25 Q Including concealing a hair style?

1 **A** That's correct?

2 **Q** Concealing a build?

3 **A** That's correct.

4 **Q** Concealing a shoe size?

5 **A** That's correct, yes, sir.

6 **Q** Also, was there any indication, when you were working on
7 the crime scene, that the victims in this case actually had a
8 skin-to-fingernail physical struggle in any way in this? Any
9 indication of that?

10 **A** Not that was not to me, no. The -- it's clear in the
11 video that the son approaches the window from the side with a
12 firearm in his hand. It's clear from the video that the
13 father was inside the office and so forth. You know, as to
14 whether a struggle occurred between the father and the
15 suspect, no one told me that. However, the office is a small
16 area, so someone running into it to snatch things up might
17 easily just knock things over like that video cart. There
18 could have been a struggle or may not have been a struggle,
19 but all indications from what I perceived when I walked in was
20 that some type of a struggle may have occurred in that office.

21 **Q** Okay. Let's ask more generally. If you were trying to
22 determine if someone was in this courtroom, which would be
23 more probative: Swabbing the exterior a push handle door of
24 the courthouse or swabbing an item left by an individual in
25 the courthouse?

1 **A** It would be swabbing the item left specifically by that
2 individual. If you swab the door handle of the courthouse,
3 we're going to get a mix of everybody in this room and
4 everybody was has potentially entered this room's DNA.

5 **Q** Innocent and guilty; right?

6 **A** Mm-hmm.

7 **Q** Now, let me ask you another question just if you can.
8 During the course of you being a lieutenant on crime scene and
9 working on staying up to date with latest technologies and the
10 sciences and stuff that you're involved in, have you ever come
11 to rely on, like, the Journal of Forensic Sciences that's put
12 out by the American Academy of Forensic Sciences? Have you
13 ever relied on any information contained in that journal?

14 **A** Yes, sir, on several occasions.

15 MR. HIXSON: I have no further questions.

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

17 THE WITNESS: Thank you, sir.

18 THE COURT: The State can call your next witness.

19 MR. HIXSON: At this time, the State would call Don
20 Kobithen.

21 **DON KOBITHEN,**

22 the witness, after having been duly sworn, was examined and
23 testified to as follows:

24 THE CLERK: State your full name and spell your last for
25 the jury.

1 THE WITNESS: My name is Don Kobithen. K-o-b-i-t-h-e-n.

2 DIRECT EXAMINATION

3 BY MR. HIXSON:

4 Q I promise I'll get your name right. "Ko-bi-then." Sorry
5 about that.

6 A That's all right.

7 Q What do you do for a living?

8 A I'm a police officer with the Horry County Police
9 Department.

10 Q And how long have you done that?

11 A About five and a half years.

12 Q Okay. And so you were working for the Police Department
13 around July 26th of 2019?

14 A Yes.

15 Q And, specifically, let's take you to the next morning,
16 July 27th of 2019.

17 A Yes, sir.

18 Q Did you have an occasion to be dispatched to the area of
19 Livorn Loop or Grosseto Way in Horry County near the bingo
20 parlor?

21 A Yes, sir.

22 Q Tell us about why you went there.

23 A I worked day shift the following day after the incident,
24 so when I signed on duty the morning of the 27th at about
25 7 a.m., I had a citizen in that neighborhood call in and said

1 they located a pair of pants. They thought it was suspicious
2 due to the shooting that occurred the night before.

3 So when I responded out to the area, I located the pair
4 of gray pants in the area of Grosseto Way and Tuscany Grande
5 Boulevard. It was on the sidewalk area, like, by the grass
6 off to the side of the road.

7 Q Okay. Let me show you what's been marked as State's 20
8 and 21. Let me show you a couple of these, Don, to see if you
9 recognize those.

10 MR. HIXSON: I'm referring to 20 and 21, Judge.

11 A Yes, sir.

12 BY MR. HIXSON:

13 Q Are both of those fair and accurate representations of --
14 and what are they generally you're looking at?

15 A It's the pair of pants that I was called to the area for.

16 Q This is what it looked like when you found them?

17 A Yes, sir.

18 MR. HIXSON: At this time, I move State's 20 and 21 into
19 evidence.

20 THE COURT: Any objection?

21 MR. McGUIRE: Without objection, Judge.

22 THE COURT: State's Exhibit 20 and State's Exhibit 21
23 admitted into evidence without objection.

24 (State's Exhibit No. 20 and State's Exhibit No. 21, Photo
25 of Gray Pants, was received into evidence.)

1 BY MR. HIXSON:

2 Q All right. Let me show you on the map, if we can. First
3 off, we'll start with this, and then I'm going to ask you
4 where on this map are those pants. Okay?

5 Do you recognize that? We're looking at the picture,
6 State's 20.

7 A Yes, sir.

8 MR. HIXSON: And can you slide that down? Oh, it's tough
9 to read that. Let me hand that to the witness.

10 BY MR. HIXSON:

11 Q Let's describe that picture a little bit more.

12 A Sure. It's the roundabout on Tuscany Grande Boulevard,
13 and you can see the street sign for the -- I forget the name
14 of the -- Grosseto.

15 Q Grosseto. Yeah, bunch of Italian names.

16 A Yeah. That's a weird one.

17 MR. HIXSON: Okay. Put that back up now, please.

18 BY MR. HIXSON:

19 Q You can stay up there; this is fast.

20 Do you generally recognize the area of the Tuscany Grande
21 Boulevard, generally speaking?

22 A Yes, sir.

23 Q Let me show you this map and see if you can point out to
24 generally the area where you found these pants.

25 A It should have been the second roundabout, which would

1 have been -- if this is Belle Terre, you come in, up this way.

2 Right around this area.

3 Q Is this, I guess, Grosseto Way is right there?

4 A Grosseto Way comes here, and then here's the roundabout.

5 When I found the pants, they were about right there.

6 Q Okay. Mind if I point to this? Right here?

7 A Yes, sir.

8 Q Is that right?

9 A Approximately.

10 Q Keep my finger there. All right.

11 And I'll show you 21. What's 21? I think you'll

12 recognized State's 21.

13 A Those are the pair of pants that were on the sidewalk

14 that I photographed.

15 Q Let me borrow this pen. We do this sometimes. Do you

16 want to mark on this spot where those pants are?

17 A Sure. So approximately this area.

18 Q Cool. Thank you very much.

19 And then, once you recovered those items, what did you do

20 with them?

21 A I photographed them, collected them, and put them in an

22 evidence bag, and then I passed them off to the detectives who

23 were arriving on the scene that morning shortly. After I

24 collected them, as I was leaving the neighborhood, the

25 detectives were arriving on scene to try and collect further

1 evidence, so I passed it off to them.

2 Q And so it's your understanding they were submitted for
3 additional forensic testing after you recovered them?

4 A Yes, sir.

5 Q Let me ask you a little kind of clarification. When you
6 first collected those items, what was the nature of the call
7 that you were called out to?

8 A It was a suspicious found property call. So somebody
9 just called in, thought it was suspicious that the pants were
10 there, due to the circumstances the night before.

11 Q So in your internal processing or file system within the
12 county police, was that attached to a violent crime call-out
13 or was that attached to a property crime call-out?

14 A It was just a random call for the service for the found
15 property.

16 Q Okay. And so your paperwork -- your file paperwork, it
17 wasn't attached to the bingo parlor shooting at the time that
18 you recovered the property, through the same file or case
19 number?

20 A Correct. No, every time somebody calls for the police, a
21 new case number is generated. So it was under the case number
22 for the call -- for the person who called in that next
23 morning.

24 Q So at the time that it was collected -- the time that you
25 collected it, it was operating under two different case

1 numbers but still within the Horry County Police Department?

2 **A** Correct.

3 **Q** Thank you. No further questions.

4 THE COURT: Cross-examination?

5 MR. McGUIRE: I don't have any questions for you, sir.

6 Thank you for coming.

7 THE COURT: You may step down.

8 THE WITNESS: Thank you.

9 THE COURT: State can call your next witness.

10 MR. HIXSON: At this time, the State would call crime
11 scene investigator Becky Phillips.

12 INV. REBECCA PHILLIPS,

13 the witness, after having been duly sworn, was examined and
14 testified to as follows:

15 THE CLERK: Please be seated. State your full name and
16 spell your last for the Court.

17 THE WITNESS: My name is Rebecca Phillips.

18 P-h-i-l-l-i-p-s.

19 DIRECT EXAMINATION

20 BY MR. HIXSON:

21 **Q** Good afternoon, ma'am. How are you?

22 **A** Good. Thank you.

23 **Q** So tell us what you do for a living.

24 **A** I am a crime scene investigator currently employed with
25 the Horry County Police Department for the past 20 years.

1 Q Okay. So you have worked for the County for 20-some
2 years?

3 A Yes.

4 Q Were you in Crime Scene the entire time?

5 A No, just within the past three years.

6 Q Okay. So what kind of stuff did you do for the County
7 Police prior to coming in to Crime Scene?

8 A I started out on patrol. I worked in the Warrant
9 Division. I was a narcotics detective for ten years, assigned
10 to the Drug Enforcement Unit, and then Crime Scene.

11 Q And so you were working -- is it safe to say, you were
12 working for the Horry County Crime Scene Unit around July 26th
13 of 2019?

14 A Correct.

15 Q And so you get a phone call at some point in time to head
16 to the bingo parlor?

17 A Yes.

18 Q Tell us about that.

19 A Lieutenant Pete Cestare did call me to respond. He had
20 stated that there was a robbery and two victims were still
21 on-scene.

22 Q Okay. Tell us what you did. You get there, your
23 process, and I'll start asking more questions.

24 A When I first got there, I take initial exterior
25 photographs. I did talk to Lieutenant Cestare about what had

1 transpired prior to my arrival. He had stated that the two
2 victims were in the office and that somebody was going to go
3 get a search warrant. And then I started interior photographs
4 and rough sketches.

5 Q You mentioned a rough sketch. Let's talk about State's
6 23. Recognize that?

7 A Yes, sir. That is my sketch, not to scale.

8 Q Tell us why you make a sketch.

9 A We make a sketch -- you know, sometimes these cases don't
10 come to trial for a few years, so we'll make a formal sketch
11 just so we have it in our notes and part of the file so we
12 know where things are collected from also.

13 Q Just trying to streamline stuff so you can look at those.

14 A That's fine.

15 Q So did you do that in this case?

16 A Yes.

17 MR. HIXSON: At this time, we move State's --

18 BY MR. HIXSON:

19 Q That's what this is?

20 A Yes. That is my formal sketch of the scene.

21 Q A court version of yours, I guess; right?

22 A Yes.

23 MR. HIXSON: At this time, we move State's 23 into
24 evidence.

25 MR. MCGUIRE: No objection, Judge.

1 THE COURT: All right. State's Exhibit 23 admitted into
2 evidence without objection.

3 MR. HIXSON: May I publish that, Your Honor?

4 THE COURT: Yes.

5 (State's Exhibit No. 23, Scene Sketch, was received into
6 evidence.)

7 BY MR. HIXSON:

8 Q All right. Can you see that? Does that help you at all?

9 A I can't see the little numbers, but I can see the
10 overall, yeah.

11 Q We'll talk in broad swaths at first. Okay?

12 A Okay.

13 Q So tell us generally what we're looking at. It's an
14 overhead view and kind of orient the jury to what the place
15 looked like.

16 A So it's basically the size and the shape of the area of
17 the bingo hall. On the left side of the picture is the rear
18 of the building and the rear doors.

19 Q Right here?

20 A Yes.

21 Q Okay.

22 A Round in the middle where the little red numbers are,
23 that is the office. The kitchen is to the left of the rear
24 doors.

25 Q Right here?

1 **A** Yes, sir.

2 The space up above the office and the bathroom is right
3 there, that was just additional business space, but I don't
4 think it was attached to the bingo hall.

5 **Q** And then where is this area?

6 **A** That's the front of the building. That's Belle Terre --
7 parallel to Belle Terre.

8 **Q** Okay.

9 **A** And the bottom of the picture -- yes -- those are
10 additional doors that open into an alley that run to the rear
11 and the front of the business.

12 **Q** Okay. And so the majority of your work, based on looking
13 at the video of what happened -- did you look at the video of
14 what happened?

15 **A** I did look at the video, yes, sir.

16 **Q** Based on that, what area did you focus most of your
17 effort onto?

18 **A** Mostly near the office, inside the office, and just
19 overall photos.

20 **Q** Of this area?

21 **A** Yep, in the office, yes, sir.

22 **Q** Very good.

23 MR. HIXSON: Do you want to admit them en masse?

24 MR. MCGUIRE: Sure.

25 MR. HIXSON: Your Honor, at this time, we've agreed to

1 admit these en masse. Defense took a look at them and doesn't
2 have an objection to the scene photos. So, at this time, we
3 move State's 25, 31, 32, 33, 34, 35, 36, 37, 40, 41, 42, 43,
4 44, 53, 54, 55, 56, 57, 61, 62, 63, and 64 into evidence.

5 THE COURT: Any objection?

6 MR. MCGUIRE: No objection, Judge.

7 THE COURT: All right. State's 25, 31, 32, 33, 34, 35,
8 36, 37, 40, 41, 42, 43, 44, 53, 54, 55, 56, 57, 61, 62, 63,
9 and 64 are admitted into evidence without objection.

10 MR. HIXSON: Thank you, Your Honor.

11 (State's Exhibit Nos. State's 25, 31, 32, 33, 34, 35, 36,
12 37, 40, 41, 42, 43, 44, 53, 54, 55, 56, 57, 61, 62, 63, and
13 64, Scene Photos, were received into evidence.)

14 BY MR. HIXSON:

15 Q All right. We talked about that sketch for a second.
16 Let's look at State's 2. It's already in evidence. It's
17 already been admitted as an overview of the bingo, on
18 location?

19 A Yes, sir.

20 MR. HIXSON: Your Honor, I'd ask that the witness come
21 around and speak into the microphone if it's appropriate.

22 THE COURT: All right.

23 BY MR. HIXSON:

24 Q Do you generally recognize that overview?

25 A Yes. That's 501, Belle Terre. Tuscany is back here, and

1 the bingo hall is right there.

2 Q Okay. And let's slide up here. Maybe do that a couple
3 of times. Put your finger on where the --

4 A Belle Terre, Tuscany, 501. The beach is this way.
5 Conway is that way. And this little -- or this building right
6 here is the bingo hall. It has that little indent right
7 there.

8 Q Okay. Right there. Okay.

9 And then as it relates to the adjacent businesses, does
10 the Healthy Homes business play any role in this during the
11 course of your investigation initially?

12 A There's some video that's from that business.

13 Q Okay. And do you see that business? Can you orient the
14 jury to the business?

15 A I believe it's this one.

16 Q Yep. The one with the blue van?

17 A Yeah, the blue vans. There's an alley here and a little
18 alley -- I think this is grass here in between, and then
19 there's an alley there and an alley there.

20 Q Okay. And then, ultimately, is that some type of a
21 Jewish temple or religious --

22 A Or mosque or something, temple, yeah. And the rear -
23 that's the front and that's the rear that the suspect entered
24 in.

25 Q And when you noticed that, to drive around to the back of

1 this, if you pulled into the front entrance, how would you
2 pull around to the back of the bingo parlor?

3 A Yeah, you could either go that way or go down one of the
4 alleys to it.

5 Q Okay. And then, from the orientation from this to the
6 Tuscany Grande area, I guess it's --

7 A Here's the business. I never went into this community,
8 but you have to go past it and then go into the community.

9 Q Very good. Okay. And so this is the area of the bingo
10 hall you focused most of your attention on right here?

11 A Yes, very much so.

12 Q I think you said that, when you arrived, you took
13 exterior photographs?

14 A I did.

15 Q Let's start going through those and talk about what we're
16 looking at. Okay?

17 A Yes, sir.

18 Q I'm going to try to put them up here.

19 A That's fine.

20 Q And if you can't see anything, I'll bring them down.

21 A If I have a question, then I'll ask.

22 Q Okay. State's 25?

23 A That is the rear of the bingo hall. If you look to the
24 right, you can see a red awning, and that's where the back
25 door is.

1 Q Okay.

2 A That's -- yeah, that's looking towards Belle Terre.

3 Q Okay. State's 26. That's State's 26. We have already
4 seen it and it's in evidence. Talk about that in relation --
5 as it relates to your crime scene investigation.

6 A That is the rear door, and when you face in, that's
7 facing directly to the office.

8 Q Okay. And then State's 29. I think, according to your
9 sketch, this is State's 29 and already into evidence.

10 A Yes, sir.

11 Q Did you focus your investigation on a lot of items that
12 were contained inside in that area; is that correct?

13 A That office, yes. That is a view through that little
14 half window, angled to the door -- the only door in the
15 office.

16 Q And I want to specifically draw your attention to -- we
17 have talked about some shoes and bags up to this point. We'll
18 talk about that in a second.

19 At the top left corner of that photograph where it
20 appears to be wooden objects laying on the ground, can you
21 describe what those appear to be, and did you do any
22 processing relating to the -- they appear to be wooden
23 shelving?

24 A Yes. It was, like, a little wooden stand, and they were
25 little shelves to place maybe the paper cards in for bingo,

1 and it appeared to have been knocked over onto the floor.

2 Q Did you lift up those items -- pick those items up off
3 the floor?

4 A Eventually we did, yes, sir.

5 Q And then, once you did, did you find anything of
6 evidentiary value underneath those wooden items?

7 A Yes, we did.

8 Q I'm going to move State's -- I'm going to talk about
9 State's 34. It's in evidence. Do you recognize the items
10 contained in State's 34?

11 A Evidence Item No. 9 is a red, yellow, and green hat that
12 had fake dreadlocks on it.

13 Q And there's also Evidence Marker 11 in there. Can you
14 see what that is with the glare?

15 A I don't know if I can. I think that's the smaller
16 firearm.

17 Q I'll show that to you in a second.

18 Let me follow up with State's 35 that's already in
19 evidence. What is that?

20 A That is the red, yellow, and green hat with the dreads.
21 Item No. 9.

22 Q Did you collect that item?

23 A I did.

24 Q Let me show you what's been marked as State's 51. Do you
25 recognize that?

1 **A** Yes. And that is the red, yellow, and green hat with the
2 dreads that was on the floor. Item 9.

3 **Q** And that's your SLED processing number and your packaging
4 that forensically processed it all inside that bag; right?

5 **A** Yes.

6 MR. HIXSON: We move State's 51 into evidence.

7 THE COURT: Any objection?

8 MR. McGUIRE: No objection, Judge.

9 THE COURT: State's Exhibit 51 admitted into evidence
10 without objection.

11 (State's Exhibit No. 51, Red, Green, and Yellow Hat/Wig
12 with Dreadlocks, was received into evidence.)

13 BY MR. HIXSON:

14 **Q** Now, you mentioned Item 11, so let's talk about this
15 picture. That's State's 36 in evidence. That helps you with
16 your marker 11.

17 **A** Yes.

18 **Q** When you go in there, did you place evidentiary markers
19 next to those locations?

20 **A** After we located them, yes, we did. We do that prior to
21 collection to document what number we give it or assign it on
22 the scene.

23 **Q** And those markers are placed in kind of the locations
24 where you come across and find these items of evidence?

25 **A** Yes, sir.

1 Q And what is State's 11?

2 A It's a smaller firearm. Let me refer so I can tell you
3 exactly. Silver in color NAA Guardian handgun, .32 caliber.

4 Q And I'll show you what's already in evidence, State's 38.
5 Take a look at that.

6 A Yes, sir, that's the Guardian.

7 Q What is that?

8 A That is the .32 caliber firearm that was on the floor,
9 Item No. 11.

10 Q And this a .32 caliber handgun; is that right?

11 A Correct. .32 caliber.

12 Q And we have put this into evidence already as State's 38.
13 And that's the location that you found it in the office
14 when you went to the crime scene; right?

15 A Yes.

16 Q Item No. 10, we can see. What is that Item No. 10 we're
17 looking at?

18 A That is a black toboggan or knit cap, and it's actually
19 inside out, and I labeled that No. 10 prior to collection.

20 Q Okay. Let me show you State's 37. What is that?

21 A That is the black knit cap, toboggan.

22 Q So that's a close-up photo of the item that you collected
23 at the scene?

24 A And it's inside out, yes, sir.

25 Q And let me show you -- do you recognize that?

1 **A** Yes, sir. That's the black knit cap. State's 52. And
2 my item number.

3 MR. HIXSON: We'd move State's 52 into evidence, the
4 black toboggan cap.

5 MR. McGUIRE: No objection.

6 THE COURT: State's Exhibit No. 52 admitted into evidence
7 without objection.

8 (State's Exhibit No. 52, Black Toboggan Cap, was received
9 into evidence.)

10 BY MR. HIXSON:

11 **Q** And this stuff that you see in there, is that the
12 forensic packaging to try to preserve the evidence?

13 **A** Correct.

14 **Q** Okay. While we're there, did you take those items,
15 package those items, and submit those items to State Law
16 Enforcement Division for additional forensic testing?

17 **A** I did, yes.

18 **Q** Now, let's go back to while you were in there. Did it
19 come to your attention that there were some items of
20 evidentiary value, specifically a pair of shoes and black
21 backpack that were in there for you to take a look at?

22 **A** Yes. I was told initially from Lieutenant Cestare that
23 there were some items on a chair that was important and that
24 one of the witnesses, Teresa Holyfield, did set them aside for
25 us.

1 Q Okay. Do you recognize that?

2 MR. HIXSON: I'm showing the jury State's 30.

3 A Yes. That is the right Nike gray and white shoe sneaker
4 and the black drawstring bag.

5 MR. HIXSON: These are already in evidence, Your Honor,
6 but I want to close the loop on these. I'm going to show the
7 witness what's already in evidence, State's 48 and State's --

8 A That's 48? The shoe -- the right shoe?

9 BY MR. HIXSON:

10 Q Yeah. What is State's 48?

11 A It is a gray and black Nike right shoe.

12 Q And State's 49?

13 A That is the Eastport black and gray bookbag with strings.

14 Q And you collected those; correct?

15 A And I collected those, yes, sir. My Item 2 and 3.

16 Q Okay. Did you test those areas relating on the
17 photograph --

18 A I did not.

19 Q -- that appears to be a brighter color red on that. Did
20 you do any testing on the blood on those?

21 A That went directly to SLED.

22 Q Very good. That's a perfect segue into the next
23 question. Now, as it relates to the black backpack -- and I'm
24 referring to State's 49 -- did you attempt to take swabs of
25 this backpack?

1 **A** We did -- or I did initially inventory the bag on-scene,
2 and swabs for touch DNA were taken from the string on the bag.

3 **Q** Okay. And just let's close the loop on these. Show you
4 these. State's 31 already in evidence.

5 **A** That's the right shoe that was in the office on the
6 chair.

7 **Q** That's a lab photo of the shoe that you collected?

8 **A** Yes.

9 **Q** State's 32, that's a lab photo of the backpack?

10 **A** The black string bag, yes, sir, in the lab.

11 **Q** You indicated, I think, that you inventoried the contents
12 of the black backpack that was recovered on the scene?

13 **A** Yes.

14 **Q** Did you find any money or cash in that bag?

15 **A** Yes, there was money in there that was wrapped
16 consistently with the way that they did business at the bingo
17 parlor --

18 **Q** Okay.

19 **A** -- with the rubber bands on the ones.

20 **Q** And how much money do you recall? Was it roughly \$334?

21 **A** Yes.

22 **Q** Now, then, okay, to streamline this, let's get to this.
23 So during the course of reviewing the DVR, you mentioned video
24 footage from that scene. Did it come to your attention that a
25 particular location on that bag might be important to your

1 investigation?

2 **A** I just -- I don't remember in reference to the video. I
3 just know that we were told that the suspect had left that
4 behind and that it was set aside for us to process and
5 collect.

6 **Q** Okay. Well, let me ask you this: Upon reviewing the
7 video, did you see the defendant holding the strings of that
8 backpack in the video?

9 **A** Yes. Yes, sir, I did. When I did -- when I viewed the
10 video after, Lieutenant Cestare got it playing again, it did
11 show the suspect holding onto the strings on the bag.

12 **Q** And I'll show you State's 5 as well as State's 6. Take a
13 look at those.

14 **A** That's when he first comes in the door, and then as he
15 rounds the corner to go in the office, he is holding with his
16 left hand the strings on the bag.

17 **Q** Okay. Let me show you what's marked State's 5. And
18 describe that to the jury while the jury is looking at it.
19 Okay?

20 **A** This is after the suspect enters the rear door and he's
21 holding the string bag with his left hand at his chest. Chest
22 high.

23 **Q** Okay. And then State's 6, please.

24 **A** The same. As he's coming around the chair and the table,
25 he still has ahold or gripping the strings on the bag.

1 Q Okay. Now, based on that information that you kind of
2 deducted concerning the string location of that backpack being
3 important, did you do any additional forensic testing -- or
4 not -- you didn't do the testing.

5 A I did not.

6 Q Did you do any effort to develop the evidence from it?

7 A I felt, with my training and experience, that that would
8 be the best place and the best piece of evidence in order to
9 get touch DNA because he is seen touching it prior to the
10 incident.

11 Q And did you, in fact, take DNA swabs from the location on
12 the strings on the backpack?

13 A Yes.

14 MR. HIXSON: I'm showing the witness what's marked as
15 State's 49.

16 A Yep. The string is right there.

17 BY MR. HIXSON:

18 Q Okay. And those are generally the string locations?

19 A Mm-hmm.

20 MR. HIXSON: Beg the Court's indulgence just for a
21 second. I need to get some numbers.

22 BY MR. HIXSON:

23 Q I'm going to show you what's been marked as State's No.
24 50. See if you recognize that.

25 A That is the swab from the strings on the black bookbag on

1 7/27/2019. So it was after midnight when I took that swab,
2 but that is the swab.

3 Q Okay. And then you swab -- while you're swabbing the
4 process, do you maintain the integrity of the item?

5 A Correct.

6 Q Make sure that no one else messes with it?

7 A Correct.

8 Q Put it in the package and seal it up so no one else can
9 contaminate that sample. Is that safe to say?

10 A Correct.

11 MR. HIXSON: We move State's 50 into evidence.

12 THE COURT: Any objection?

13 MR. MCGUIRE: No objection, Judge.

14 THE COURT: State's Exhibit No. 50 admitted into evidence
15 without objection.

16 MR. HIXSON: Thank you, Your Honor.

17 (State's Exhibit No. 50, Swabs from Black Bag, was
18 received into evidence.)

19 BY MR. HIXSON:

20 Q Now, the swabs that you took from this black backpack and
21 the shoe items, these items, did you submit all those items to
22 State Law Enforcement Division for additional testing?

23 A I did.

24 Q Okay. Okay. Let's go on through --

25 MR. HIXSON: Can you take those down? I'm sorry.

1 BY MR. HIXSON:

2 Q Let's talk about some of the items that you worked your
3 way through this scene. Okay? Did you recover -- you already
4 mentioned that you recovered a handgun inside, a silver .32
5 caliber handgun. I think you already said that you recovered
6 that.

7 A Correct.

8 Q Did you recover any other handguns in that scene?

9 A I did. There was another handgun. It was a Springfield
10 .45 caliber handgun that was located on a counter right at the
11 door of the office.

12 Q I don't think you'll be able to see if I put it up there.
13 So look at State's 39 and see, is that the other handgun that
14 you recovered?

15 A Yes, sir. That's a Springfield .45.

16 Q And that was recovered at the scene?

17 A Correct. It was on the countertop right as you exited
18 the door or entered the door to the office.

19 Q Okay. Let me show you have an interior scene. Starting
20 to get a bunch of pictures. So when you describe the
21 countertop -- I don't have a picture to show -- where would
22 the countertop be close to on your sketch? Do you have that
23 sketch? Oh, I put it back up here. Here it is. Okay. What
24 countertop area? Is it listed here on your sketch?

25 A It should be. I can't see that from here. But if you're

1 -- if you're standing in the office and you're looking out the
2 door to the office, it's to the left.

3 Q Right here?

4 A Right there, yep. That's where the handgun --

5 Q And that's where the handgun's represented on that?

6 A Yep.

7 Q Right in this area on the counter.

8 A Yes. Yes, sir.

9 Q Sorry for that confusion. That's my fault.

10 Did you seem to find any other items related to that .45
11 caliber handgun that was State's 39?

12 A There was a holster that was on the floor, black in
13 color, and there was two -- I want to say two live rounds:
14 One at the doorway and one next to the holster.

15 Q Okay. So for the non-handgun inclined, what does a live
16 round mean versus anything else?

17 A It has not been fired yet. It's just a live round. It
18 needs to be loaded into a gun to be fired.

19 Q Okay. And I'm showing State's 40. That's where Marker 6
20 is?

21 A Is the holster, yes.

22 Q And then you have Marker 5 and Marker 7?

23 A Which are the live Winchester .45 auto rounds.

24 Q Meaning it hasn't gone bang yet.

25 A Correct.

1 Q Those haven't been fired rounds?

2 A Correct. Has not been fired.

3 Q And I found the picture I was looking for. On State's 29
4 -- a little pile up over here and then look over there. Okay?

5 Now, can you show the jury --

6 A Right at the corner of that window opening, right below
7 it, is where the .45 caliber handgun was.

8 Q Right there?

9 A Yes, sir.

10 Q And while we're here, is this the black holster?

11 A Yes, sir.

12 Q Now, did you take a look to see if you could recover any
13 other evidence of shots being fired or any other bullets
14 recovered inside the office space?

15 A Yes, we did.

16 Q I'm going to show you specifically State's 41. What is
17 that?

18 A That is a bullet hole damaged through the office door.
19 At the time, we did not recover the fired bullet or the
20 projectile in reference to that round.

21 Q Now, I see that that picture is done with the door
22 closed.

23 A Yes.

24 Q What was your understanding of what happened? The door
25 was opened at the time that shots were fired?

1 **A** Not sure. It could have been partially opened because we
2 don't know where the suspect and the victims were at the time
3 that that round went through that door.

4 **Q** Let me show you State's 42. And it's a little tough to
5 see. You see it?

6 **A** It's right -- the damage to the door is right below the
7 cables that are coming out of the ceiling.

8 **Q** Very good. And that's kind of with the door positioned
9 open so you get an idea of where that would have come if the
10 door was open when this whole thing happened; right?

11 **A** (No audible response.)

12 **Q** Okay. Let me show you -- so you weren't able to find a
13 specific projectile to that?

14 **A** No.

15 **Q** All right. Let me show you State's 43. What are we
16 looking at there?

17 **A** That is a trajectory rod placed through a box of those
18 papers or the bingo cards, I believe. And that just shows an
19 angle going into the box, and the further pictures will show
20 that it actually traveled through the box, through the paper,
21 and back of the box and into the wall.

22 **Q** Okay. And were you able to recover a projectile that you
23 attributed to that hole and that trajectory rod?

24 **A** Yes.

25 **Q** State's 44. What is that?

1 **A** That is my Item No. 15, which is a projectile or a fired
2 bullet.

3 **Q** Okay. Were you able to attribute the caliber to that
4 being a .38 caliber?

5 **A** I did not, no. It was sent to SLED.

6 **Q** Very good. Were you able to recover any other items kind
7 of relating to -- any other items relating to a weapon being
8 fired inside there? Any used shell casings or anything like
9 that?

10 **A** No, no shell casings. I think that was the only live
11 rounds that we found and then, of course, from the victims.

12 **Q** Yes. Your understanding was the bullets were -- one
13 bullet was recovered from each victim subsequent to this?

14 **A** Correct.

15 **Q** But you didn't do that?

16 **A** No, I did not do that.

17 **Q** Okay. Thank you.

18 All right. Now, at some point in time, did you receive
19 an item of evidence from Don Kobithen?

20 **A** I received it from Evidence that he had collected or he
21 had responded out to the Tuscany area in reference to a pair
22 of gray pants.

23 **Q** Okay. At some point in time in the days following you
24 investigating this incident, did you do any processing on a
25 pair of gray pants recovered in the Tuscany Grande area?

1 **A** I did. In the lab setting, I viewed it. I documented it
2 with photography, and I scaled and swabbed three separate
3 areas.

4 **Q** Looking at State's 53. Is that right? Are those the
5 gray pants that you processed in your crime scene office space
6 over in the County Police?

7 **A** Yes, sir, it has the different case number also. 631.

8 **Q** Oh, that's right. And that's a separate case number that
9 says you processed it separate from the --

10 **A** Correct.

11 **Q** -- the murder case number. This is the lost property
12 case number?

13 **A** Mm-hmm.

14 **Q** Okay. And I'm going to show you State's 54. I tell you
15 what: Let me hand them to you because it's starting to get
16 detailed and it's harder for you to see. Take a look at this.

17 **A** It's showing the marker numbers of the areas that I have
18 swabbed.

19 **Q** Okay. Now, when you talk about looking at -- put that
20 back up. When you're talking about processing, what are we
21 talking about? Like a visual inspection, basically?

22 **A** Visual inspection, photography. We look for certain
23 areas, certain damage. I noticed a droplet --

24 **Q** I'll get to that. Let me get you pictures in to support
25 of what you're saying. Okay?

1 **A** Okay. All right.

2 **Q** So do State's 54. All right. Tell us what we're looking
3 at in that photograph.

4 **A** That's showing an overview of the areas that I have
5 located on the pants to swab.

6 **Q** Okay.

7 **A** Which are Items 1, 2, and 3.

8 **Q** Did you, in fact, swab those items?

9 **A** I did.

10 **Q** Okay. State's 55. All right. Tell the jury what we're
11 looking at.

12 **A** That is an area in the crotch area on the front of the
13 gray pants that I labeled as Swab No. 1 or Item 1.

14 **Q** Were you able to characterize kind of basically what you
15 thought that swab looked like?

16 **A** It appeared -- had a droplet appearance and was a
17 reddish-brown stain.

18 **Q** Okay. Let's go to State's 56. What is that that we're
19 looking at?

20 **A** That is down on the -- I believe the right pant leg on
21 the front side another droplet size area, reddish-brown stain.

22 **Q** And then, finally, State's 57.

23 **A** Those are some more droplet-like areas of a reddish-brown
24 stain.

25 **Q** Okay. And then once you swab those items, what did you

1 do with those swabs?

2 A They were packaged and placed into evidence.

3 Q Okay. Let me show you what's been marked as State's 58.
4 See if you recognize those.

5 A Those -- these are swabs labeled P1, P2, and P3, which is
6 just a way for us to say processing for "P". The first one is
7 from the crotch area swab of the red stain. Second one is I
8 want to say thigh area of the right stain, and the other one
9 is knee of the gray pants.

10 Q Okay. So these are the actual swabs that you took off
11 the pants, sealed them up?

12 A Correct.

13 Q While you were in custody and control of these, did you
14 protect the integrity of this item?

15 A Yes.

16 Q Didn't let anybody mess with it?

17 A No, sir.

18 Q Sealed it up with this evidence tape on it?

19 A Yep.

20 Q And, actually, he could hand-deliver it. I mean, you
21 don't. Pete Cestare did; right?

22 A Yes.

23 MR. HIXSON: At this time, we move State's 58 into
24 evidence.

25 THE COURT: Any objection?

1 MR. MCGUIRE: No objection, Judge.

2 THE COURT: State's Exhibit No. 58 admitted into evidence
3 without objection.

4 (State's Exhibit No. 58, Gray Pants Swab, was received
5 into evidence.)

6 BY MR. HIXSON:

7 Q Now, during the course of your investigation, just let's
8 stay with the crime scene part of it right now, did you
9 collect any other items? Like did you swab the gun butt and
10 any other type items in an effort to show the identity of who
11 committed this act?

12 A I did. We processed the firearms on-scene, and a swab
13 was taken from the trigger, grip, slide, and magazine of the
14 Springfield .45, the magazine of the .32 caliber handgun also.

15 Q At that point in time when you're in that scene, do you
16 have any understanding of what weapon fired the projectile
17 that caused the death of these two people?

18 A We don't, and that's why we collect all the ones that are
19 on-scene. I think we asked or one of the detectives may have
20 asked the family if they thought that the firearms were the
21 family's, but I don't recall what the answer was.

22 Q Okay. Very good.

23 Now, subsequent to this, in your role of being involved
24 in Crime Scene, do you also execute search warrants on
25 vehicles if a vehicle becomes involved or somehow related to a

1 crime?

2 **A** I do.

3 **Q** So, several days later -- you probably know the specific
4 date, not off the top of my head -- did you have an
5 opportunity to do a search warrant on a car that was found
6 down in Georgetown County?

7 **A** I did. It was towed to our facility at the Horry County
8 Police Department impound lot to be processed.

9 **Q** Now, based on your beginning the process of doing this,
10 was it your understanding the lawful search warrant was
11 obtained to search the interior of this vehicle for
12 evidentiary value?

13 **A** Yes.

14 **Q** And was it your understanding that this car was
15 attributed to the ownership of Bradford Britton?

16 **A** Well, the tag come back to a female, but I was told that
17 the vehicle was -- may have been driven by the suspect, so
18 that's all.

19 **Q** And the vehicle we're referring to -- let me show you
20 what's been marked as State's 61, the license plate number on
21 that vehicle.

22 **A** QAK-456. It's a silver Volkswagen Jetta.

23 **Q** Let me show you a couple of these items. Take a look at
24 those, and I'll publish these so you can see them in better
25 detail. I'm going to publish State's 61.

1 **A** That is an exterior view of the silver Jetta. QAK-456.

2 **Q** Okay. Do you recall how many days after the crime itself
3 on the 26th this was processed? It was processed on the 31st;
4 is that right?

5 **A** I want to say four or five days after. The 30th.
6 Processed it on July 30th.

7 **Q** Okay. So from -- you can't attribute the whereabouts of
8 this vehicle from the 26th to the 30th?

9 **A** No, sir.

10 **Q** Okay. Just that it was found in Georgetown, I guess.
11 That's for somebody else. Don't worry about it.
12 Okay. State's 62.

13 **A** That is the exterior -- overall exterior driver's side of
14 the vehicle, the silver Jetta.

15 **Q** And State's 63.

16 **A** That is the overall passenger side of the silver Jetta.

17 **Q** Okay. Now, did you make any effort to do anything on the
18 exterior of that vehicle to determine who may have come in
19 contact with that car?

20 **A** I did. I collected -- let's see...

21 **Q** I'll be more precise. Did you try to print the exterior
22 of that car?

23 **A** I fingerprinted -- I was just making sure I didn't --

24 **Q** No, you're fine. You're fine. I'm not trying to be
25 misleading.

1 **A** I know. I did use basic black powder to fingerprint the
2 exterior of the vehicle.

3 **Q** Okay. And do you recall, during the course of you trying
4 to process that vehicle, did you recover any fingerprints that
5 you thought might be of evidentiary value?

6 **A** I did.

7 **Q** Okay. Then did you try to identify those yourself or did
8 you send those prints that you lifted off to somebody else?

9 **A** They were sent to SLED.

10 **Q** Okay. And since you're talking about prints just a
11 little bit, can you talk about, in your training and
12 experience about fingerprints, about lifting prints and about
13 what they're made of, etc.? Just a basic idea for the jury.

14 **A** Well, everybody's fingerprints are unique to them. Even
15 identical twins, they're unique. They don't have the same
16 patterns because they're made in the womb. They were made --
17 when you touch a surface, it depends on the -- if it's a
18 porous surface or non-porous surface and whether or not it's a
19 good surface to actually leave the print. Sometimes -- or a
20 print is made of mostly water and it has a little bit of oils
21 or it may have dirt, if you have dirt on your hands.

22 When you leave the print, sometimes it can be smudged.
23 When I fingerprinted this car -- and we use black powder -- I
24 try to lift every print that I think is valuable, that has
25 value, that has enough ridge detail and valleys in the print.

1 So -- because it is unique, then you can compare it. If
2 it's -- if the quality is there, you can compare it.

3 Q So in this particular case -- and let's talk about where
4 you mentioned about oil and water. Because a fingerprint is
5 made up of oil and water, are there environmental conditions
6 that can affect that?

7 A Well, if your hands are super, super dry or if you work
8 with your hands a lot, if you do masonry, things like that
9 where it will be scuffed up, older people don't have -- they
10 have a lot of wrinkles in their hands, so sometimes you don't
11 get the ridge detail that you want.

12 And it depends on the surfaces. If the surface is wet or
13 if your hands are really wet, sometimes they'll smudge.
14 Sometimes you'll touch it twice and you can't determine
15 between the two touches.

16 On this particular car, there was partial palm prints
17 that we located also.

18 Q What about environmentally if the person's hands is wet
19 or sweating?

20 A Sometimes it's just -- you can see where somebody has
21 touched it but it hasn't left the ridge detail. Other
22 environmental factors are sun, driving, just the car being in
23 the weather, if they had washed the car, or if they tried to
24 smudge off or if they hadn't even touched the car at all,
25 their print is not going to be there.

1 Q And do you have situations where you know someone has
2 touched a surface and has not left a print?

3 A Correct.

4 Q Did you do any efforts to do any evidence for inside the
5 vehicle?

6 A We did.

7 Q And now I'm going to talk about first documentary
8 evidence, to start with.

9 A Okay. We did.

10 Q Did you recover any documents probative of Bradford
11 Britton inside that vehicle?

12 A In a black bookbag in the vehicle, there was a pay stub
13 that I believe had his name on it.

14 Q And I'm showing the witness what's already in evidence as
15 64.

16 A Yeah, that was from silver Jetta. It appeared to be,
17 like, a little personal bag. It had toiletries and other
18 things in it, in the bag, along with the pay stub.

19 Q So there was something in the bag in the Jetta that had
20 personal items, toiletries?

21 A Mm-hmm.

22 Q And had Bradford Britton's pay stubs in it?

23 A Correct.

24 Q State's 64, if we can publish that. That's impossible to
25 read unless you....

1 Well, is this the area of the pay stub the jury can look
2 at and see if it's Bradford Britton; is that right?

3 A Correct.

4 Q All right. So when you processed the car, did you have,
5 you know, driver/possessor information on who likely was the
6 driver of the car at the time, that being Mr. Britton?

7 A The detectives told me that that's who they believe was
8 driving the car at the time of the incident, yes.

9 Q Okay. Now, at that time, do you know at that time was
10 Mr. Britton under arrest? Had given any statements? Do you
11 know that yet?

12 A I do not.

13 Q Now, did you do an effort to swab with DNA swabs in the
14 interior of this vehicle?

15 A I did. I believe it was -- I swabbed the interior door
16 handles of the interior driver, driver rear, passenger rear,
17 passenger front door handles on the interior, the steering
18 wheel, and also the gear shift.

19 Q Okay. Do you have any idea, at the time that you
20 processed this vehicle, how many people had been in the
21 passenger seat of that vehicle?

22 A No, I did not.

23 Q Or the passenger side of it?

24 A I did not.

25 Q And why would you want to swab the driver's side, the

1 steering wheel, and the gear shift of a car?

2 **A** Just to show who may have been driving the vehicle.

3 **Q** Okay. And as it relates to the probative value of the
4 DNA swab on the passenger side of the vehicle that's used to
5 give people rides, is that particularly probative?

6 **A** That may give me an idea of who has been riding with
7 them.

8 **Q** Okay. Very good. And did you, in fact, do that?

9 **A** I did.

10 **Q** And did you submit those items to State Law Enforcement
11 Division for testing?

12 **A** I did.

13 **Q** Okay. Very good. Very good. Okay.

14 Now, as it relates to your fingerprint testing, did you
15 receive, at some point, a report back from State Law
16 Enforcement Division about their effort to try to look at
17 fingerprinting to see if there was anything in that car of
18 value? On the outside. Excuse me. On the outside of the
19 car.

20 **A** On the outside of the car? I did. But do you have a
21 copy of it?

22 **Q** Well, I'll just talk to it generally speaking, and then
23 we'll go from there.

24 **A** Okay. All right.

25 **Q** Were you able to develop anything of evidentiary value of

1 Derrick Rivera's fingerprints on the outside of that car?

2 **A** Derrick Rivera's?

3 **Q** Yes.

4 **A** No.

5 **Q** Were you able to develop anything of unknown -- or
6 individuals on the outside of that car?

7 **A** Yes.

8 **Q** Were you able to develop anything of Bradford Britton's
9 fingerprints on the outside of that car?

10 **A** Yes.

11 **Q** Bear with me. Let me see if I'm remembering everything.
12 Yeah, just briefly. Were you aware of whether or not --
13 did you receive fingernail clippings from the forensic
14 pathologist that performed the autopsies on Stephen Johnson,
15 Sr., and Stephen Johnson, Sr.?

16 **A** I did not collect them or transport them, but a detective
17 had gone to the autopsy and did collect those. And they were
18 -- I believe they were sent to SLED.

19 **Q** Okay. Very good.

20 MR. HIXSON: I have no further questions for this witness
21 at this time.

22 THE COURT: All right. Cross-examination.

23 MR. MCGUIRE: Thank you, Judge.

24 CROSS-EXAMINATION

25 BY MR. MCGUIRE:

1 Q It's Investigator Phillips?

2 A I say investigator, yes.

3 Q I didn't want to call you by the wrong --

4 A Detective, investigator, that's fine.

5 Q What do you want to call me?

6 A Investigator. I like that better.

7 Q Okay. Investigator it is.

8 I'm going to start with the car, since that's where you
9 guys kind of left off.

10 A Yes, sir.

11 Q There's no DNA evidence to suggest Derrick Rivera was
12 ever in that car?

13 A I do not have the SLED report.

14 Q Results?

15 A I do not. I can't testify to that.

16 Q You swabbed it but you --

17 A I did swab it, yes.

18 Q And you haven't reviewed the results.

19 A I have not, no.

20 Q Okay. The entire exterior of the car was printed?

21 A Correct.

22 Q And there's no fingerprint evidence to suggest Derrick
23 Rivera was ever near this car?

24 A I did not retrieve -- or I did not collect or develop a
25 print of Derrick Rivera on the car.

1 Q Okay. But you did develop and lift prints that could be
2 examined?

3 A Examined? Is that what you said?

4 Q Yeah. I mean, they're not smudges.

5 A Correct.

6 Q They're good prints?

7 A Good quality. Yes.

8 Q Good quality prints that can be compared to known prints?

9 A Correct.

10 Q And when I say "known prints," we're talking about when
11 you have a suspect or person of interest, you roll their
12 prints and you have a fingerprint card?

13 A Correct.

14 Q Okay. And then the prints that are unknown that come
15 from the car or something like this car are compared to the
16 known prints?

17 A Yes.

18 Q Okay. You had Derrick Rivera's prints?

19 A Yes.

20 Q Known prints?

21 A Correct.

22 Q On a fingerprint card?

23 A Correct. Went to SLED.

24 Q And they were compared to, I believe -- well, all the
25 prints of value, he was compared to them?

1 **A** Correct.

2 **Q** And he was excluded from all of them?

3 **A** Correct.

4 **Q** Meaning --

5 MR. HIXSON: I'd just object to the exclusion.

6 "Exclusion" is a term of art meaning he's not -- versus lack
7 of information that you can't tell one way or another.

8 MR. MCGUIRE: I'll clear it up.

9 THE COURT: All right.

10 BY MR. MCGUIRE:

11 **Q** So sometimes a print is a smudge?

12 **A** Sometimes it is.

13 **Q** And sometimes it's a partial print?

14 **A** Correct.

15 **Q** And sometimes the information you have on the print is
16 just so small or of poor quality they're not good for
17 comparison?

18 **A** There's not enough ridge detail, correct, or
19 characteristics.

20 **Q** Of all the prints that had value, prints that were good
21 enough to compare, those prints did not match Derrick Rivera?

22 **A** Correct.

23 **Q** In fact, there were two prints that were of good
24 comparison quality. You still don't know who they belong to?

25 **A** Correct.

1 Q Because people like Bradford Britton would be excluded,
2 other people, and those just are unknown. We don't know who
3 they belong to.

4 A Not at this time, no.

5 Q Okay. And those two prints that I'm talking about that
6 were of comparison quality that are not his, those were on the
7 passenger side of the Jetta?

8 A Do you have them by item number?

9 Q I don't. I mean, I can find them for you.

10 A If you give me a minute.

11 Q Sure.

12 A Because I didn't -- this is not my report.

13 Q Right. I understand.

14 But I think one is identified as the post between
15 passenger and rear passenger door on the side. And then
16 there's a partial palm.

17 A Can you tell me, front passenger door frame?

18 Q Yeah, I'll find it for you.

19 A Front -- sorry.

20 Q That's okay. I understand that's not your report.

21 A It's not my report.

22 Q So --

23 A And they have different item numbers than my numbers.

24 Q I understand.

25 A So I want to make sure I'm talking about the right one.

1 Q Sure. Take all the time you need, and I'll try to help
2 you find it.

3 A Is it the first latent?

4 Q Hold on.

5 A Partial palm?

6 Q Yeah, partial palm. That's one.

7 A From -- this is their Item 29, front passenger door
8 frame, partial palm.

9 Q Right. That's one of them.

10 A That was not identified?

11 Q Correct. Not identified as belonging to Mr. Rivera.

12 A And it was inconclusive based on a quality of Bradford
13 Britton? There's...

14 Q Okay. So their Item No. 29 on the first page --

15 A So we're talking about the same thing. Okay.

16 Q Right. That was the latent lift marked front passenger
17 door frame; correct?

18 A Yes, sir.

19 Q And they call it 29.1, which is the lift; right?

20 A That's what they call it, yes.

21 Q Okay. And that was not identified with Derrick Rivera?

22 A Correct. And inconclusive based on the quality for
23 Bradford Britton.

24 Q Right. So it could be Bradford Britton's. It could be
25 somebody else, that particular print?

1 **A** That particular print, correct.

2 **Q** And then their Item No. 32, that was a partial palm
3 print; right?

4 **A** It is a mark or a latent lift marked between front
5 passenger and rear passenger post, latent impression
6 represented on Item 32. Partial palm print not identified as
7 Derrick Rivera, not identified as Bradford Britton.

8 **Q** Okay. So that one is completely unknown. We don't know
9 who that print belongs to?

10 **A** We do not.

11 **Q** Okay. And it was of good enough quality to put into
12 AFIS; right?

13 **A** Yes.

14 **Q** And AFIS is Automated Fingerprint Identification?

15 **A** Yes.

16 **Q** And that's a device that sort of follows the ridges along
17 with a laser and searches a database of --

18 **A** I have general knowledge of the database.

19 **Q** Okay. That's fine. That's fine.

20 So the short of it is, of all the prints that were of
21 good comparison quality, there's one which is completely
22 unknown, we don't know who it might be?

23 **A** Correct.

24 **Q** And one could be Bradford Britton or it could be an
25 unknown person?

1 **A** Correct.

2 **Q** But none of them are his, Derrick Rivera's.

3 **A** None of the latent prints have been compared and
4 identified as Mr. Rivera.

5 **Q** Now, the interior of the car was swabbed for DNA?

6 **A** Yes.

7 **Q** I'm talking about the Jetta that is the suspect vehicle.

8 **A** Yes.

9 **Q** Okay. And there's no DNA evidence to suggest that
10 Derrick was ever in the car?

11 **A** Not that I'm aware of, no. I did not review the report.

12 **Q** That's right.

13 And you said that you swabbed the steering wheel and the
14 gear shift because you wanted to know who might be driving the
15 car.

16 **A** Possibly.

17 **Q** Okay. If you would bear with me one second.

18 Okay. So you said you swabbed the steering wheel and the
19 gear shift of the car because it might show who was driving
20 the car.

21 **A** I did.

22 **Q** If I said I want to know who was robbing the bingo hall,
23 would you swab that wooden box the robber is touching?

24 **A** I may have. It doesn't appear that he picked up the box,
25 and money in itself is -- a lot of people touch money. So at

1 the time, the string bag was more important to me because I
2 know that that's what the suspect had touched.

3 Q Are you telling this jury that you made a conscious
4 decision, despite seeing that photograph of the robber going
5 through that wooden box, to not swab it for DNA evidence, that
6 you deliberately chose not to?

7 A I did choose not to swab that box.

8 Q I mean, look, we're all busy, we're all overworked. That
9 was late at night. It could have just gotten by you. Is that
10 possible? Maybe this was an accident; you didn't swab it.
11 Maybe you wanted to in retrospect or in hindsight, it was a
12 good idea, but you didn't. I mean, was it a mistake or you
13 chose not to?

14 A I chose not to, sir, due to the fact that I don't know
15 who else had touched that bag [verbatim], but I thought that
16 the most important DNA or swab would have been from that bag
17 and the hat that we had seen the suspect on video actually
18 grabbing. You can grab money out of that box, but I can't see
19 if his hand contact with that box.

20 Q Okay. But it could have.

21 A It could have, mm-hmm.

22 Q I mean, this is a robbery that's taking place in seconds.
23 Somebody is frantically stuffing money in a bag, in their
24 pants pocket. There's a good likelihood the robber's DNA is
25 on that box?

1 **A** It may have.

2 **Q** And you chose just not to do that?

3 **A** I chose not to take that box and/or swab it.

4 **Q** I want to put up what's been marked as State's 9. Did
5 you have access to this video when Cestare was working on it
6 in the office?

7 **A** I'm not sure if I did or not. I know I viewed the video
8 of him coming in.

9 **Q** Well, this happens, like, right after that, seconds.

10 **A** But they were different views. So I don't know if I was
11 tasked out to do something else. I don't recall seeing this
12 video.

13 **Q** But you had access to it?

14 **A** I -- well, I don't know if -- the only video that I know
15 that was working at the time was what Lieutenant Cestare had
16 got working. I don't remember seeing this one on-scene, but I
17 could have, but I don't recall right now.

18 **Q** Okay. Again, you swab the car's steering wheel and the
19 gear shift because you want to know who is driving the car,
20 and want to know who is robbing the bingo hall. And you have
21 the robber again manipulating objects on this countertop that
22 we've discovered is a basket. Did you take the basket into
23 evidence?

24 **A** I did not. I did not know about a basket. And I cannot
25 clearly see what he is touching. It's kind of blurry.

1 Q I agree. It's blurry. I can't see it either. But if I
2 was an officer on the scene and I had Ms. Holyfield with me,
3 and she can say, "Well, I can tell you what's there," then she
4 could have done that. You could have asked her questions
5 about it, and you could have taken it into evidence. It's
6 only this big. You could have taken that to the police
7 department, bagged it up, and sent it to SLED; right?

8 A I may have, yeah.

9 Q Or you could have?

10 A Or I could have, yeah. But, at the time, I did not,
11 though.

12 Q I understand that. And the box, that was not swabbed or
13 taken into evidence or sent to SLED?

14 A No, sir.

15 Q What were the other items in the black bag?

16 A There were quite a few items in the string bag.

17 Q A screwdriver?

18 A Yeah.

19 Q Some gloves?

20 A A hat.

21 Q It came with a hat?

22 A Some gloves.

23 Q Red Canyon work gloves?

24 A Or Canyon Outfitters work gloves, yes.

25 Q Mm-hmm. Were any of those items swabbed?

1 **A** They were not.

2 **Q** Gloves, that would be a good source of DNA?

3 **A** Yes, sir. He did not have gloves on.

4 **Q** Sure. Somebody else could have touched his bookbag or
5 somebody could have stolen Derrick's bookbag or borrowed it,
6 and they could have been keeping their own junk inside it.
7 But we don't know whose junk's inside the bookbag. We don't
8 know who that is; right?

9 **A** I don't know whose bookbag that is.

10 **Q** And the items inside it, you could have swabbed it for
11 DNA; right?

12 **A** I could have yes, sir.

13 **Q** Could have sent it to SLED?

14 **A** I could have, yes.

15 **Q** And it could have come back to somebody else, not Derrick
16 Rivera; right? We don't know.

17 **A** Could have.

18 **Q** So, with regard to fingernail clippings, you agree with
19 me there's evidence that there was a struggle in the office;
20 right?

21 **A** There's definitely evidence to support that there was
22 some sort of struggle in the office, yes, sir.

23 **Q** And witnesses on the scene said there was a struggle;
24 right?

25 **A** Yes, sir.

1 Q Heard it? Saw them on the floor; right?

2 A Yes, sir.

3 Q You're not going to say someone just knocked over
4 furniture in there; right?

5 A No, sir.

6 Q Okay. And when there's a struggle, sometimes the person
7 who ends up being a victim in a crime, the victim of an
8 assault or murder, if they lash out at their attacker or
9 scrape them or remove something from their face or their
10 clothing, you can get DNA evidence under the victim's
11 fingernails?

12 A There can be a chance that there is.

13 Q Okay. You didn't make a conscious effort not to test
14 fingernail clippings for DNA?

15 A They were sent to SLED.

16 Q They were sent to SLED; right?

17 A I believe so, yeah.

18 Q I agree with you. They were. Do you know what happened
19 to them?

20 A I don't know. I guess they were -- they sent them back,
21 I believe. I don't know. I request items to go to SLED.
22 Whether or not they test them -- I just request it and send
23 it.

24 Q Okay. I agree with you. They were sent to SLED. And
25 they were sent back and they were not tested. Were they sent

1 back to you?

2 A To the Evidence Division.

3 Q Would that be you?

4 A No.

5 Q I'm trying to figure out whose job it is to do some
6 things here. Let's go back to the shoe. We're going to come
7 back to the fingernails but let's go back to the shoe for
8 right now.

9 A Which shoe?

10 Q The 9-and-a-half shoe you found in the office.

11 A Okay.

12 Q 9-and-a-half gray Nike. We can agree that was find
13 there; right?

14 A Yes.

15 Q And that was swabbed?

16 A At SLED.

17 Q Then they were sent to SLED; right?

18 A Correct.

19 Q And are you aware that Derrick Rivera was wearing
20 11-and-a-half shoes when he was arrested?

21 A No, sir. I was no part of that.

22 Q See that, again, I'm trying to figure out whose job it is
23 to follow up on that. It's not yours?

24 A It is not, no.

25 Q Okay. We need to know whose job that is. If there's a

1 shoe left at a crime scene, a murder scene, and it's a
2 9-and-a-half shoe and they arrest somebody and they're wearing
3 11-and-a-half shoes, we need to know whose job it is to follow
4 up on that. Whose job is it?

5 **A** I would talk to the sergeant or the Criminal
6 Investigation Division that was assigned to the case.

7 **Q** Okay. Can you give us a name?

8 **A** The sergeant or the case agent? The case agent is Drew
9 Edwards.

10 **Q** Is that who's in charge and should have followed up with
11 that?

12 **A** I can't say. I don't know.

13 **Q** Who would know?

14 **A** His supervisor maybe.

15 **Q** Who is that?

16 **A** At the time, Greg Lent. I don't know.

17 **Q** Is he going to testify in this case; do you know?

18 **A** I'm not -- I don't know.

19 **Q** All right. Let's go back -- I'll ask him about the shoe
20 if I can, if he's here.

21 Let's go back to the fingernail clippings. Okay? At the
22 scene, did you bag them?

23 **A** I did not, no.

24 **Q** When I say "bag them," I'm talking shorthand because you
25 know what I'm talking about.

1 **A** I know what you're talking about, yes.

2 **Q** We're talking about putting a bag on a hand, taping it
3 up, so it preserves any evidence on the hand; right?

4 **A** Correct.

5 **Q** Okay. You didn't bag them; right?

6 **A** I did not.

7 **Q** Okay. But you're aware that it's commonplace, when
8 there's an autopsy done in a violent crime like a murder, the
9 pathologist or his staff will bag the hands?

10 **A** That, I don't know. I can't speak for them.

11 **Q** Okay. So, based on your training and experience, you
12 don't know whether that's a practice they do or do not?

13 **A** I don't know if they do, but I know that they will
14 collect the nail clippings at autopsy.

15 **Q** Okay. I think we're on the same page now.

16 **A** Okay.

17 **Q** I think what you're saying is it's normal procedure for
18 the pathologist conducting an autopsy to collect any debris or
19 evidence underneath fingernails?

20 **A** Correct.

21 **Q** Okay. We are talking about the same thing. We're on the
22 same page.

23 **A** Okay.

24 **Q** That was sent to SLED; right?

25 **A** Yes, I requested for it to go to SLED.

1 Q And it was sent back to you; is that right?

2 A It was not sent back to me, no.

3 Q So back to the Evidence --

4 A -- Division.

5 Q Okay.

6 A Custodian.

7 Q Okay. Is there any procedure or protocol where when SLED
8 sends some important evidence back to the Evidence Department
9 that there's somebody who looks at that, reviews it, and says,
10 "Wait a minute, this is important. This should be tested.
11 This should go back to SLED"? Is there anybody that does that
12 job?

13 A I know that a report is sent back when something is sent
14 back and it is sent through the Evidence Division or the --
15 the custodian of the Evidence Division.

16 Q Okay. Because, I mean, you would agree with me that it's
17 a significant problem that we have this important fingernail
18 clipping evidence that was collected, sent to SLED --

19 MR. HIXSON: Your Honor, I'll object to the
20 characterization. We don't know if it's important or not.
21 There's no testimony --

22 THE COURT: All right.

23 MR. MCGUIRE: Potentially important.

24 THE COURT: Go ahead.

25 A I would --

1 BY MR. MCGUIRE:

2 Q Let me finish.

3 A Okay.

4 Q You'd agree with me that it's a significant problem that
5 we have potentially very important evidence, fingernail
6 clippings, that somebody collected, sent it to SLED, SLED
7 sends it back, and then it just kind of goes under the radar
8 and gets forgotten about. That's what I'm seeing here.

9 Can you tell me, is there a procedure to prevent that, or
10 is it someone's job to prevent that?

11 A I know that, when I request something to go to SLED, that
12 is my request to go to SLED. If it comes back, that is not my
13 position to request it again. I have already requested it
14 once and it came back.

15 Q So we have what happens --

16 A For whatever reason.

17 Q Okay. So we have what happens in this case. The
18 potentially significant evidence is sent off to SLED, returned
19 to the Evidence Department, and no one is notified. And it's
20 untested to this day; right?

21 A It is untested to this day.

22 Q Do you find that troublesome? Obviously, I do. Do you
23 find it troublesome?

24 A I am not the one -- once I request it, that is my
25 particular job to request it. I have no control over whether

1 or not it comes back or not untested or tested.

2 Q So we don't know whose job it is to follow up on the --
3 let me ask you this: So when Mr. Rivera was arrested, he was
4 wearing pants, they were a bit dirty, and they had some stains
5 on them that could have been blood; right?

6 A Could have been, yes.

7 Q So somebody was aware of him being arrested and having
8 property on him that was important, that property being his
9 own pants with possible blood on them; right? Somebody was
10 aware of that?

11 A I mean, the pants that he was arrested in?

12 Q Yes.

13 A I did not collect those.

14 Q You didn't collect them?

15 A I thought you were talking about the pants for the...

16 Q Okay. So are those pants that they took from him when he
17 was arrested? Are you aware of them at all?

18 A I am aware of them. I took photos of them and packaged
19 them.

20 Q So they came to you?

21 A I believe so, but I was not the one who collected them.

22 Q Okay. And you swabbed them?

23 A My Item P-41?

24 Q I think that's it. I can look it up.

25 A 8/2 of 2019.

1 Q That sounds right.

2 A Swab from red substance, right pocket? That one?

3 Q Those are the other pants. There are multiple pants in
4 this case, obviously. I'm talking about the pants he was
5 wearing when he was arrested. And my question to you -- and
6 you might not know this. Maybe nobody alerted you to this at
7 all, but based on your recollection and your reports, did
8 anybody alert any officer working this case that Mr. Rivera
9 had some pants that had some stains on them that could be
10 blood? Are you aware of that at all?

11 A I don't recall, no.

12 Q And you don't recall those pants being tested and the
13 blood was his own blood, his pants were his pants? You're not
14 aware of that at all?

15 A I don't know what pants you're talking about.

16 Q Okay. The pants he was wearing when he was arrested.
17 You don't know about that?

18 A Not that I'm aware of.

19 Q Okay. See, I was under the impression that all the
20 physical evidence in this case was sort of under your control
21 and supervision; is that not right?

22 A Once it is turned in and processed, it is no longer in my
23 possession, and it goes to the Evidence Division.

24 Q Okay. The guns were swabbed for DNA; right?

25 A Yes.

1 Q Both guns found at the scene; right?

2 A Yes.

3 Q And I understand that, when you got there, you don't know
4 whose gun is whose gun. You swab them all as sort of
5 precautionary?

6 A Not precautionary, but we do that as part of the process,
7 yes. Not precautionary. We just do that as part of the
8 process that we swab the gun so that we will have that
9 evidence.

10 Q Okay. Maybe I misheard, but I heard you testify earlier
11 that you swabbed the guns because they could have been the
12 suspect's gun.

13 A If -- that and so that we know, if they do say that they
14 are the victim's guns, if they had the victim's DNA on it that
15 corroborates that that is the victim's gun.

16 Q Maybe "precautionary" was the wrong word. When I mean
17 was, you swabbed them because you don't know the role of the
18 gun.

19 A Correct.

20 Q It could be the suspect's gun?

21 A Correct.

22 Q It could be the victim's gun?

23 A Correct.

24 Q And you swab it because you don't know?

25 A I do not know.

1 Q So, to be cautious, you swab them and preserve that
2 evidence because you don't know how it's going to be relevant
3 later.

4 A Correct.

5 Q And, in this case, we know that there was a struggle in
6 the office and could have been a struggle where the gun was
7 grabbed by the robber?

8 A I don't know. It could be.

9 Q Right. It could be. I mean, a life-and-death struggle.
10 Apparently, the robber is armed and the victim's armed. It's
11 a little struggle for life and death, and the struggle could
12 have centered around the gun?

13 A It may.

14 Q And that swab on the gun that could have been grabbed by
15 the robber has still not been tested?

16 A I requested for it to be tested.

17 Q I understand that, but they sent it back, and nobody sent
18 it back to SLED; right?

19 A It has not been tested, and I don't know if it has been
20 sent back to SLED or not.

21 Q And you would agree with me that's potentially
22 significant evidence that should be tested?

23 A It possibly could be.

24 Q And should be tested? You don't have an opinion on that?

25 A It may -- you may find some evidence on it that may

1 potentially --

2 Q -- exonerate Derrick Rivera; right? That's possible;
3 right?

4 A It could be anybody's DNA on there.

5 Q And we don't know because it wasn't tested; right?

6 A Mm-hmm.

7 Q That's all I have.

8 THE COURT: Redirect.

9 MR. HIXSON: Yes, sir thank you.

10 REDIRECT EXAMINATION

11 BY MR. HIXSON:

12 Q Let's go back to your role a little bit so we can tighten
13 the issues back up a little bit. Is it safe to say that your
14 role as a crime scene investigator is to find evidence of
15 guilt?

16 A No.

17 Q Let me back up. Find evidence that may be helpful to
18 determine the issues in this case?

19 A Yes.

20 Q And it varies depending upon what case you have. And so
21 is it also your role to limit the amount of extraneous or
22 irrelevant information that's taken in?

23 A Correct.

24 Q And as an example of that, let's talk about, like, the
25 push handle of the exterior door of a convenience store if a

1 convenience store is robbed. What's the probative value of
2 the likelihood of innocent people getting swept up in the
3 investigation if you swab something like that?

4 **A** There could be multiple innocent people's DNA on that
5 door.

6 **Q** How about if you swab money in a crowded bingo parlor of
7 money that's exchanged hands, the likelihood of getting DNA
8 profiles of innocent people swept up in this investigation?

9 **A** Same scenario. You could get multiple people not
10 associated to any part of the incident on the money.

11 **MR. McGUIRE:** Judge, I'm going to object and take
12 exception to that. I didn't, in my questioning, indicate that
13 the money should be tested, just the wood box that the robber
14 touched.

15 **THE COURT:** Sustained.

16 **MR. HIXSON:** Very good.

17 **BY MR. HIXSON:**

18 **Q** And, by extension, the money that's in this wood box that
19 is being changed hands, when you're determining whether you
20 should swab it or not, is that a higher probative value over
21 the string on the bag or a lower probative value?

22 **A** It's lower because it is still touching the inside of the
23 box also, so there is transfer, just like the door handle.

24 **Q** Okay. How about as it relates to -- do you have any idea
25 at this point in time, with your car parked in the parking lot

1 of the courthouse, I assume, if anybody is touching the
2 exterior of your car right now?

3 **A** I have no idea.

4 **Q** Do you have any idea if any anybody is touching the
5 exterior of any of the jurors' cars or anybody in here on the
6 exterior of the vehicle?

7 **A** I do not.

8 MR. MCGUIRE: Objection. Speculation.

9 THE COURT: Overruled. I'll allow that.

10 BY MR. HIXSON:

11 **Q** And then, if that vehicle is sitting outside for five
12 days, do you have any idea how many people could touch that
13 vehicle that are not involved in this?

14 **A** It could be five people. It could be a hundred people.
15 It depends on where it's parked.

16 **Q** So is it safe to say that your job is to take a look at a
17 situation and use your best judgment to determine what pieces
18 you think -- what answer to the question that's being posed to
19 you?

20 **A** Correct.

21 **Q** And you just do the best you can?

22 **A** We try to tell a story with the evidence that we collect.

23 **Q** Now, is there a problem if you -- I think it's just
24 reiteration -- if you overcollect and speculate?

25 **A** There -- you might end up getting evidence that has

1 nothing to do with the incident.

2 Q Okay. So, in this situation, if you submit a backpack, a
3 hat, a shoe, pants, you submit swabs, you get results, you get
4 results, are there some point in time, under your training and
5 experience, that you stop submitting these once you're getting
6 results off those?

7 A You can. We try to choose the best collections and
8 evidence that will hopefully tell the story. We try to choose
9 what or request what we want to send first because we only
10 have so many items we can send to SLED, so it's not
11 overwhelming them in the whole case.

12 Q So State Law Enforcement Division actually asks you, Give
13 us our best ones first because we're overworked?

14 A Essentially, yeah. Essentially. In a violent crime, we
15 usually sent just ten to start.

16 Q And I didn't mean that as a pejorative. I meant
17 overwhelmed, a lot of work.

18 A Yeah.

19 Q There were several discussions also about shoe size. Do
20 you have any idea what shoe size Derrick Rivera has?

21 A Only from listening to --

22 Q -- the testimony?

23 A Yeah. I don't know what size he wears.

24 Q Do you know if he wears a 11 and a half?

25 A I do not. I never measured his foot.

1 Q Do you know if he wears a 9.5?

2 A I don't know.

3 Q In your training and experience, when you're collecting
4 items in a crime scene, is it a relatively normal thing for an
5 individual to wear items to disguise their identity?

6 A They can, just so that -- they don't want to pair a red
7 shoes or a real bright jacket if they're trying to commit a
8 crime and get away.

9 Q Let me ask you this: Do you know whether Derrick Rivera
10 likes to wear tight shoes or loose shoes?

11 A I have no idea.

12 Q Do you know if the shoes that he was arrested in were
13 borrowed or his shoes?

14 A I have no idea.

15 Q Do you know if the shoes collected at the scene were
16 borrowed from somebody else?

17 A I have no idea.

18 Q We have a lot of discussion about a fingerprint report.
19 I don't want to confuse issues for the jury, so I'm going to
20 mark this and admit this into evidence.

21 MR. McGUIRE: No objection.

22 BY MR. HIXSON:

23 Q Let's talked a lot -- State's 22. So let's make sure.
24 Okay?

25 A Yes, sir.

1 Q Now, let's just talk about the items we really hit hard
2 on. What does it mean when it says it's insufficient
3 information --

4 THE COURT: I'm sorry; how was this identified?

5 MR. HIXSON: I apologize. State's 22 without objection.
6 I apologize. I move that into evidence.

7 THE COURT: All right. Any objection?

8 MR. MCGUIRE: No objection.

9 THE COURT: All right. State's Exhibit 22 admitted into
10 evidence without objection.

11 (State's Exhibit No. 22, SLED Report, was marked for
12 identification and received into evidence.)

13 BY MR. MCGUIRE:

14 Q And just some of the terminology you would have used, it
15 was getting confusing, I think, and the report should help
16 clarify that.

17 So when you lift a print, you can see -- is it safe to
18 say you can see a print there, and sometimes it's not of
19 quality to be able to read more into it and figure out where
20 it came from?

21 A You'll see partial ridge detail or maybe just a little
22 bit of a print. Some of it might be there, but the other
23 part -- the characteristics of the print will not be there.
24 So, for that reason, you cannot identify that print to be
25 compared to something or compared to be identified.

1 Q So is it safe to say you gave it a go but couldn't find
2 enough quality to make a comparison?

3 A I did not.

4 Q Right, right.

5 A The report states that it was inconclusive based on the
6 quality, which means there wasn't enough characteristics there
7 for them to compare and identify.

8 Q And certainly some of the fingerprints or the print
9 partials that you recovered from the exterior of the car were
10 suitable for identification?

11 A Correct.

12 Q But you don't know they weren't the defendant's, Derrick
13 Rivera's, and they were unknown individuals that were
14 recovered?

15 A Correct. They were not identified.

16 Q And, of course, some of them in the report were Bradford
17 Britton's also?

18 A Correct.

19 Q I just wanted to clarify that.

20 Show that to you.

21 Q Okay. So just to sum up, I think it was your previous
22 testimony that this occurred on, what? July 26 of 2019?

23 A Correct, in the evening.

24 Q And you didn't process the car until July 31st?

25 A I want to say July 30th.

1 Q Excuse me. I apologize. July 30th?

2 A I think it's July 30th. July 30th.

3 Q Okay. And during that period of time, you don't know
4 anything about the whereabouts of the car, per se?

5 A I have no idea where the car was.

6 Q Okay. But let's take you back. You were present in the
7 bingo parlor when that black bag -- you recovered that black
8 bag?

9 A Correct.

10 Q And you saw on video, within hours of the individual
11 touching the strings of that bag, you collected that bag and
12 swapped that bag with the strings; isn't that right?

13 A Correct.

14 MR. HIXSON: I have no further questions.

15 MR. MCGUIRE: Judge, can I ask one question?

16 THE COURT: No.

17 MR. MCGUIRE: Thank you.

18 THE COURT: You may step down.

19 Ladies and gentlemen, we're going to go ahead and take an
20 afternoon break. We'll take about a 10- or 15-minute break to
21 give you an opportunity to stretch your legs, get something to
22 drink.

23 Leave your notepads in the jury box. Do not discuss the
24 case, even among yourselves. And we'll bring you back out in
25 about 10 or 15 minutes. Thank you very much.

1 (The jury exited the courtroom at 4:11 p.m.)

2 THE COURT: Ballpark figure as to how long your next
3 witness will be?

4 MR. HIXSON: Angelina Phillips from State -- or excuse
5 me, MUSC. I told her I'd get her done today, so I want to
6 make sure that she doesn't have to come back tomorrow since
7 she drove.

8 THE COURT: And how long is that going to be? I'm not
9 going to keep this jury very long past 5:00. I told you we'd
10 have to give them enough --

11 MR. HIXSON: No, it will be -- I don't think she would be
12 a half an hour. It's pretty straightforward. I'll put her up
13 next, and then it will be -- she's not -- may I approach, Your
14 Honor?

15 THE COURT: Yeah, come on.

16 BENCH CONFERENCE

17 (The following bench conference was held outside of the
18 hearing of the jury and others:)

19 MR. HIXSON: It isn't real tough. They got shot in the
20 back and shot in the chest. It isn't really difficult
21 testimony, so it will be short, but I didn't want to make
22 small-talk out of the death of these people, but it ain't a
23 challenging forensic testimony.

24 MR. McGUIRE: Right. I don't challenge any of it. I'm
25 not saying a murder didn't happen, so I don't have any

1 questions.

2 THE COURT: Okay. All right. So if we take about a
3 ten-minute break, we can come back and still get that in
4 today?

5 MR. HIXSON: Yeah, yeah. That's good. And we'll be
6 rolling.

7 THE COURT: Anything after that or will that do it for
8 the day?

9 MR. HIXSON: No, I mean --

10 MR. McGUIRE: Well, your next ones are long; right?

11 MR. HIXSON: Longer. They got video. They got to show
12 the damn pictures and all that stuff, and it takes a while
13 moving back and forth through the courtroom, so it's probably
14 a good time to start. Everybody else is local. I want to get
15 her out of here because she was from MUSC.

16 THE COURT: All right. Now, do I need to tell the jury
17 we might go long tomorrow?

18 MR. HIXSON: No. We're --

19 MR. McGUIRE: I think you're on pace. We're going to be
20 done.

21 MR. HIXSON: I want to be done by tomorrow, by noon, but
22 I ain't going to make it. I talk too long.

23 THE COURT: Well, I don't want to rush anybody, but by
24 the same token, I feel obligated to let the jury know if we're
25 going to be going a little bit late.

1 MR. HIXSON: We'll be done tomorrow night.

2 MR. MCGUIRE: Yeah. I mean, I have only got one witness,
3 who is really pretty darn short.

4 THE COURT: Okay.

5 MR. HIXSON: Yeah, I would -- you know, I think there's a
6 good chance -- it's safe to say we can be --

7 MR. MCGUIRE: We could be done Wednesday afternoon.

8 MR. HIXSON: And then argue and charge Thursday.

9 MR. MCGUIRE: Oh, yeah.

10 MR. HIXSON: That's what I mean.

11 MR. MCGUIRE: Yeah, yeah, yeah.

12 THE COURT: Okay.

13 MR. HIXSON: And I may have -- that's kind of nice if we
14 can get to it like that. Come in in the morning and be done
15 with it.

16 THE COURT: All right. That sounds good.

17 (Open court resumes:)

18 THE COURT: All right. Anything from the State before we
19 take a recess?

20 MR. HIXSON: No, sir.

21 MR. MCGUIRE: No, sir, nothing from the defense.

22 THE COURT: All right. Let's take about a 15-minute
23 break.

24 (A brief recess was taken from 4:14 p.m. to 4:25 p.m.)

25 (Court's Exhibit No. 6, Shoe Size Article, was marked for

1 identification and received into evidence for appellate review
2 only.)

3 (State's Exhibit No. 45, Shoe Size Table, was marked for
4 identification.)

5 BENCH CONFERENCE

6 (The following bench conference was held outside of the
7 hearing of the jury and others:)

8 MR. HIXSON: Just about scheduling. So I'm going to --
9 if it's okay, I'm going to do as fast as I can. We got that
10 Marcus Stitzer --

11 THE COURT: I don't want you to rush because it's not
12 like we have got to quit right at 5:00, but I don't want to be
13 keeping them here until 6:00, 6:30, or 7:00 or anything like
14 that.

15 MR. HIXSON: Oh, we're not. 100 percent. What I'm
16 bringing up is Marcus Stitzer is from Rock Hill. He's the guy
17 that just sees the car drive through the neighborhood. So I
18 was going to put Angela up, and if we got enough time to put
19 Marcus up and then call it a day. That way, we don't have to
20 pay for him to spend the night here until tomorrow morning.

21 THE COURT: Well, how long do you think he's going to be?

22 MR. McGUIRE: He sees the car drive in. There's no
23 pictures, nothing like that. I don't think it's going to be
24 ten minutes.

25 MR. McGUIRE: Right. And he's a witness where I embrace

1 what he is saying, so I'm not taking him to task.

2 THE COURT: Okay. Well, I think we just -- I know the
3 jury thinks we're getting out of here at 5:00.

4 MR. HIXSON: Yeah. I'll stop talking.

5 MR. McGUIRE: I think we can delivery on that.

6 THE COURT: Okay.

7 (Open court resumes as follows:)

8 THE COURT: Anything from the State before we bring the
9 jury in?

10 MR. HIXSON: No, sir.

11 MR. McGUIRE: No, sir.

12 THE COURT: All right. Let's bring the jury in.

13 (The jury entered the courtroom at 4:37 p.m.)

14 THE COURT: All right. Ladies and gentlemen, welcome
15 back. We're ready to resume the trial of the case. Make sure
16 you have your own notebooks and do not have anybody's
17 notebooks.

18 Mr. Hixson, the State can call your next witness.

19 MR. HIXSON: Marcus Stitzer, please.

20 MARCUS STITZER,

21 the witness, after having been duly sworn, was examined and
22 testified to as follows:

23 THE CLERK: State your full name and spell your last name
24 for the Court.

25 THE WITNESS: Marcus Stitzer. S-t--

1 MR. HIXSON: I'm sorry. I didn't mean to cut you off.

2 I'm so sorry.

3 THE WITNESS: Marcus Stitzer. S-t-i-t-z-e-r.

4 DIRECT EXAMINATION

5 BY MR. HIXSON:

6 Q Okay. And you can pull that mic towards you so you don't
7 have to lean forward. Whatever is comfortable for you.

8 Good afternoon, sir. Tell the jury what you do for a
9 living.

10 A I'm a security officer. I'm currently an account manager
11 at Piedmont Medical Center out of Rock Hill.

12 Q Okay. Were you working around this area in a security
13 capacity --

14 A I was --

15 Q -- around July 26 of 2019?

16 A Yes, sir. I was an armed security officer, certified
17 through SLED for Tuscany community.

18 Q Okay. And so Tuscany community, that's a residential
19 neighborhood. Are you aware of the Waccamaw Bingo parlor and
20 the relationship of that towards the Tuscany Bay neighborhood?

21 A Yes, sir. I have to go by it every night when I went to
22 work.

23 Q Okay. And I'm going to show you what's already been in
24 evidence, Mr. Stitzer, State's Exhibit 1. Let me show you --
25 and if you can see that. The jury has seen this a couple of

1 times before already.

2 Can you point to Tuscany Bay, and we'll talk more --
3 Tuscany Grande -- in more detail after that.

4 **A** So right here is the clubhouse. Here's Belle Terre,
5 where I usually come in right there.

6 **Q** Okay. So did anything strike your -- were you working
7 around 9:45 p.m. on July 26 of 2019?

8 **A** Yes, sir.

9 **Q** Okay. And did something strike your attention when you
10 were working? Like what were you doing and did something
11 strike your attention?

12 **A** The event that you're referring to is I was parked in the
13 parking lot of the Tuscany clubhouse. I was waiting to close
14 the pool. Before the time was to close the pool, I saw this
15 vehicle come in off of the back road, Belle Terre, at a high
16 rate of speed, which is not normal. I have been there long
17 enough, about eight months, so I kind of knew 90 percent of
18 the vehicles that belonged on the property.

19 So I found it ironic that this car was coming down that
20 back road because there's really sharp turns, as fast as it
21 was coming. So when I saw that vehicle come to the stop
22 sign -- I apologize, but I cannot pronounce these roads, so
23 I'm going to call it Road V. I can't pronounce the Italian
24 word; I'm sorry.

25 So it came to the stop sign right here and made a right.

1 So, at that point, I knew I had to close the pool house and I
2 know I didn't recognize the vehicle, so I was trying to
3 determine -- because, normally, if there's a vehicle I don't
4 recognize, I'll follow it at a distance just to see if maybe
5 they're lost, because usually a lot of cars will come in
6 thinking they can get onto 31 or 501. And usually they
7 just -- they see me. If they're there to do anything bad,
8 they just leave, usually. I was always taught that visibility
9 is a deterrent for security officers.

10 But, at that time, when I went to go follow the vehicle,
11 I had a scanner radio in my vehicle where I can listen in on
12 fire and rescue and police. It was a hobby of mine and my dad
13 when I was young so I always had it with me.

14 So I heard it come over the radio that there was a
15 shooting at the bingo hall. So I knew the bingo hall was
16 approximately not even a quarter mile down the road. So that
17 alarmed me. So then I noticed four elderly -- two elderly
18 males and two elderly females leaving the pool house, so my
19 first concern, if that vehicle that came in here at a high
20 rate of speed, my concern was for the safety of the people
21 that were leaving the pool.

22 So I drove up to them and asked them where they lived
23 because they were walking. They didn't have a vehicle at the
24 clubhouse. So they said that they lived right up the hill
25 across from the circle, the first traffic circle. So I went

1 and parked in front of the traffic circle so I could watch
2 them clear the hill to get to their residence unharmed or
3 anything like that. And plus I knew that, if that was the
4 vehicle that was involved, that the only way they could come
5 back around was to come through that traffic circle, and I
6 would see them.

7 Q At some point in time, did that vehicle come back out of
8 the traffic circle?

9 A So as they -- the family crossed over the hill, I did see
10 the vehicle exit, headed back up towards Belle Terre. So I
11 proceeded to follow at a distance to try to maybe get a
12 license plate number, which I was unsuccessful because I
13 didn't want to get too close.

14 Q Can you point to -- when you mention the traffic circle,
15 point where you first saw and then when you saw it the second
16 time.

17 A So here's the -- so I first saw them here.

18 Q I don't know if the jurors can see it with my big belly,
19 standing there.

20 A So I first saw it right here when it made a right. I
21 pulled up here to the traffic circle. Okay? While I was
22 there, after the family got up to the house up here on the
23 hill, the car came from this direction and went around up to
24 here. I followed it to about halfway point because I saw the
25 car turn on the left blinker.

1 Q And the left blinker from this location meaning it was
2 heading back this way again?

3 A Correct. So I knew it wasn't making a right back towards
4 the bingo hall. It was making a left. So if that was the
5 said vehicle, I didn't really want it back on property, but I
6 wanted to be able to see it if it did. So I did a U-turn and
7 went back to the stop sign on Belle Terre and Road V so I
8 could see if it came back around on Belle Terre, which it
9 never did. So then I sat there.

10 Let me back up. When I first stopped at the traffic
11 circle, I called Horry County dispatch, let them know a
12 vehicle description and what I saw, and I also let them know
13 what I heard over the radio, that there was a shooting at the
14 bingo hall.

15 And then the second time I called dispatch was when the
16 vehicle made a left, and I positioned myself at the stop sign,
17 and that's when I called them a second time to give them an
18 update on where the vehicle was located.

19 Q Okay. Now, at some point in time, how did you describe
20 that vehicle to dispatch when you saw it?

21 A I believe I recall telling dispatch that it was a small
22 four-door sedan. I might have said beige, meaning light in
23 color. I was thinking something like a gold, silver, or off
24 color that was real light. I knew it wasn't a blue or dark
25 color or anything like that.

1 Q Okay. You have got a written statement here, and in your
2 written statement, I think you characterized it as a tan or
3 beige color, something like that?

4 A Yes, sir.

5 Q Some light-colored car is what you're referring to;
6 right?

7 A Yes, sir.

8 Q And, also, could you say it was, like, a make or anything
9 like that?

10 A Well, I knew it wasn't a Ford or a Dodge or a Chevy
11 Those are obvious ones. I'm a car guy. As far as foreign
12 cars, I'm not familiar with the foreign cars. I used to work
13 on cars myself in the past, so I have a good idea of what cars
14 look like. I think I suggested, when we had a conversation
15 over the phone, that it might have been like a call Kia or a
16 Toyota or something like that.

17 Q Very good.

18 And was that the extent of, I guess, your involvement in
19 that? You relayed that information to the county police and
20 then didn't have any more involvement other than that; right?

21 A None other than the sergeant that was in charge. I
22 positioned myself back at the clubhouse once Horry County
23 stormed Tuscany, and I just sat there. And then the sergeant
24 came, and I pretty much told him the same thing I just
25 explained.

1 Q Okay. Thank you very much for your time.

2 A Thank you, sir.

3 MR. HIXSON: I have no further questions.

4 MR. MCGUIRE: I have no further -- I have no questions at
5 all. Thank you for coming, sir.

6 THE WITNESS: Thank you, sir.

7 THE COURT: You may step down.

8 At this time, the State would call Angelina Phillips from
9 the Medical University of South Carolina.

10 DR. ANGELINA PHILLIPS,

11 the witness, after having been duly sworn, was examined and
12 testified to as follows:

13 THE CLERK: State your full name and spell your last name
14 for the Court.

15 THE WITNESS: Angelina Phillips. P-h-i-l-l-i-p-s.

16 DIRECT EXAMINATION

17 BY MR. HIXSON:

18 Q Good afternoon, ma'am. How are you?

19 A Good afternoon. I'm doing well.

20 Q Could you please tell this jury what you do for a living?

21 A I'm a forensic pathologist.

22 Q Okay. And what in the world is a forensic pathologist?

23 A A forensic pathologist is a doctor who is trained in the
24 field of pathology and tasked with the performance of
25 autopsies.

1 Q Okay. And how is that separated from a regular
2 pathologist -- a pathologist versus a forensic pathologist?

3 A So all forensic pathologists are pathologists, but not
4 all pathologists are forensic pathologists. Basically, your
5 general training is going to be in pathology, which is general
6 pathology. And part of that training, you learn how to
7 perform autopsies, and to become a forensic pathologist, you
8 have to undergo specialized training to learn the details of
9 performing autopsies.

10 Q So is it safe to say the field of pathology is to
11 determine the natural or organic or manmade disease, the
12 reason what causes the death or pathology of an individual?
13 That's kind of what pathology is?

14 A In general, pathology deals with identifying disease and
15 disease processes in patients, and forensic pathology targets
16 that more towards determining why a person has died.

17 Q And it sounds like you probably need specialized training
18 and experience and education in order to be an expert in this
19 field; is that right?

20 A Yes.

21 Q Can you briefly tell us about that? And I'm going to see
22 if we're going to consent that you're the expert, but let's
23 just start it anyway.

24 A Okay. So in order to become a forensic pathologist, you
25 start off like every other doctor. You undergo your

1 premedical training, and then go to medical school, complete
2 that, and do four years pathology training as a resident, and
3 then you complete one additional year to become a forensic
4 pathologist.

5 Q Okay. How about relating to specialization in the
6 forensic field of pathology? Let's talk about what
7 specialized training and experience, kind of what affiliations
8 or associations with academic institutions you have in that
9 regard.

10 A Okay. I did my forensic pathology fellowship training,
11 which is that additional year in training, at the Medical
12 University of South Carolina where I continue to work, and in
13 the process of doing so, I completed my board examinations
14 with the American Board of Pathology. I passed those. And
15 I'm also a member of the National Association of Medical
16 Examiners and a member of the American Academy of Forensic
17 Sciences.

18 Q So, overall, the American Academy of Forensic Sciences,
19 is that an overall forensic science umbrella and forensic
20 pathology is a subset of the larger umbrella that is forensic
21 science?

22 A Yes. The American Academy of Forensic Science is a
23 community for forensic scientists, and that includes forensic
24 pathology.

25 Q Okay. And so is there any journals that are used by the

1 American Academy of Forensic Science, specifically the -- is
2 there any? Let's start with that question.

3 A Yes. The official journal of the American Academy of
4 Forensic Science, or AAFS, is the Journal of Forensic Science.

5 Q Okay. And is that forensic journal, in order for an
6 article or anything to be -- appear in a learned treatise, for
7 it to appear in that, does it have to be peer reviewed?

8 A Yes.

9 Q And there's, I guess, strict qualifications before it's
10 finally accepted for publication in that journal; is that safe
11 to say?

12 A Yes.

13 Q Have you testified in court before?

14 A Yes, I have.

15 MR. HIXSON: And, at this time, the State would offer
16 Dr. Phillips as an expert and specifically an expert in
17 forensic science -- or generally in forensic science but more
18 specifically in forensic pathology.

19 THE COURT: All right. Any questions or challenges?

20 MR. McGUIRE: We'll stipulate she's well-qualified.

21 THE COURT: All right. Ladies and gentlemen, I will
22 charge you on the law regarding expert testimony when I charge
23 you on the law to be applied in this case, but all you need to
24 know at this point in time is that, typically, a witness can
25 only testify to his or her personal knowledge: What they

1 smelled, what they saw, what they tasted, things of that
2 nature.

3 There is an exception for witnesses who are qualified as
4 experts, which means that, in addition to their personal
5 observations, they can render opinions in the field in which
6 they're qualified as an expert.

7 So I do find this witness to be an expert in the field of
8 forensic science and specifically in the forensic pathology.

9 BY MR. HIXSON:

10 Q Did you have an opportunity to perform -- and we're going
11 to take them one at the time -- of the unfortunate opportunity
12 to perform an autopsy on two individuals?

13 A Yes.

14 Q And I'm going to specifically refer you to Session No.
15 FA19 -- let's start, unfortunately, with 639. Did you perform
16 an autopsy on an individual by the name of Stephen Johnson,
17 Sr.?

18 A Yes, sir.

19 Q Now, you made significant findings all through this, so
20 let's get to the main problem.

21 What specific findings did you have concerning Steve's
22 cause of death?

23 A Mr. Johnson, Sr., had a gunshot wound to the right side
24 of his chest, and that was his cause of death.

25 Q Okay. As it specifically relates to FA19640, and that is

1 your session number for an autopsy you performed on Stephen
2 Johnson, Jr.; is that right?

3 **A** Yes.

4 **Q** Okay. And you made quite a few findings on here, but I'm
5 just going to try to guide your attention, just for brevity
6 sake, to what your specific findings -- the factual support
7 for your findings on what Stephen Johnson, Jr.'s cause of
8 death was.

9 **A** Mr. Johnson, Jr., he had a gunshot wound to the left side
10 of his back, and that was his cause of death.

11 **Q** Okay. And when you say "the left side of his back," can
12 you give us a little more detail on where in the back? What
13 do you mean by that?

14 **A** So it's the left mid to lower back. You would imagine
15 around the waist region.

16 **Q** In this area, I would assume?

17 **A** Yes.

18 **Q** Left side in that area?

19 And without getting in too much detail, just for the sake
20 of humanity, I don't know the necessity for science that you
21 need to, but based on that gunshot wound, the damage to the
22 internal organs were such that it caused the loss of life for
23 both of those individuals?

24 **A** Yes.

25 **Q** Okay. Now, you mentioned the American Academy of

1 Forensic Sciences and specifically the Journal of Forensic
2 Science. Is that something during your -- in the course of
3 being a forensic scientist, an expert in forensic science,
4 that you would rely on from time to time on a particular -- if
5 it's published in the Journal of Forensic Science in your
6 particular area for forensic pathology?

7 A Yes.

8 Q Okay. And, I guess, is the Journal of Forensic Science
9 considered a learned treatise?

10 A Yes.

11 Q Okay. And are you specifically familiar -- let me hand
12 up --

13 MR. HIXSON: I marked this as a Court's exhibit, Your
14 Honor, and not a State's exhibit. I can remark it.

15 BY MR. HIXSON:

16 Q Let me show you what's been marked as Court's 6 --

17 MR. HIXSON: And I want to probably get a State's
18 exhibit, but I did intend for that to go back to the jury. I
19 just wanted the Court to be aware of that.

20 BY MR. HIXSON:

21 Q Is that an article that was published in -- that your
22 forensic science journal, the learned treatise, that you
23 mentioned?

24 A Yes, this was.

25 Q Okay. And could you read to the Court what the title of

1 that article is?

2 **A** This article is titled, "Height Estimation from Foot and
3 Shoe Print Length."

4 **Q** Okay. Very good. And so, inside that learned treatise,
5 is there a specific chart? I know that you had reviewed this.
6 Is there a specific chart relating to that information
7 contained with that learned treatise?

8 And I'll specifically, for brevity, direct your attention
9 to State's 45, and see if State's 45 matches Court's 6.

10 **A** Yes, it does. It's the Table 1, which goes into height
11 estimates for men and women based off of the shoe size.

12 **Q** And that's contained in that learned treatise?

13 **A** Yes, it is.

14 **MR. HIXSON:** Now, at this time, the State would move
15 State's 45 into evidence.

16 **THE COURT:** Any objection?

17 **MR. MCGUIRE:** Without objection, Judge.

18 **THE COURT:** State's Exhibit No. 45 admitted into evidence
19 without objection.

20 (State's Exhibit No. 45 was received into evidence.)

21 **BY MR. HIXSON:**

22 **Q** Now, at this point in time -- if you help so I don't have
23 to try to read it -- to see what -- if an individual has a
24 shoe size of nine and a half?

25 **A** If an individual has a shoe size of nine and a half --

1 well, they give a range. So you have -- let's see. Sorry.
2 Review the table again. So based off of the estimated height
3 for a shoe size in the 9.7 range, the estimated height is
4 about 66 and 7/8s, which is about five-six.

5 Q And so if you go up to, say, size 11 and a half?

6 A Towards the 11 and a half range for men, let's see. I
7 believe that has them within range of 69 inches, and that's
8 about five-nine.

9 Q Okay.

10 COURT REPORTER: Do you want to remark that one?

11 MR. HIXSON: No, that was for authentication, but we
12 moved it in, so it doesn't need to...

13 I don't think I have any more questions for this witness.
14 Thank you.

15 THE COURT: All right.

16 MR. MCGUIRE: One or two.

17 CROSS-EXAMINATION

18 BY MR. MCGUIRE:

19 Q Did I hear you right that, if somebody has a shoe size of
20 nine and a half, you would expect their height to be five
21 foot, six inches?

22 A That's the estimation based off of that table.

23 MR. MCGUIRE: Is that not right?

24 MR. HIXSON: You have got to read it...

25 BY MR. MCGUIRE:

1 Q Give me a second; this is the first time I'm seeing this.

2 So I'm reading it and it looks like nine and a half

3 would -- yeah, because there's a chart for women and men.

4 MR. HIXSON: It's the --

5 MR. MCGUIRE: How is there a shoe size for women and men?

6 (Counsel conferring off the record.)

7 MR. MCGUIRE: Oh, I see. Thank you.

8 BY MR. MCGUIRE:

9 Q So I'm looking at it and it's nine-and-a-half shoe size,

10 and then you go to the men's chart, and it's 69 and 1/8 inches

11 estimated in height. That would just be around five foot,

12 nine and a bit?

13 A Yeah, 69 inches is equal to five-foot-nine.

14 Q Okay. So a 9-and-a-half shoe size, estimated height in

15 inches would five-foot-nine and an eighth?

16 A Did I read that incorrectly?

17 Q You did.

18 A I apologize.

19 Q That's okay. It's a confusing chart.

20 A Yeah.

21 Q I read it incorrectly when I was reading it to myself.

22 But does that sound right? In fact, let's look at it

23 together. So I looked at -- I'm showing you what's been

24 marked No. 45. And if you go to the nine-and-a-half shoe size

25 here and go all the way to the men's, does it give you

1 69-and-one-eighth inches?

2 **A** I'll line it up with the paper so that it's a little
3 easier to read.

4 **Q** Sure.

5 **A** Yes, that does say 69-and-one-eighth. My apologies.

6 **Q** Okay. Thank you very much.

7 The only other question I had for you, did you take
8 fingernail clippings from the victims?

9 **A** Yes, we did.

10 **Q** And can you tell me how you did that or tell the jury how
11 you did that?

12 **A** So every homicide case that comes in that we expect to
13 have a physical encounter with another person, we collect
14 fingernail clippings and pull scalp hair as evidence to
15 transfer over to the investigators who may attend the autopsy.
16 We do that using new fingernail clippers, standard ones that
17 you would get in a grocery store or other such store, and we
18 clip the fingernails as close down to the bottom of the nail
19 as I can, and I collect those nails and put them in envelopes
20 labeled left hand or right hand.

21 **Q** Okay. And you do that in every case, homicide?

22 **A** Most homicide cases where we have fingernails that are
23 available and there's expected to be an interaction.

24 **Q** Okay. And that's part of your training as a forensic
25 pathologist?

1 **A** Yes.

2 **Q** And you did turn those over to the law enforcement
3 officers?

4 **A** Yes.

5 **Q** And you're not aware of what happened to them after they
6 leave with law enforcement?

7 **A** No.

8 **Q** Okay. That's all I have for you. Thank you so much for
9 coming.

10 THE COURT: All right. Redirect?

11 MR. HIXSON: Just briefly, to clarify that.

12 REDIRECT EXAMINATION

13 BY MR. HIXSON:

14 **Q** Just to clarify what we're referring to. So the first
15 part of the chart is female, State's 45? So the first part of
16 the chart is female?

17 **A** Yes.

18 **Q** And this side is male?

19 **A** Yes.

20 **Q** So that's why the first number was -- got it.

21 And you mentioned fingernail clippings. And so -- I'll
22 talk about the other items on recross. You also collected
23 State's 55 and 56; right? Take a look at those. Items are
24 bullets from autopsy?

25 **A** Yes. We have one that's collected from Mr. Stephen

1 Johnson, Sr., and one from Stephen Johnson, Jr., and they're
2 labeled with our FA or Session numbers, which are 639 and 640.

3 Q Okay. And you provided those items along with the other
4 items mentioned by Mr. McGuire to Horry County law enforcement
5 office?

6 A Yes, sir.

7 Q Thank you.

8 MR. HIXSON: We'd move State's fifty- -- or, excuse me,
9 85 and 86 into evidence.

10 MR. MCGUIRE: No objection.

11 THE COURT: All right. State's Exhibits 85 and 86 are
12 admitted into evidence without objection.

13 (State's Exhibit Nos. 85 and 86, Bullets, were received
14 into evidence.)

15 MR. HIXSON: Beg the Court's indulgence just for a
16 second.

17 THE COURT: All right.

18 MR. HIXSON: I believe that's it, but I better take a
19 look.

20 Thank you, Doctor. I have no further questions for you.
21 Enjoy your trip back to MUSC.

22 THE WITNESS: Thank you.

23 THE COURT: All right. You may step down, please.

24 All right, ladies and gentlemen. It's a little bit after
25 5:00. I think we're going to go ahead and break for the day,

1 let you go home for the evening. Please leave your notepads
2 in the jury box. We'll distribute them back out to you
3 tomorrow morning.

4 Again, I caution you: Do not discuss the case, even
5 among yourselves. It's too early for deliberations. Don't
6 conduct any independent investigations. Don't go watching any
7 news reports about the case or anything of that nature.

8 I'm going to ask that you be back at 9:15 tomorrow
9 morning, and we'll get started soon after 9:15. I hope you
10 have a good evening, and we'll see you tomorrow morning.
11 Thank you very much.

12 (The jury exited the courtroom at 5:06 p.m.)

13 THE COURT: All right. Anything from the State before we
14 recess for the evening?

15 MR. HIXSON: No, sir.

16 THE COURT: All right. Anything from the defense?

17 MR. MCGUIRE: No, sir.

18 THE COURT: All right. I'll try to take the bench as
19 close to 9:30 as I can tomorrow morning. I won't take it
20 before 9:30, but I'll try to take it as soon after 9:30 as I
21 can.

22 All right. We'll be in recess until then. Thank you
23 very much.

24 (At 5:06 p.m., the trial was adjourned until Wednesday,
25 October 20, 2021, at 9:30 a.m.)

CERTIFICATE OF COURT REPORTER

State of South Carolina)
)
County of Horry)

I, Bobbi J. Fisher, Registered Professional Reporter
(RPR) and 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
in the General Sessions Court for Horry County, South
Carolina, on the 19th of October, 2021.

Prepared: January 22, 2022

 /s/ Bobbi Fisher

Bobbi J. Fisher, RPR

Official Court Reporter

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1 STATE OF SOUTH CAROLINA

2 COURT OF GENERAL SESSIONS

3 COUNTY OF HORRY

4 -----x

5 STATE OF SOUTH CAROLINA,)

6 Plaintiff,)

7 vs.)

Transcript of Record

2019-GS-26-04928 to

2019-GS-26-04933

9 DERRICK JAJUAN RIVERA,)

10 Defendant.)

11 -----x

12 Wednesday, October 21, 2021

13 TRIAL - DAY 3 of 5

14
15 B E F O R E:

16 The Honorable Benjamin H. Culbertson, Presiding Judge;

17 and a jury.

18
19 A P P E A R A N C E S:

20 Scott R. Hixson, Esq.

Attorney for the State

21 William S. McGuire, Esq.

22 Attorney for the Defendant

23
24
25 Court Reporter: Bobbi Fisher, RPR

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P R O C E E D I N G S

(Whereupon, the following proceedings started at 9:41 a.m.)

(State's Exhibit No. 46 and 47, Scotchman Photos, were marked for identification.)

THE COURT: All right. Anything from the State before we bring the jury in?

MR. HIXSON: No, sir.

THE COURT: Anything from the defense?

MR. MCGUIRE: No, sir.

THE COURT: All right. Let's bring the jury in.

(The jury entered the courtroom at 9:43 a.m.)

THE COURT: Ladies and gentlemen, welcome back. Hope everyone had a good evening. Again, I want to thank you for being on time this morning. That's great assistance to the Court.

Please make sure you have your own notepads and don't have anyone else's notepads. Also, if you advertently brought any phones or pagers into the courtroom, turn them off completely at this point in time.

We're now ready to resume the trial in the case.

Mr. Hixson, the State can call your next witness.

MR. HIXSON: Thank you, Your Honor. The State would call Detective Brian Scales from the Horry County Police Department.

DET. BRIAN SCALES,

1 the witness, after having been duly sworn, was examined and
2 testified to as follows:

3 THE CLERK: Please be seated and state your full name and
4 spell your last name for the Court.

5 THE WITNESS: My name is Brian Scales. S-c-a-l-e-s.

6 DIRECT EXAMINATION

7 BY MR. HIXSON:

8 Q Good morning, sir. How are you?

9 A I'm good.

10 Q Please tell this jury what you do for a living.

11 A I am a detective with the Horry County Police Department.
12 I am currently assigned to the Narcotics and Vice Unit.

13 Q And how long have you worked for the Horry County Police
14 Department?

15 A Eleven years.

16 Q Eleven years.

17 A I'm sorry; ten years.

18 Q So, within those 11 years, that means you were working
19 for the Police Department back around July 26 of 2019?

20 A That's correct.

21 Q And were you working Narcotics in July 26 or you were
22 working another division?

23 A At that time, I was assigned to the Homicide Unit.

24 Q Okay. And so, at some point in time when you're working
25 for the Homicide Unit, did you get called to a location of

1 Waccamaw Bingo around 501 here in Horry County?

2 **A** Yes, I did. I received a phone call from my sergeant who
3 advised that there had a double homicide at the Waccamaw Bingo
4 and advised me to respond.

5 **Q** Okay. Tell us what you did when you got there.

6 **A** When we got there, patrol had already arrived and secured
7 the scene. There were several other detectives on-scene. We
8 had a small meeting with my sergeant to kind of go over --
9 come up with the investigative game plan and then assignments.
10 I was advised to begin questioning witnesses.

11 **Q** Okay. And did you, in fact, question witnesses?

12 **A** Yes. There was several people there present during the
13 crime, so I had several people to interview.

14 **Q** Okay. And so, basically, gathering that, you got basic
15 descriptions of what happened inside of the bingo parlor that
16 night?

17 **A** That's correct.

18 **Q** At some point in time, did you come to understand that
19 there was video -- some limited video of what happened with a
20 suspect entering the bingo parlor?

21 **A** Yeah, we -- our Crime Scene Division had advised us that
22 they had recovered a partial video. And then I believe there
23 was a still short of a suspect that was disseminated to us as
24 well as patrol units.

25 **Q** Okay. So you were armed with a basic kind of a

1 description, the clothing description of kind of a person that
2 you would be looking for; is that right?

3 **A** That's correct.

4 **Q** And then, based on that, did you come to understand that,
5 you know, that it would be important to look for other video,
6 sources of potential video on the outside of the bingo parlor?

7 **A** Yes.

8 **Q** And did you do that?

9 **A** Yes. The following day, we canvassed all the neighboring
10 businesses and homes searching for any additional surveillance
11 video that there might be.

12 **Q** And did you find some that were probative to the issues
13 in this case?

14 **A** We did. About two buildings down from the Waccamaw
15 Bingo, there's a business called Healthy Home, and I was able
16 to make contact with the manager there who allowed me to view
17 their surveillance video. After viewing the video, I was able
18 to determine there was video that was important to the case.

19 **Q** And did you gather that video and preserve it for court?

20 **A** Yes, I did.

21 **Q** Let me show you what's already in evidence as State's
22 Exhibit No. 2. The jury's already seen this a couple of
23 times. This is kind of an overview.

24 MR. HIXSON: Your Honor, I'd ask the witness to come
25 around.

1 THE COURT: All right.

2 BY MR. HIXSON:

3 Q Speak into the microphone loudly so Madam Court Reporter
4 can hear what you're saying.

5 Okay. This is State's 2. And make sure Mr. Jury Foreman
6 can see it.

7 Can you point us to where you responded to or the bingo
8 parlor area is?

9 A So the bingo hall is right here in this building right
10 here.

11 Q Okay. And the Healthy Home you're referring to, where is
12 that?

13 A That's this building here with all the blue trucks around
14 it.

15 Q Okay. And is there a Jewish temple of some type in
16 there?

17 A There is. Right next to it is a building -- I'm assuming
18 it's called Jewish temple. It's called Temple Shalom.

19 Q Shalom. Fair enough. Okay.

20 And you mentioned that you saw or got video from
21 surrounding businesses. Where was the location the video
22 surveillance cameras were located?

23 A So this one right here at Healthy Home, they had
24 surveillance cameras -- there were several surveillance
25 cameras mostly that was on this corner of the building that

1 shot down between this alley in these two buildings. It also
2 covered this back parking lot and this back parking lot area.
3 There's two cameras that covered a portion of this parking
4 lot, and then one that kind of pointed down in this direction.

5 Q Was there a camera on the other side of this site,
6 Healthy Homes, down toward the Jewish Temple?

7 A Yes. There was one on this point, pointed towards the
8 highway. We call it the Temple Shalom.

9 Q And that was private security cameras for a business.
10 It's not maintained by the government or anything. It was
11 just a private company; right?

12 A That's correct.

13 Q Let me -- and that's the subject matter area, I guess,
14 that we'd be looking at when you look at the video; right?

15 A Yes.

16 Q The back parking lot, the alley, this area?

17 A That's correct.

18 Q Okay. Thank you. Want to grab a seat?

19 All right. I'm going to show you a series of pictures.
20 And I'm going to read the exhibit numbers to you.

21 A Okay.

22 Q Take a look at all those at once, and then whenever
23 you're kind of done looking at them, making sure those are
24 accurate, just look up so I can start talking to you.

25 A (Reviewing documents.) Okay.

1 Q Are those accurate representations from the video that
2 you captured from Healthy Homes --

3 A They are.

4 Q -- in the days proceeding the killings?

5 A Yes.

6 Q I'm specifically referring to State's 65, 66, 67, 68, 69,
7 70, 71, 72, 73, 74, 75, 76, 77, and 78.

8 MR. HIXSON: At this time, the State would move all those
9 number into evidence, Your Honor.

10 THE COURT: Any objection?

11 MR. McGUIRE: No objection, Your Honor.

12 THE COURT: All right. State's Exhibit 65 through 78
13 admitted into evidence without objection.

14 (State's Exhibit Nos. State's 65, 66, 67, 68, 69, 70, 71,
15 72, 73, 74, 75, 76, 77, and 78, Photographs, were received
16 into evidence.)

17 MR. HIXSON: May we publish these to the jury, Your
18 Honor?

19 THE COURT: All right.

20 BY MR. HIXSON:

21 Q Tell me if you can see these. I'm going to try to start
22 with this, and if I got to give them to you one at a time for
23 more detail, just let me know.

24 A Okay.

25 Q I'll try to do it this way. Going to start with State's

1 65. All right? The jury has never seen this stuff, so if you
2 can orient where we're looking at and help explain what we're
3 looking at.

4 **A** So this is a -- the camera on the back corner that covers
5 the parking lot directly behind Healthy Home. In this
6 picture, you can see several parked vehicles, and in the top
7 left corner, you see a silver car that is driving through the
8 parking lot.

9 **Q** Okay. So what's probative for this is we're tracking the
10 silver vehicle through these videos; is that safe to say?

11 **A** Yes, that's correct.

12 **Q** Or the still photos and then, ultimately, the video; is
13 that right?

14 **A** That's correct.

15 **Q** And let's talk about timestamps for a second. During
16 your investigation, do you try to do what you can to verify
17 the accuracy of the timestamps on privately held video
18 surveillance cameras?

19 **A** Yeah, that's correct. So whenever I view a surveillance
20 system, one of the first things that I do is always check the
21 timestamp, because if we don't know what time -- if it's
22 correct or not, we could be searching for hours and hours and
23 never see what we're looking for.

24 So the first thing I do is always verify the time, if
25 it's correct, and if it's not correct, try to determine how

1 far off it is.

2 In this particular instance, the first thing I did was
3 sat down, I looked at the live video, saw the timestamp, and
4 compared it to the actual time. In this case, I believe it
5 was approximately 12 hours and 52 minutes off. It was fast,
6 so it was showing 12 hours and 52 minutes beyond what the
7 actual time was.

8 Q So it's showing the 27th, and you're actually watching
9 video from the 26th, around, you know --

10 A That's correct. The video is showing that it's supposed
11 to be about 10:30 in the morning, which we can tell is not
12 correct because you'd expect the sun to be up. The actual
13 time, I believe, is approximately 9:45, 9:40, sometime in that
14 time frame.

15 Q Around that approximate window of area.

16 The one thing we do know for sure, the second counts; in
17 other words, one second, two second, three second. That's
18 working right; right?

19 A Yes.

20 Q So we know the time difference between pictures, I guess,
21 is the best way if I can say that again.

22 A That's correct.

23 Q All right. So let's look at State's 66.

24 A So this is the same camera view, and the same vehicle is
25 -- what the vehicle is doing is making a big circle. And

1 important with this camera view is you can see into the back
2 window and you can see what appears to be two heads: One in
3 the driver's seat and one in the passenger seat in the
4 vehicle.

5 Q Okay. State's 67.

6 A So this is a different camera view that is looking up the
7 side of the building towards Highway 501. The silver car is
8 the same silver car that's traveling between the buildings up
9 towards 501.

10 Q Can you reorient that again?

11 A Sure. So this camera is mounted on the back of the
12 building and it is pointing up the side of the building
13 towards 501.

14 Q Okay. Let me -- can you point to that alley we're
15 referring to here, the Healthy Homes?

16 A Sure. It's going up this alley right here.

17 Q So can you point to where the -- you believe the camera
18 angle was when you saw it -- the camera located on this side
19 of the building? Is that what you're saying?

20 A This corner right here.

21 Q Okay. Very good.

22 MR. HIXSON: Did you see that, Bill?

23 MR. MCGUIRE: Mm-hmm.

24 BY MR. HIXSON:

25 Q All right. State's 68.

1 **A** So this is the same camera view, and it appears to show
2 the vehicle as it reaches the end of that alley, turning left
3 in front of the building towards -- I guess towards the Conway
4 direction.

5 **Q** And so I don't know if you recall, is that roughly nine
6 seconds after that -- between that first picture and the next
7 picture?

8 **A** I'd have to compare the timestamps, but it's
9 approximately, yes, nine seconds.

10 **Q** All right. I'm going to show you State's 69.

11 **A** So this is the camera on the opposite corner in the back
12 pointing towards the Temple Shalom. It is difficult to see,
13 but you can tell by the lights on the car that it is moving
14 from right to left towards Conway.

15 **Q** In the area of interest we're referring to, can you tell
16 me where to put my finger?

17 **A** If you see the building directly behind that storage
18 container --

19 **Q** This building?

20 **A** -- that is the temple shalom building. The side of the
21 building that the camera is mounted on, right there, that is
22 the Healthy Home, and the vehicle right there is the vehicle
23 that we're watching.

24 **Q** Very good. Thank you.

25 And since that's the first time we have seen that camera

1 angle, let's take a look at this. Can you point to that
2 camera angle to see what we're talking about?

3 **A** So that would be mounted on this corner and shooting
4 between these two buildings right here.

5 **Q** And so when you see, in that photograph, the front end of
6 that vehicle pointing this way, show the direction of travel.

7 **A** So it came up this alley and went this direction.

8 **Q** Okay. Thank you.

9 All right. What was -- if you don't mind putting up 69
10 again. And what's the timestamp on that?

11 **A** 10:30 and 36 seconds.

12 **Q** And because you already indicated the day and the hour is
13 off, when I ask that question, I'm just referring to basically
14 the time interval between this picture and the next picture,
15 if that makes sense. We know it's a couple of seconds between
16 pictures.

17 **A** That's correct. It's only -- I don't remember the
18 previous picture. It's only a matter of seconds between the
19 first -- or the last picture and this picture.

20 **Q** So the last picture was taken or the still photo from the
21 video was extracted on 30 minutes and 36 seconds; right?

22 **A** Yes.

23 **Q** Need my glasses. All right. State's 70?

24 **A** So this is the same camera view, but in this view, the
25 vehicle has turned around somewhere and is now traveling in

1 the opposite direction.

2 Q And do you recall what the timestamp -- the time interval
3 was on the first -- on the 69?

4 A It was 10:30 and 36 seconds. This is 10:33 and 30
5 seconds, so this is approximately two and a half minutes,
6 three minutes later.

7 Q Okay. So two and a half minutes later, what's the
8 direction of travel in State's 70?

9 A They're going to opposite direction, back towards the
10 beach or towards Waccamaw Bingo.

11 Q All right. And State's 71.

12 A So this is the opposite side of the building again, and
13 you can see the same building again traveling towards Waccamaw
14 Bingo, and this is approximately three seconds after the last
15 photo.

16 Q Okay. Thank you.

17 Let's do State's 72.

18 MR. HIXSON: Keep 71 with the timestamp up, if you can.

19 BY MR. HIXSON:

20 Q So I think you testified the last one was 33 -- 3333.

21 A Yes.

22 Q And so State's 72, what does State's 72 show you now?

23 A So this is a few minutes later. It would be the same
24 vehicle appears to have turned around again and is now
25 traveling away from Waccamaw Bingo again back towards Conway.

1 Q Okay. And that's, what is it, three minutes and five
2 seconds after the first picture?

3 A That's correct.

4 Q Okay. State's 73.

5 A Also, this is the opposite side of the building again on
6 the Temple Shalom side, and you can see the same vehicle again
7 traveling away from Waccamaw Bingo towards Conway in -- I
8 believe this is about 30 seconds later.

9 Q 30 seconds after that last picture.

10 And can you see how far -- let me show you this
11 orientation. And I'm going to draw your attention to the
12 parking lot versus Belle Terre Boulevard. About when a car is
13 in the parking lot versus out on Belle Terre Boulevard, the
14 distance from that, can you point to the parking lot of the
15 bingo parlor?

16 A Well, there's two parking lots. There's one in the front
17 here and there's one in the back.

18 Q Okay. The front parking lot, when you see the car
19 traveling, is it this area?

20 A Yes. So when it's in the front of the building, it's
21 traveling back and forth in front of these buildings right
22 here.

23 Q Okay. Is it also the case that the silver car can be out
24 on Belle Terre Boulevard further away from the camera heading
25 that way?

1 **A** It's possible. It's hard to -- given that this is the
2 camera, we can't really judge the distance. So it could be
3 out on Belle Terre Boulevard, driving back and forth, or it
4 could be in the parking lot just driving through the parking
5 lots.

6 **Q** All right. Can you reiterate again the timestamp on -- I
7 mean, the minutes and seconds on that?

8 **A** I believe, if I recall correctly, this is approximately
9 30 seconds after the previous photo.

10 **Q** Okay. So it's 3703; right? State's 74?

11 **A** Okay. In this video, you see a gentleman walking from
12 the front of the building back to the rear of the building.
13 This vehicle -- this photograph's interesting because the
14 person in this photo is wearing clothes that are very
15 consistent with the still frame from the surveillance video
16 that we retrieved from Waccamaw Bingo.

17 **Q** Okay. And the first picture that we just showed -- and
18 I'll refer to the time on State's 73 is 3703?

19 **A** That's correct. It's approximately 19 or 20 seconds
20 later.

21 **Q** And so 19 seconds after we see the car out driving to the
22 left, which would be generally towards Tuscany Grande, we see
23 an individual on foot partway up that alley?

24 **A** That's correct.

25 **Q** I'm going to show you what's been marked as State's 75.

1 **A** This photograph appears to be about 10 seconds later.

2 Same individual has walked from the front of the building to
3 the rear of the building.

4 **Q** Okay.

5 **A** And this one is of interest because, in this picture, you
6 can clearly see he's wearing some type of dark-colored
7 backpack.

8 **Q** All right. Let's do State's 76.

9 **A** All right. So this picture is mounted on the back of the
10 building, pointed towards Waccamaw Bingo trying to cover the
11 back parking lot area. This picture, if you look on the lower
12 left-hand side, you can see the same individual who has
13 appeared to round the corner and is walking towards Waccamaw
14 Bingo. And this is only a matter of a few seconds.

15 **Q** Is that the area you're referring to?

16 **A** Yes, sir.

17 **Q** And do you see any items of evidentiary value on --

18 **A** Yes. Again, the clothing is similar, and you can clearly
19 see a backpack on the back of the individual.

20 **Q** Okay. And then the timestamp or the minute, not the
21 overall time but the minute, 3736, is that what that shows?

22 **A** That's correct.

23 **Q** Okay. Let's do State's 77. And this is difficult to
24 see.

25 **A** Yes. It's not a very clear picture, but at the very --

1 in the front of the building, what you can see is the
2 silhouette of a person running from right to left, and they
3 would be running away from Waccamaw Bingo at this point in
4 time.

5 Q Okay.

6 A And the timestamp indicates this is only maybe a minute
7 or two from the previous picture.

8 Q Is that the object you're referring to?

9 A Yes, sir.

10 Q Okay. And then, finally, State's 78. Let me see the
11 time. That's State's 77, and your testimony was he was
12 running at 3859.

13 And now State's 78. Is this the Temple Shalom alley?

14 A Yes. That's correct. It was the opposite side of the
15 building. And, again, in the distance, you can see a
16 silhouette of a subject running again from right to left, away
17 from the Waccamaw Bingo area.

18 Q Is that the area that you're referring to right there?

19 A Yes, sir.

20 Q And that is approximately how many seconds from the first
21 one?

22 A That's correct. About six or seven seconds.

23 Q And then you actually have a video of this; is that
24 right?

25 A Yes, sir.

1 Q All right, Detective. Let me show you a thumb drive that
2 we marked as State's 79. See if you recognize that item.

3 A Yes, I do.

4 Q And what is that you're generally looking at?

5 A This is a thumb drive that contains the video of the
6 still frames that we just watched, and I know that because I
7 initialled it right here.

8 Q You initialled it after you reviewed it?

9 A Yes, I did.

10 Q You initialled it back here?

11 A That's correct.

12 Q Thank you.

13 MR. HIXSON: At this time, we'd move State's 79 into
14 evidence.

15 THE COURT: Any objection?

16 MR. MCGUIRE: No objection, Judge.

17 THE COURT: All right. State's Exhibit 79 admitted into
18 evidence without objection.

19 (State's Exhibit No. 79, Healthy Home Video/Thumb Drive,
20 was received into evidence.)

21 MR. HIXSON: And, Your Honor, we'd like to play this now.

22 THE COURT: All right.

23 (State's 79/Video plays.)

24 BY MR. HIXSON:

25 Q Can you just orient this first picture for us and then

1 we'll let it play after that?

2 **A** Sure. So this is in the back of -- this is in the rear
3 of Healthy Home. This is pointed at the parking lot directly
4 behind the Healthy Home business.

5 **Q** Okay. And so I think we mentioned this before. If you
6 were pulling into the back parking lot of the Healthy Home or
7 the bingo parlor, I should say, how would you -- what options
8 do you have to get there?

9 **A** So to get to that, there's several alleyways. You can
10 come up this side of this building right here and have access
11 to the entire back parking lot. You can also drive through
12 this alleyway or this alleyway. You may be able to drive
13 through -- I believe they had cars and stuff parked, but
14 there's also an alley right there that you could possibly get
15 through.

16 **Q** So this Healthy Home camera angle is this way; right?

17 **A** That's correct.

18 **Q** All right. Let me get out of the way.

19 (State's 79/Video plays.)

20 BY MR. HIXSON:

21 **Q** All right. I know you did a bunch of other stuff in
22 this, but when you're trying to figure out what's going on.
23 Just to summarize at the end of it, at some point in time, did
24 you come to -- your agency come to generate Derrick Rivera as
25 a suspect or a principal in this murder?

1 **A** Yes, we did.

2 **Q** And did you make an attempt to locate him down in Gilbert
3 Street in Georgetown?

4 **A** Yes. We -- after we identified him, we did obtain a
5 search warrant for his mother's residence where we believed he
6 was living, and we went to Gilbert Street with the Georgetown
7 City Police Department, attempting to locate him.

8 **Q** Was he located? Did you find him?

9 **A** No, he was not there.

10 MR. HIXSON: I have no further questions, Your Honor.

11 THE COURT: All right. Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. MCGUIRE:

14 **Q** Is it Detective Scales?

15 **A** Yes, sir.

16 **Q** I just want to make sure I got that right.

17 To your knowledge, were any photographic lineups employed
18 in this case?

19 **A** I'm not aware of any. I was not involved in any
20 interrogations in this case, so I don't know if any lineups
21 were presented.

22 **Q** Okay. Do you remember interviewing a man named Jason
23 Sapanic?

24 **A** I do remember interviewing him, yes.

25 **Q** Okay. And do you recall that he told you that he saw the

1 suspect come in and fight with Steve in the office?

2 **A** Yes, sir.

3 **Q** And he describes that as a real fight --

4 MR. HIXSON: Your Honor, I just object. This is hearsay.
5 We need Jason Sapanic to testify to that, not the -- the
6 declarant is not in court, and he can't testify tot hat.

7 MR. MCGUIRE: Judge, I'll tie it up. It's not for the
8 truth of the matter.

9 THE COURT: All right.

10 BY MR. HIXSON:

11 **Q** Jason Sapanic told you that the suspect's face covering
12 came off during the fight?

13 **A** I'd have to review my notes.

14 **Q** Take your time. I think it's on page 1, about halfway
15 down.

16 MR. MCGUIRE: Judge, if I could approach the witness.

17 THE COURT: All right.

18 BY MR. MCGUIRE:

19 **Q** I can help you.

20 **A** I'm just trying to skim through as quickly as I can.

21 (Reviewing document.) Yes, sir.

22 **Q** Did you read the whole paragraph regarding Mr. Sapanic?

23 **A** Yes, I did.

24 **Q** Okay. Including page 2 where it runs over a little bit?

25 **A** Yes, sir.

1 Q Okay. So you had information from a witness that the
2 suspect's face covering had come off during the fight?

3 A That's correct.

4 Q And Mr. Sapanic said he got a good look at the person and
5 could ID him?

6 A Yes, sir.

7 Q So my question to you is this: You arrested Mr. Rivera
8 just based on Bradford Britton's word; right?

9 A That was part of it. I don't recall exactly the timeline
10 of what we had and when we had it.

11 Q Well, if I was to make the statement that that is all you
12 had was Bradford Britton pointing his finger at Derrick
13 Rivera, would you agree with that?

14 A I suppose I could. I know we did get an identification
15 from Mr. Britton. And I believe that that was the first
16 indicator that we had towards Mr. Britton, but, again, I don't
17 recall the timeline of when things came in.

18 Q Okay. You can't recall any other evidence that you had
19 other than Bradford Britton's statement that Derrick did this
20 when you arrested Derrick Rivera? You can't recall anything
21 else beyond that?

22 A I wasn't present when he was arrested. I don't recall
23 how quickly it was. There is -- we did have other evidence,
24 but I don't recall what came first.

25 Q But you can't recall what that evidence might be, if any?

- 1 **A** We have DNA evidence.
- 2 **Q** I can tell you did not have that at the time.
- 3 **A** Okay. And, again, like I said, I don't recall the
4 timeline.
- 5 **Q** Okay. All right. So let's just assume that's all you
6 had was Bradford Britton saying Derrick Rivera did it.
- 7 **A** Okay, sure.
- 8 **Q** And you had a witness who said, "I got a good look at the
9 guy and I can ID him." Wouldn't you want to go back to that
10 witness with a photograph of Derrick Rivera and say, "Is this
11 the guy?"
- 12 **A** That is the -- that's not uncommon.
- 13 **Q** That's kind of in the normal course of police work;
14 right?
- 15 **A** Yes.
- 16 **Q** Okay. And if I use the phrase "six-pack lineup," you
17 know what that is?
- 18 **A** Yes, sir.
- 19 **Q** A six-pack lineup would be a page sort of horizontally
20 oriented with three photographs on the top and three on the
21 bottom; right?
- 22 **A** That's correct.
- 23 **Q** Okay. And you often will use these six-pack lineups with
24 six photographs on them, and one of the photographs is the
25 suspect; right?

1 **A** That's correct.

2 **Q** Okay. And you give the person, the witness, an
3 admonition saying, "I'm going to show you some photographs.
4 The suspect may or may not be in here. Please take a look,
5 let me know if you recognize anybody." It goes basically like
6 that; right?

7 **A** Yes, sir.

8 **Q** And then they look at it, and if you did this, Mr. -- and
9 you put Mr. Rivera's photograph in there, he could have looked
10 at it and said, "I don't see the robber in there." That could
11 have happened; right?

12 **A** It's possible.

13 **Q** Okay. But y'all never did that?

14 **A** I'm not aware if we did or not.

15 **Q** Okay. So are you -- let me ask you this: So when you're
16 the officer on the scene and you have this information, do you
17 have an obligation or a duty to give that to the lead
18 detective?

19 **A** We provide all our information to the lead detective,
20 yes.

21 **Q** Okay. And I know about this because it's in your written
22 report, and I'm presuming that Detective Edwards would review
23 all of this information.

24 **A** I can only assume.

25 **Q** Okay. We would both assume that; right?

1 **A** Yes.

2 **Q** That would be normal?

3 **A** Yes.

4 **Q** And it would be his duty to task other detectives to go
5 out to see Mr. Sapanic and do the photo lineup, that would
6 generally be his duty?

7 **A** If we decided that was a route we were going to take,
8 correct.

9 **Q** Why would you not take that route?

10 **A** In some circumstances, eyewitness testimony can be
11 unreliable, especially when we're involving traumatic
12 incidents where violence is occurring in front of them. I
13 have personal experience where people have -- are unable to
14 identify people who were directly in front of them. Sometimes
15 it is reliable, sometimes it is not.

16 **Q** Are you telling this jury you made a conscious decision
17 not to do this?

18 **A** I did not make that decision. I'm just explaining a
19 reason why we may not.

20 **Q** You have been involved in plenty of cases where somebody
21 said, "That's the guy," and they come in to court and they
22 say, "That's the guy"; right?

23 **A** I have been in some cases, yes.

24 **Q** Okay. I can't imagine why you guys would not have done
25 this. Can you give me any reason?

1 **A** Again, I'm only speculating.

2 **Q** Just unreliability?

3 **A** Speculating in this case, we had a co-defendant who

4 identified our defendant. We had --

5 **Q** Is that Mr. Bradford Britton?

6 **A** Yes.

7 **Q** Were you involved in the interview process with him?

8 **A** No, I was not.

9 **Q** Okay. Are you aware that he is a proven and admitted

10 liar?

11 **A** I don't know.

12 **Q** Are you going with Bradford Britton, the proven and

13 admitted liar, over an eyewitness who is saying that's the guy

14 or that's not the guy?

15 **A** Again, I did not make that decision.

16 **Q** So this would not be your job? This would not be your

17 job to do this?

18 **A** Ultimately, it falls on the decision of the lead

19 detective on which portion of the investigation to take.

20 **Q** We have heard that a lot: "It's not my job."

21 You were involved with a search warrant on 328 Kaminski;

22 is that right?

23 **A** That's correct.

24 **Q** Okay. Now, that is Mr. Bradford Britton's residence?

25 **A** That's correct.

1 Q And you indicated in your report that some small shoes
2 were found there, size 9 Nikes; is that right?

3 A I'd have to review my --

4 Q You can take a look.

5 A Yes, I did.

6 Q Okay. And you noted the size, size 9. Why was that
7 important to you?

8 A The shoes that were found on the scene, I believe to be
9 worn by the shooter, was size 9 and a half.

10 Q So to you, and maybe only you, the size was important?

11 A It is a factor.

12 Q Right.

13 A Yes.

14 Q And you also -- and I know you said you weren't involved
15 in the interviews, but are you aware that there was evidence
16 that Bradford Britton was selling drugs?

17 A I don't recall that.

18 Q Okay.

19 A No, I don't.

20 Q In your report, do you note that drugs were found
21 pursuant to the search warrant? I believe you indicated there
22 were pills, and they were packaged consistent with illegal
23 narcotics. Does that sound familiar?

24 A Yes. That was notated in my report, yes.

25 Q Now, just briefly going back to Mr. Jason Sapanic, the

1 person who can say that is or is not the robber --

2 MR. HIXSON: Your Honor, I'm going to object to that. We
3 stipulated to these identification procedures pretrial to
4 avoid prejudicial information, and he is opening the door to
5 all of this. It's inconsistent, and we're going to be allowed
6 to put all this identification stuff in that was -- made it an
7 effort to not come in.

8 I let him go. I was doing it again. We'll put --
9 Sapanick's under subpoena, and it's opening the door to
10 everything else.

11 THE COURT: Are you raising an objection?

12 MR. HIXSON: That's an objection, yes. And just also,
13 Your Honor is aware of the stipulations for identification
14 process that's in to avoid issues.

15 MR. MCGUIRE: Judge --

16 MR. HIXSON: And he's doubling down on it.

17 MR. MCGUIRE: -- I think this might be a matter of law
18 the Court needs to take up.

19 THE COURT: All right. Ladies and gentlemen, I'm going
20 to excuse you back to the jury room for just a few minutes.
21 Do not discuss the case, leave your notepads in the jury box.
22 Thank you very much.

23 (The jury exited the courtroom at 10:24 a.m.)

24 THE COURT: All right. Mr. Hixson, let me hear from you.

25 MR. HIXSON: Jason Sapanic and his wife are eyewitnesss

1 to this crime, along with 40-some other people who gave
2 inconsistent statements. And Sapanic did say that as a
3 hearsay statement concerning an identification procedure of
4 this defendant. Based on our discussions with defense
5 counsel, we stipulated on the record of the identification
6 procedures that were going to be used, and that is that South
7 Carolina identification number to avoid the fact that this
8 defendant was known to be an armed robber or other criminal
9 activity -- significant criminal activity, that he was on the
10 radar of everybody down in Georgetown as well as everybody
11 else. We did not want that to come in.

12 And so to avoid a witness slipping up and causing an
13 appellant issue, we stipulated to the identification
14 procedures to make sure that Mr. Rivera would get a fair trial
15 and not anything else in the world but just to try the issues
16 before the Court.

17 THE COURT: I mean, the stipulation was -- let me see.

18 MR. MCGUIRE: I think it's the last one on your --

19 THE COURT: Yeah, "The State will present the limited
20 identification evidence consisting of a stipulation in front
21 of the jury involving a pretrial single photo lineup presented
22 to the co-defendant, Bradford Britton, and the co-defendant
23 will identify the defendant in trial. The defense does not
24 object to this evidence and will not request a *Biggers*
25 hearing."

1 MR. HIXSON: That's right.

2 THE COURT: Okay. So, in other words, rather than having
3 a *Biggers* hearing that suggests that it was overly suggested
4 when they approached the co-defendant. As I understand, he's
5 asking why didn't you get the person who said, "I personally
6 can identify the robber," why didn't you present them with a
7 lineup?

8 MR. HIXSON: That's right. And then the follow-up
9 question was, "So the only thing that you have is Bradford
10 Britton's statement? All you have is Bradford Britton."
11 That's not true. We interviewed -- Mr. Sapanic is under
12 subpoena. We interviewed Mr. Sapanic, and based on the
13 stipulations of our understanding of avoiding these issues --

14 THE COURT: Well, I mean, what is it you're saying he's
15 opened the door that you can now get into?

16 MR. HIXSON: I can call Jason Sapanic as a rebuttal
17 witness. He wasn't on the witness list, but he placed him at
18 issue now. He's under subpoena and said, Based on these
19 stipulations, we're going to do the ID through this and not
20 open up other issues relating to his --

21 THE COURT: Well, tell me -- you're going to subpoena him
22 into court, you're going to put him on the witness stand, and
23 you're going to ask him what?

24 MR. HIXSON: "Is that the guy you saw in the bingo
25 parlor?" And he'll say yes. That's pretrial discussions.

1 THE COURT: Oh, so you're saying that he did identify
2 this defendant in pretrial?

3 MR. HIXSON: In showing pictures of him, he said, "I
4 think I can identify him." And so I have not put him in here.
5 I don't know exactly what he's going to say, but he says, "I
6 think if I saw him again, I could do that."

7 THE COURT: But that's a different issue.

8 MR. HIXSON: Well, I understand that.

9 THE COURT: The issue is whether or not they got an
10 eyewitness to identify the defendant.

11 MR. HIXSON: Right.

12 THE COURT: And whether or not they based their arrest of
13 the defendant on that identification.

14 MR. HIXSON: They did not base their arrest on
15 Mr. Sapanic's looking at a six-pack lineup and doing it.

16 And then, based on the stipulation of the identification
17 procedures, we didn't tell Mr. Sapanic that he had to be here
18 so he can be here as rebuttal.

19 THE COURT: The stipulation that I understand was that
20 the defendant was not going to require a *Biggers* hearing
21 because the co-defendant knows the defendant and that he knows
22 him through some nefarious dealings or whatever the case may
23 be, and rather than presenting that to the jury, the defendant
24 wasn't going to require a *Biggers* hearing as to why they only
25 gave the co-defendant one photo.

1 MR. HIXSON: I understand the Court's position, and if I
2 can illuminate that. Just like we would not put in the
3 written stipulation of why that is, he knew him prior to the
4 -- it was not a show-up ID. He knew him for a month and a
5 half prior to it.

6 THE COURT: The co-defendant knew him.

7 MR. HIXSON: The co-defendant knew him.

8 THE COURT: Yeah. And I understand that.

9 MR. HIXSON: So the *Biggers* hearing was not required to
10 begin with. The reason we're using the DMV photo is -- what
11 happened is they called Georgetown County Police Department
12 and said, "Do you know anybody by the name of Mug?" And he
13 said, "Yes." And then the universe of Georgetown information
14 about who Mug is, is how they made the linkage. That is the
15 very prejudicial stuff to try to --

16 THE COURT: Well, I understand all that, but all of that
17 is based upon the co-defendant's identification.

18 MR. HIXSON: That's right. That's right.

19 THE COURT: His questioning is, Why did you just rely on
20 the co-defendant's identification?

21 MR. HIXSON: They didn't just rely on that. They didn't
22 just rely on that. I mean, they relied on the police
23 department's identification. They relied on the other
24 information of the other witnesses who identified --

25 THE COURT: But, I mean, it was all based upon the

1 co-defendant identifying, and they took the co-defendant's
2 identification to the police.

3 MR. HIXSON: Yes, sir. Yes, sir. Yes, sir.

4 THE COURT: All right. That's different than an
5 eyewitness saying, "I can pick him out of a photo lineup."

6 MR. HIXSON: And I don't want to misrepresent to the
7 Court. He said, "I think I can -- if I saw him again, I think
8 I could." And then we didn't want to follow up anymore
9 because of the concerns -- and this stipulation where he says,
10 "We're going to do the identification to avoid these problems
11 just on a stipulation of ID, and that is the issue of ID."

12 And so now this issue of ID has been fleshed out
13 significantly before the jury, and that's what I mean by
14 enhancing this identification process, including the fact that
15 Jason Sapanic was not on the witness list based on this, and
16 now he's ripe for calling in rebuttal or calling in the case
17 in chief.

18 THE COURT: I disagree with that. I don't think so. I
19 think had Sapanic identified this defendant as the
20 perpetrator, then, yeah, you can bring him in. Had there been
21 some other identification other than the defendant -- the
22 co-defendant saying, "It's Mr. Rivera," and then you're
23 calling the police and saying, "All right. The co-defendant
24 says it's Mr. Rivera. What do you have on Mr. Rivera?" "Oh,
25 we know him. Yeah, this is all correct."

1 It all ties back to Mr. Britton's -- is that his name?
2 Britton? -- Britton's identification. And that is what he's
3 saying is, Why are you putting so much emphasis on
4 Mr. Britton's identification and not getting this third party?
5 And I don't know that that's improper.

6 MR. HIXSON: Now -- then it's the State's position that,
7 at the conclusion of our case in chief, Mr. McGuire has
8 directly put the identification, with no mask of Jason
9 Sapanic, in issue in this trial, and as such --

10 THE COURT: No, no.

11 MR. HIXSON: -- we're able to call him as a rebuttal
12 witness on that point.

13 THE COURT: Because Mr. Sapanic never identified him.

14 MR. HIXSON: No, I understand that. He's never been
15 given an opportunity.

16 THE COURT: Exactly. And that's the point he's trying to
17 make, is he was never given the opportunity.

18 MR. HIXSON: That's right. And tonight, he would be
19 given that opportunity, Your Honor.

20 THE COURT: No, you can't --

21 MR. HIXSON: Based on his testimony, we'd call him as a
22 rebuttal witness. If he can't identify him, he can't identify
23 him. If he can identify him, he can. And that's what the
24 evidentiary -- I mean, that's what the evidence is. "Law
25 enforcement: Do you recognize this guy now?"

1 THE COURT: Well, if he comes in and says, "No, that's
2 not the guy," what is the State's position in the prosecution
3 of this case?

4 MR. HIXSON: Well, then we're going to rely on DNA
5 evidence and say he didn't.

6 THE COURT: No. I disagree. I'm just going to overrule
7 it. I don't think he can bring -- I mean, if it -- he is not
8 questioning the identification of the defendant. He is
9 questioning why they didn't seek confirmation in the
10 identification of the defendant.

11 MR. HIXSON: If it's the case that defense argument is
12 that Jason Sapanic identified the wrong person or somehow that
13 Jason Sapanic could have done it, then does not that put us in
14 a position to call him as a rebuttal witness and hear from
15 Jason Sapanic?

16 THE COURT: He's saying, I don't know what Jason Sapanic
17 would have said or wouldn't have said, but if Jason Sapanic
18 said Mr. Rivera did it, then that kind of bolsters what
19 Mr. Britton says, and I can understand why you arrested him.
20 I can't understand why you didn't even go to Mr. Sapanic and
21 ask the question.

22 MR. HIXSON: And I totally agree with the Court if that's
23 what the argument's limited to. Totally agree with it.

24 THE COURT: I mean, that's my understanding of what I'm
25 getting from the --

1 MR. MCGUIRE: That's the point, Judge.

2 THE COURT: Okay. All right. Well, I'm going to
3 overrule your objection. I don't know that the questioning is
4 out of line. I think the stipulation just dealt with whether
5 or not the defendant was going to require a *Biggers* hearing
6 based upon the co-defendant's identification of the defendant.
7 All right?

8 All right. Anything from the State before we bring the
9 jury back in?

10 MR. HIXSON: No, Your Honor.

11 THE COURT: Anything from the defense?

12 MR. MCGUIRE: No, Judge. I only have one or two more
13 questions.

14 THE COURT: All right. Let's bring the jury back in.

15 (The jury entered the courtroom at 10:34 a.m.)

16 THE COURT: All right. Ladies and gentlemen, welcome
17 back. Please make sure you have your own notecards.

18 Mr. McGuire, you can continue with the cross-examination.

19 MR. MCGUIRE: Thank you, Judge.

20 BY MR. HIXSON:

21 Q Going back to the small size 9 Nikes found at
22 Mr. Britton's residence, did you take those into evidence; do
23 you remember?

24 A I believe I did.

25 Q I mean, I don't know from -- if you took them into

1 evidence or you just made a note of it.

2 A I don't recall exactly. I believe I packaged them up,
3 but I don't recall the chain of custody.

4 Q Yeah, I couldn't tell either. So they may be in evidence
5 now or they may not be?

6 A I'm not sure.

7 Q Okay. That's fair enough. Were you ever able to
8 determine who owned the size Nikes?

9 A No. I believe we later determined the room they were
10 found in was Mr. Britton's son's room.

11 Q Is that Elijah?

12 A I believe so.

13 Q And do you know what size shoe he wears?

14 A I don't.

15 Q That's all I have for you. Thank you, sir.

16 THE COURT: Redirect?

17 REDIRECT EXAMINATION

18 BY MR. HIXSON:

19 Q Do you know how old Elijah is?

20 A Based on recollection, I believe at the time he was
21 approximately 17 years old.

22 Q And he consented to a buccal swab to allow to swab his
23 DNA?

24 A That, I don't know. I was not there for that.

25 Q Okay. No further questions.

1 THE COURT: All right. You may step down.

2 Let me see the attorneys for a second.

3 BENCH CONFERENCE

4 (The following bench conference was held outside of the
5 hearing of the jury and others:)

6 THE COURT: They just went out. How long is your next
7 one? Is this --

8 MR. HIXSON: Ryan Keefe is easy. It's just the LPR
9 reader video. It's the shortest one I got left. And that
10 will be 15, 20 minutes or maybe less.

11 THE COURT: Okay. That's what I was thinking okay.

12 MR. McGUIRE: It's more car stuff?

13 MR. HIXSON: Yeah, it's the LPRs.

14 MR. McGUIRE: I don't have any questions on that stuff.

15 MR. HIXSON: It's just the LPR that shows the car passing
16 the license plate number to keep closing the loops.

17 THE COURT: Okay.

18 (Open court resumes as follows:)

19 THE COURT: All right. The State can call your next
20 week.

21 MR. HIXSON: At this time, the State would call Ryan
22 Keefe.

23 RYAN KEEFE,

24 the witness, after having been duly sworn, was examined
25 and testified to as follows:

1 THE CLERK: State your full name and spell your last name
2 for the Court.

3 THE WITNESS: My name is Ryan Keefe. K-e-e-f as in
4 "Frank"-e.

5 DIRECT EXAMINATION

6 BY MR. HIXSON:

7 Q Good morning, sir. How are you?

8 A Very good.

9 Q Please tell this jury what you do for a living.

10 A I'm a security technician here in Myrtle Beach.

11 Q Okay. And what company do you work for?

12 A Security Vision.

13 Q Okay. And what does Security Vision do?

14 A We do alarm systems, surveillance cameras, life safety
15 equipment. Install, maintain service.

16 Q Okay. So do you provide -- give me a technical term you
17 use -- do you provide security technology solutions for
18 neighborhoods and apartment buildings or individuals?

19 A We do.

20 Q And what might some of those security solutions be?

21 A Well, we do a lot of neighbor surveillance, so license
22 plate cameras, overview cameras of the neighborhoods as you
23 enter and exit neighborhoods.

24 Q And so you mention license plate cameras. What is that?
25 Generally speaking, what is that?

1 **A** So license plate camera is exactly that. I don't know if
2 anybody has been on an interstate. You go through a toll
3 booth, there's cameras that are specifically designed to
4 capture just the tag. So typically, in neighborhoods,
5 businesses, things like that, we might do an overview camera
6 to get a general overview, kind of like the surveillance
7 system you saw from, I guess, the bingo place and next --

8 **Q** Healthy Homes?

9 **A** Yeah, Healthy Homes.

10 But a license plate camera is going to capture just the
11 tag of a vehicle that's passing through.

12 **Q** So is it safe to say you have, like, an overview camera,
13 which is, I guess, a normal camera, one would think of, and
14 then just a more focused area camera that just shows the back
15 of a car?

16 **A** That's correct.

17 **Q** Are they sometimes used in tandem?

18 **A** They are.

19 **Q** And describe that for us.

20 **A** Typically, what we try to do, we try to get an overview
21 camera and a license plate camera in tandem, so we get a
22 general description of the vehicle that's in the area and then
23 that license plate camera to get the tag of that vehicle as
24 it, you know, enters or exits the area.

25 **Q** Okay. And so some states require front license plates;

1 right?

2 A That's right.

3 Q And some just require rear license plates.

4 A That's right.

5 Q Here in South Carolina --

6 A It's rear.

7 Q It's rear only; right?

8 A That's right.

9 Q So if you put an LPR reader, license plate camera reader,
10 facing the front of the car, can you see the license plate?

11 A No.

12 Q It's got to see the car going away; right?

13 A That's correct, yeah. So a lot of times what we will do
14 is an overview camera will be, as the vehicle enters the
15 property, and license plate camera is facing the opposite
16 direction as they pass through to capture the back license
17 plate of that vehicle.

18 Q Okay. And so we have had a lot of timestamp discussions.
19 I don't know if you have been here or not. How do you assure
20 the accuracy in your line of work with your cameras?

21 A So pretty much all our systems are connected to the
22 internet, so we set them up on national time servers. So
23 they're very accurate, to the second.

24 Q So instead of power outage and the VHS camera flashing --

25 A That's right.

1 Q -- you guys are coming down from the satellite and it's
2 pretty consistent.

3 A That's right. It's pinged every 30 minutes to grab the
4 exact time.

5 Q So I'll show you -- have you -- let me back up and
6 authenticate this. So did you capture any video probative to
7 the incident surrounding the bingo parlor hall -- excuse me,
8 let me back up and let me more authenticate this.

9 So as one of your customers, was one of your customers
10 the Tuscany Grande neighborhood?

11 A They are.

12 Q And did you provide any surveillance camera services and
13 LPR reader services to the Tuscany Grande neighborhood?

14 A We did.

15 Q Were they functioning on July 26th of 2019?

16 A Yes.

17 Q And did you receive a request at some time from Horry
18 County Police about whether or not you had any surveillance of
19 any interest?

20 A We did.

21 Q And did you do anything about that?

22 A I did. I believe it was the evening of the 26th, maybe
23 going into the 27th really is when I was able to start pulling
24 video footage from our system that we had at Tuscany property,
25 and I turned over all the evidence that I found during the

1 hours they asked me to law enforcement.

2 Q Now, at some point in time, did you actually receive a
3 request to identify any license plates that passed through
4 your license plate reader camera during a certain period of
5 time?

6 A I did.

7 Q And then, based on that, were you able to refine that
8 down to a kind of single license plate of issue?

9 A Yes.

10 Q And did you provide that license plate information to
11 Horry County Police Department?

12 A I did.

13 Q Did you preserve that video for court purposes?

14 A I did.

15 Q Let me show you what's been marked as State's Exhibit 80.
16 See if you recognize that.

17 A I do.

18 Q And also, let me show you just -- want to take a look at
19 all those? And whenever you're ready, look up at me.

20 Do you recognize those?

21 A I do.

22 Q What are those?

23 A These are the license plate captures from my system.

24 MR. HIXSON: Okay. And I was handing the witness State's
25 81, 82, 83, 84. Those are categorized as still photos from

1 the license plate reader system at Tuscany Grande. At this
2 time, we move these into evidence.

3 THE COURT: Any objection?

4 MR. McGUIRE: No objection, Judge.

5 THE COURT: All right. State's -- did you include 80 in
6 that?

7 MR. HIXSON: I haven't gotten there yet, but I'll do it
8 right now, Judge.

9 And 80 is identified as a thumb drive that shows the
10 actual video from the overhead camera and the license plate
11 reader from Tuscany Grande.

12 MR. McGUIRE: Also no objection, Judge.

13 THE COURT: So that's State's Exhibits 80 through 84?

14 MR. HIXSON: Yes, sir.

15 THE COURT: All right. State's Exhibits 80, 81, 82, 83,
16 and 84 are admitted into evidence without objection.

17 (State's Exhibit Nos. 80, 81, 82, 83, and 84, License
18 Plate Reader Videos, were received into evidence.)

19 MR. HIXSON: At this time, we'd move 80 into evidence --
20 I mean, excuse me, publish to the jury.

21 THE COURT: All right.

22 BY MR. HIXSON:

23 Q I tell you what, let's just start with the stills. Take
24 a look at 81. Can you see that, Ryan?

25 A I can.

1 Q Okay. Tell us what we're looking at there.

2 A Right here, you're looking at the license plate of the
3 vehicle that passed through on Tuscany Grande Golf Course
4 Boulevard, I believe, at 21, I think that says 45, maybe 46.
5 Is that right?

6 MS. RABON: 45.

7 MR. HIXSON: 45? Close.

8 Q It's hard to see. I'll hand them up to you if you can't
9 see.

10 Let me show you State's 42.

11 A Maybe just a couple of seconds before. Same thing.

12 Q Let me show you this. It's hard to see, but here.
13 Timestamp on State's 81, what is that?

14 A 45:48 seconds.

15 Q Okay. 45:48. So let me hand you State's 82. Can you
16 read the timestamp on 82?

17 A 48:21.

18 Q So it's three minutes after this one?

19 A Yes.

20 Q All right. Since we're here, State's 83?

21 A 83 we have got 56:53.

22 Q So quite a few minutes after this one; right?

23 A Yes.

24 Q And then, finally, State's 82.

25 A 82 was 57:39.

1 Q And that's the headlights of the car and not the rear end
2 of the car?

3 A Correct.

4 Q I'll try this again now. 81. Is that the 45:48?

5 A It is.

6 Q And can you see the license plate from that?

7 A I can.

8 Q Is that just QAK-456?

9 A That's what I see.

10 Q Very good.

11 State's 82 is -- I think you testified that's 48:21?

12 A Correct.

13 Q And is that QAK-456?

14 A It is.

15 Q And so let's -- 48:21. And then, finally, State's 83.

16 Is that 56:53?

17 A It is.

18 Q And that's QAK-456?

19 A Yes, sir.

20 Q And then, finally, State's 82 -- excuse me, 84. And that
21 says 57:39; is that right?

22 A Yes.

23 Q And that's headlights coming out?

24 A Those are headlights, yes, sir.

25 Q All right. Thank you.

1 Now, the license plate rear end part of it goes pretty
2 quick; isn't that right?

3 **A** It does.

4 **Q** When a car drives past it.

5 **A** Yep.

6 **Q** And when you're looking at those, can you see kind of --
7 I mean, as you compare one license plate picture in a car
8 moving to a subsequent, can you see speed differences between
9 how fast one car is going and the next time you see it, just
10 generally speaking?

11 **A** Yeah. I mean, yes. Especially at night, I mean,
12 obviously, you follow the headlights and everything like that.

13 MR. HIXSON: At this time, we publish State's 80. And
14 once you get it up, if you can pause it.

15 BY MR. HIXSON:

16 **Q** Are you generally familiar with the angle of the overhead
17 camera on where it is looking down Belle Terre Boulevard?

18 **A** Yes, sir.

19 **Q** If I showed you State's 2, do you think you can generally
20 point to where your overhead camera and your LPR camera was?

21 **A** Absolutely. As you come around this bend into Tuscany,
22 right after the bend, right in this area.

23 **Q** Okay. And so if the camera is on a pole, what direction
24 is the overhead camera shining, directing?

25 **A** So the overview camera is facing back towards Highway 501

1 as they come around the bend, and then, on that same pole,
2 just the opposite direction, as they enter Tuscany, the
3 license plate camera is capturing the tag.

4 Q Very good. So what you're seeing is this area of Belle
5 Terre, and is there a retaining wall of some kind that's built
6 up, like, the exit ramp off 31?

7 A There is. Yeah, right in this area.

8 Q And so you'll see a couple-of-second lag, is that safe to
9 say, when you see the overview camera, the car pass, and then
10 the LPR camera hit it as it passes; is that right?

11 A Yes, that's correct.

12 Q So, since you oriented the jury for us, tell us what
13 we're looking at here.

14 A You're looking at that bend as they come around,
15 entering, I guess, Tuscany property on Belle Terre Boulevard.
16 So we're looking towards 501. And that retaining wall is just
17 to the left.

18 Q Is this area the retaining wall we're talking about?

19 A It is.

20 Q And the timestamp on the first one starts at 45:36?

21 A It does.

22 (State's 80/Video plays.)

23 BY MR. HIXSON:

24 Q Is that 48:12?

25 A It is.

1 Q Does that car appear to be moving faster to you?

2 A It does.

3 Q And then it goes through the LPR faster?

4 A Yes, sir.

5 (State's 80/Video plays.)

6 BY MR. HIXSON:

7 Q 56:43?

8 A Yes, sir.

9 Q And I think you said about -- since the plate is not on
10 the front of the car but the back of the car, if it's coming
11 that way, you don't get the license plate.

12 A That's right. And that's why the last still we had was
13 -- from the LPR was capturing the headlights coming out.

14 Q All right. And you provided all that information to
15 Horry County law enforcement?

16 A I did.

17 Q Thank you very much for what you do. I have no further
18 questions.

19 MR. MCGUIRE: I just have maybe one question.

20 THE COURT: All right.

21 CROSS-EXAMINATION

22 BY MR. MCGUIRE:

23 Q So with regard to license plate readers, are you able to
24 enter the license plate number and then your system tells you
25 when that car passes through, or do you have to go and look at

1 the time?

2 **A** With this system, this was the analog system. We do have
3 digital systems that we can do that, yes, sir.

4 **Q** Okay. Have you ever contracted with law enforcement with
5 regard to license plate readers?

6 **A** They use our surveillance video a lot. But you mean
7 contract?

8 **Q** Yeah, I mean, like has any town or sheriff's office come
9 to you and said we want you to set up our system and you guys
10 do a contract with them? Have you ever had that kind of
11 experience?

12 **A** We have been asked, but we do not have a current contract
13 with them, no.

14 **Q** That's all I have for you. Thank you for coming.

15 THE COURT: Redirect?

16 MR. HIXSON: No, sir.

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

18 All right. Ladies and gentlemen, I think we're going to
19 take about a 10- or 15-minute break, give you a morning break.
20 Leave your notepads there in the jury box. Do not discuss the
21 case, even among yourselves at this point in time. We'll take
22 about a 10- or 15-minute break and bring you back in just a
23 few minutes. Thank you very much.

24 (The jury exited the courtroom at 10:53 a.m.)

25 THE COURT: All right. Anything from the State before we

1 recess?

2 MR. HIXSON: No, sir.

3 THE COURT: Anything from the defense?

4 MR. MCGUIRE: No, sir.

5 THE COURT: All right. Let's take about a 10- or
6 15-minute break and we'll come back and get started.

7 (A brief recess was taken from 10:54 a.m. to 11:15 a.m.)

8 THE COURT: All right. Anything from the State before we
9 bring the jury in?

10 MR. HIXSON: No, sir.

11 THE COURT: Anything from the defense?

12 MR. MCGUIRE: No, sir.

13 THE COURT: All right. Let's bring the jury in.

14 (The jury entered the courtroom at 11:18 a.m.)

15 THE COURT: All right. Ladies and gentlemen, welcome
16 back. Please make sure you have your own notebooks, no one
17 else's notebooks. We're ready to resume the trial of the
18 case.

19 Mr. Hixson, the State can call your next witness.

20 MR. HIXSON: Thank you. At this time, the State would
21 call Investigator Drew Edwards from the Horry County Police
22 Department.

23 DET. DREW EDWARDS,

24 the witness, after having been duly sworn, was examined and
25 testified to as follows:

1 THE CLERK: State your full name and spell your last name
2 for the Court.

3 THE WITNESS: Christopher Drew Edwards. E-d-w-a-r-d-s.

4 DIRECT EXAMINATION

5 BY MR. HIXSON:

6 Q Good morning, sir. How are you?

7 A I'm good. How are you?

8 Q Please tell this jury what you do for a living.

9 A I'm work at the Horry County Police Department. I'm a
10 detective in the Narcotics Division.

11 Q And how long have you worked for Horry County Police
12 Department?

13 A October 30th will be 15 years.

14 Q 15 years. All right.

15 At some point in time, did you work in the violent crime
16 or major crime or homicide unit for Horry County Police
17 Department?

18 A Yes, sir. I was there a little over two years.

19 Q Okay. And so were you working in that capacity around
20 July 26th of 2019?

21 A I was.

22 Q Okay. And did you -- at some point in time, were you
23 working that day and got a call out to respond to the Waccamaw
24 Bingo for a double homicide investigation?

25 A Yes, sir.

1 Q Tell us about that.

2 A So I was on call, after 6 p.m. that day. I had been to a
3 call out in Aynor, and on my way home, I actually got a phone
4 call from a police officer saying there had just been a
5 shooting in the south precinct.

6 So I switched my radio to that precinct and heard where
7 it was and started heading there. I called my sergeant, and I
8 was notified, probably about five minutes before I got there
9 that at least one person had already passed away.

10 So I arrived on the scene. It was still pretty chaotic.
11 There was people running everywhere. EMS was working on the
12 victims pretty close to the office. One was in the office.
13 One was right outside. The second victim was eventually
14 pronounced deceased, and we started trying to separate people,
15 get everybody, you know, away from each other, not talking to
16 each other.

17 And I spoke with the watch commander, Lieutenant Tom
18 DelPercio. He kind of gave me a rundown on what they already
19 had. So as more detectives starting arriving on scene, we got
20 together and we kind of split up. My first initial task was
21 to interview the -- a couple dozen witnesses we had there.

22 Q And did you do your best to get witness statements from
23 those individuals? Or the individual we're talking about,
24 were they just citizens, patrons that were playing bingo?

25 A The first one I interviewed, actually worked there. The

1 rest of them were just there playing bingo.

2 **Q** And kind of how would you characterize, I guess, the
3 nature of the witnesses and the bingo parlor confronted with
4 this situation?

5 **A** They were all very upset. Most of them were elderly
6 women that I spoke with. I spoke with one male. They each
7 kind of gave a little bit different description of the suspect
8 as far as, like, mask, height, weight, which is -- we found
9 that happens quite often because -- especially with crimes
10 involving guns. A lot of people just see the gun, they
11 freeze. It's a violent, traumatic thing to witness and be a
12 part of.

13 **Q** Did you find that some witnesses even gave
14 inconsistent -- at some point in time, were you able to
15 actually view the video of the suspect coming in and see what
16 that suspect was wearing?

17 **A** Yes. Our Lieutenant Cestare was able to send out a
18 picture of the suspect coming in the business, or it might
19 have been when he was running towards the office. So we were
20 able to see he was wearing, like, gray style sweatpant
21 clothing with, like, a white face covering over his face
22 probably up to his nose.

23 **Q** And so is it the case that, you know, in the multitude of
24 witnesses that you interviewed, some witnesses identified
25 wearing red shorts or a red shirt?

1 **A** We got various color, style, and all sorts of different
2 clothing descriptions.

3 **Q** Is it safe to say, based on your effort of interviewing
4 eyewitnesses --

5 MR. MCGUIRE: Objection: Leading.

6 THE COURT: I'll allow it. Go ahead.

7 BY MR. HIXSON:

8 **Q** Did you find that, generally speaking, the information
9 given to you by the witnesses that were involved in this
10 traumatic incident were helpful to your investigation?

11 **A** No, sir.

12 **Q** So if the folks that were there weren't so helpful, what
13 did you find to be the most helpful?

14 **A** Video evidence, to begin with, and then, later on, the
15 DNA evidence.

16 **Q** Okay. So take us through that then. At some point in
17 time, you did interview and have a discussion with Teresa
18 Holyfield; is that right?

19 **A** Yes, sir.

20 **Q** And, I guess, did it come to your attention that there
21 were items of evidentiary value in your investigation left in
22 the office?

23 **A** Yes. She -- right afterwards when it happened, she
24 didn't want certain things to get messed with, so she had
25 picked up a drawstring bag and a shoe and placed it, I

1 believe, onto, like, a stool or counter so nobody would step
2 on them or mess with them.

3 Q And, as a matter of fact, early on, wasn't it true that
4 one of the possible suspects was this allegation that someone
5 had passed a counterfeit bill in the bingo parlor; is that
6 right?

7 A Yes, sir. That was Wayne Youen (ph). He was a Jamaican
8 fellow. We located him.

9 Q Did he stay on scene?

10 A He did.

11 Q Did you interview this individual?

12 A I did.

13 Q Did he let you search his Mazda, his car?

14 A He did.

15 Q And were you able to, based on that investigation, you
16 excluded him as a possible suspect?

17 A Yes, sir.

18 Q Then, I guess, did you progress as best you could
19 throughout the night, doing what you could at that moment in
20 time?

21 A Yes, sir.

22 Q And please continue. I'll try not to interrupt you.

23 A So I believe it was the next day, myself and some other
24 detectives -- or the night of the incident, we had found out
25 that some clothing had been recovered in Tuscany that matched

1 the picture that we had seen from the surveillance video.
2 Lieutenant Cestare collected it. And so we canvassed that
3 neighborhood looking for cameras. We didn't really get
4 anything of evidentiary value canvassing the neighborhood.
5 Detective Scales collected some video from Healthy Homes, and
6 that kind of gave us a vehicle description to look at. We
7 also contacted Tuscany's HOA and found out who their camera
8 service was through for their security cameras, and they
9 provided us with us a list of license plates.

10 **Q** And that's a nice point. You got the video and the
11 license plate readers, right, and then you --

12 **A** Initially, we just got a -- she emailed -- I think she
13 emailed me a list of license plates, and one in particular had
14 stars by it because it had been through so many times.

15 **Q** Please go from there. Did you follow up on that license
16 plate number?

17 **A** Yep. We found -- running the license plate, it came back
18 to a Volkswagen Passat. From the video that Detective Scales
19 collected, we could see it was on a Jetta. It came back to, I
20 believe, Stella Britton in Orangeburg.

21 So we started looking into that, and we ended up making
22 contact with her a couple of days later in Orangeburg, and she
23 said her son, Bradford, had a Passat. The tag hadn't been
24 transferred to his Jetta that he just got, but they were in
25 the process of going through the DMV to get that squared away.

1 Q So based on your conversation with Stella Britton, you
2 had reason to believe that a silver Jetta with QAK-456 and a
3 suspect by the name of Bradford Britton may have been driving
4 that car; is that right?

5 A Yes, sir.

6 Q And how did you follow up after that?

7 A So I notified my sergeant. We were -- myself and
8 Detective Wydra were in Orangeburg, which was a couple of
9 hours away from the address that Stella had provided us. It
10 was a lot closer for the guys and the girls that were still
11 here in Horry County.

12 So we decided to meet and try to take or locate Bradford.
13 We found he had a local warrant for Family Court in South
14 Carolina, so we went to his house on South Kaminiski Street,
15 and we located him and took him into custody.

16 Q Okay. Let's slow down just for a second right there. So
17 it appears as if the incident happens on the 26th; is that
18 right?

19 A Yes, sir.

20 Q And then, during the 27th, you're working on this idea of
21 the Tuscany Grande video, canvassing, trying to see if you can
22 find any video evidence on the LPRs or anything like that, and
23 that's on the 27th; is that right?

24 A Yes, sir.

25 Q Okay. And then, on the -- had a busy day. And that goes

1 into the 28th; right?

2 **A** Yes.

3 **Q** And the 29th is a pretty busy day. At some point in
4 time, did you go to the Medical University of South Carolina?

5 **A** Yes, myself and Detective Wydra attended the autopsies.

6 **Q** And then, during the course of the autopsy, were you
7 provided some items from them, including fingernail clippings
8 -- like an autopsy kit, basically, right, including the
9 bullets from the individuals that were killed?

10 **A** Yes, sir.

11 **Q** And you transported those back to Horry County for
12 additional forensic -- potentially for additional forensic
13 analysis; is that right?

14 **A** Yes, sir.

15 **Q** And then that's all the day of the 29th.

16 So, on the 29th, I think you said you had a conversation
17 with Stella Britton; is that right?

18 **A** We did.

19 **Q** And I think you just highlighted that conversation.

20 Based on a conversation with Bradford's mom, you do what
21 you can to find Bradford; right?

22 **A** Yes, sir.

23 **Q** Okay. And I think we're at the point where -- did you
24 ask for agency assistance from the Georgetown City Police
25 Department?

1 **A** We did.

2 **Q** To drive by Kaminski Street?

3 **A** We did.

4 **Q** Okay. And when they first went past the Kaminski Street
5 address, do you recall if anything was specifically visible
6 from the street?

7 **A** I'm pretty sure they could see the Jetta from the
8 roadway.

9 **Q** Let me show you a couple of pictures. State's 87 and
10 State's 88. See if you recognize those.

11 **A** Yes.

12 **Q** What are those we're looking at? And I'm talking State's
13 87 first. Do you recognize those? Are they a fair and
14 accurate picture of Georgetown, Kaminski Street?

15 **A** Yes, sir.

16 **Q** We'd move State's 87 and State's 88 into evidence.

17 THE COURT: Any objection?

18 MR. McGUIRE: No objection, Judge.

19 THE COURT: State's Exhibits 87 and 88 are admitted into
20 evidence without objection.

21 (State's Exhibit No. 87 and 88, Jetta Photos, was
22 received into evidence.)

23 BY MR. HIXSON:

24 **Q** What's that we're looking at here?

25 **A** That's the house Bradford was staying in.

1 Q Okay. And of significance on the right-hand side of the
2 picture, what are we looking at?

3 A That's his Volkswagen.

4 Q And is that car pulled in or backed in?

5 A Backed in.

6 Q So the license plate is not -- you can't see it from the
7 road?

8 A Yes, sir.

9 Q And the jury is looking at State's 88. What is that?

10 A That's the license plate Quebec Alpha Kilo 456 on this
11 Jetta.

12 Q And that's the point in time on -- at some point in time
13 of July 29th that you finally located the car; is that right?

14 A Yes, sir.

15 Q And then you took that, I assume that -- don't assume
16 anything.

17 Did you get a search warrant to seize that car and then
18 subsequently do investigations on that car?

19 A I didn't personally.

20 Q Did the county police?

21 A The county police did, yes.

22 Q Now, let's talk about -- you started talking about, at
23 some point in time, did you make contact with Bradford
24 Britton?

25 A Yep.

1 Q Tell us about that.

2 A He was coming out the back door to throw some food out
3 for his dogs, and we arrested him and took him to the
4 Georgetown City Police Department.

5 Q Now, at the time that you arrested him, were you
6 arresting him on activity surrounding the bingo parlor, or I
7 think you already indicated that he had --

8 A He was taken into custody for a Family Court bench
9 warrant.

10 Q And was Family Court failing to pay child support?
11 That's basically what that is?

12 A Yeah.

13 Q At that point in time, did you interview Bradford? You
14 took him to the Georgetown Police Department?

15 A Yes, sir.

16 Q Did you interview Bradford Britton?

17 A We did.

18 Q And did you read Bradford his Miranda rights?

19 A We did.

20 Q And he decided to waive those and give you a voluntary
21 statement?

22 A Yes, sir.

23 Q Okay. And I don't want to get into everything that
24 Bradford Britton said. That's what we'll start to talk about
25 in a little bit.

1 When you initially talked to Bradford about any
2 involvement in the bingo parlor, what was his general
3 position?

4 **A** He didn't know what we were talking about, he let
5 somebody use his car, and he was in Georgetown the whole time.

6 **Q** So he denied any activity of any kind involved in this?

7 **A** Yes, sir.

8 **Q** At some point in time, did he give you -- was it your
9 perception that he was being truthful with you or was he lying
10 to you throughout that process?

11 **A** No, he was definitely lying. While we were talking to
12 him, he was experiencing some gastrointestinal discomfort from
13 being so nervous. He had to go to the bathroom. You could
14 audibly hear his stomach turning.

15 **Q** His guts churning?

16 **A** Yep.

17 **Q** During the course of that interview, was there anything
18 kind of of evidentiary value that you were able to glean in
19 the midst of all the stories that you were receiving? Did
20 that first interview direct you or help you in any way?

21 **A** Towards the end, he said that he gave a guy named G a
22 ride to Myrtle Beach for 20 or 30 dollars. He later said it
23 was Mug and that he had driven him there to -- Mug needed to
24 get some money from a guy in a Camaro.

25 **Q** So about how long did that first interview last; do you

1 recall?

2 **A** It was a couple of hours.

3 **Q** And during the course of that interview, did you -- you
4 indicated he waived his Miranda rights. Did you force or
5 pressure him or force him? I guess it's a defendant
6 interrogation in a double murder case so that's not a pleasant
7 experience. But did you overcome his will with police tactics
8 or any way during the course of your interview?

9 **A** No.

10 **Q** And you recorded that interview so we have an idea of
11 what was going on in there?

12 **A** Yes, sir.

13 **Q** Okay. And so, to characterize, if you can, that two-hour
14 discussion, during the first part, I think he had already
15 said, "I don't know anything, I'm not involved in this, I
16 don't know what you're talking about." Is that safe to say?

17 **A** Yeah, he denied. He tried to distance himself from the
18 car.

19 **Q** Now, during the course of that, did you give him
20 indication of some of the evidence that you had that made him
21 a suspect?

22 **A** Yeah. I informed him that, you know, his car was
23 definitely in Myrtle Beach, and we knew that it had traveled
24 to Horry County from Georgetown.

25 **Q** Did you also, at some point in time, based on being

1 confronted with that, does he progressively try to tell what
2 he says is the truth?

3 A He does.

4 Q So tell us about that a little bit more.

5 A I want to say, that day, he went through three
6 progressions of the story, I'll say. Not knowing anything and
7 just letting -- I think it was Trey borrow his vehicle to --

8 Q Were you ever able to corroborate this kind of -- this
9 fictitious Trey thing?

10 A No.

11 Q Okay. Please continue.

12 A He would -- towards the end, he described himself as a
13 hood Uber. He said he gives people rides for money on his own
14 kind of as a job. That's when he said he had given Mug a ride
15 to go collect some money.

16 Q Okay. Now, during the course of these interviews, is it
17 safe to say that, when a homicide investigator interviews
18 somebody, are you pretty used to people lying to you?

19 A Yes.

20 Q And so I don't know however else to say this, so do you
21 take everything that anybody tells you with a grain of salt?

22 A No, sir.

23 Q I mean, you expect to question what's being told to you?

24 A Yes, sir.

25 Q And so what kind of tools do you use to try to separate

1 the -- I'm on the record here -- so separate the lies from
2 the, you know, the false information from things that you can
3 maybe there's some truth to that?

4 **A** We have to take what they tell us and either prove it or
5 disprove it. We do it -- I mean, there's a bunch of ways we
6 can do that. One thing Derrick said was -- I can't remember
7 if it was this interview or the one at our police department.

8 **Q** Now, who did --

9 **A** Or Bradford.

10 **Q** Bradford said?

11 **A** Yeah. Bradford said, after dropping the guy off at
12 Waccamaw Bingo, he went to the Circle K across the street to
13 get gas. So I went and pulled the video and watched two or
14 three hours' worth of video, and he never went there. So I
15 disproved that. I think that was during the first interview.

16 **Q** That he certainly wasn't captured on video at that
17 location?

18 **A** Right. We use cellphone records and things of that
19 nature to try to verify their story.

20 **Q** To just not accept what's told to you, but try to
21 separate the garbage from what you think you can -- is what
22 happened here?

23 **A** Yes, sir.

24 **Q** During the course of that, were you able to talk to him
25 about this person that he -- I think you left it with saying

1 that he ultimately said, "Yes, I did go up to Myrtle Beach";
2 is that right?

3 A Yes, sir.

4 Q And that he acknowledged taking someone to Myrtle Beach
5 at the end of that first interview; is that right?

6 A Yes, sir.

7 Q But was he forthright with you with what happened in that
8 first interview while in Myrtle Beach?

9 A No.

10 Q Did he, during that interview, change the story from Trey
11 to somebody else that was in the car with him?

12 A He did.

13 Q And who did he say that individual was at the end of the
14 first interview?

15 A Mug.

16 Q Did he also give other nicknames for that person?

17 A I think that day he called him G.

18 Q Okay. So, initially, he says it's G but doesn't give up
19 anybody else's name initially; right?

20 A Yeah.

21 Q And did he indicate to you that he had the person he
22 calls G in his cellphone and contact information in his
23 cellphone?

24 A Yeah, he said he had him listed as Big Bro in his phone.

25 Q And then did Bradford Britton consent to allow you to

1 look into his phone in that first interview or during those
2 interviews?

3 **A** I want to say it was during the second interview.

4 **Q** Okay. Let me show you what's marked as State's 91. See
5 if you recognize that.

6 **A** I do.

7 **Q** What is that?

8 **A** It's a picture of his contact labeled Big Bro.

9 **Q** Okay. And put that -- if you can see what -- what
10 telephone number did Bradford Britton have in his telephone
11 under Big Bro?

12 **A** (843) 287-8558.

13 MR. HIXSON: Your Honor, we move 91 into evidence.

14 MR. MCGUIRE: No objection.

15 THE COURT: State's Exhibit 91 admitted into evidence
16 without objection.

17 (State's Exhibit No. 91, Photo of Big Bro Contact, was
18 received into evidence.)

19 MR. HIXSON: May we publish this, Your Honor?

20 THE COURT: All right.

21 BY MR. HIXSON:

22 **Q** See if you can see those numbers. So that's a photograph
23 of Bradford Britton's phone that Horry County Police took
24 during the course of those interviews early on?

25 **A** Yes, sir.

1 Q And that is (843) 287-8558; is that right?

2 A Yes, sir.

3 Q Okay. Thank you.

4 Now, also during the course of that, did you try to
5 employ any other means to identify him? In other words, since
6 he said he knew who that person was, did he make any other
7 statements to you concerning identification?

8 MR. HIXSON: And before you answer that question, let me
9 offer up State's 89. Okay?

10 And, Your Honor, at this point, for the Court, the State
11 and the defense have entered into a stipulation agreement
12 concerning the identification of Mr. Rivera by Bradford
13 Britton, and I can have the witness read the stipulation or I
14 can read the stipulation, however you'd like for me to do it.

15 THE COURT: It doesn't matter. However you want to do
16 it.

17 MR. HIXSON: I'll let him read it. So State's 89 -- we
18 move State's 89 into evidence.

19 THE COURT: Any objection?

20 MR. McGUIRE: No objection.

21 THE COURT: All right. State's 89 admitted into evidence
22 without objection.

23 (State's Exhibit No. 89, ID Stipulation, was received
24 into evidence.)

25 BY MR. HIXSON:

1 Q Okay. So the State and the defense counsel have agreed
2 to the fact that Bradford Britton told law enforcement
3 officers that the person he drove to the incident location, or
4 the Waccamaw Bingo, went by the nickname of G, Bro, or Mug.
5 Further investigation revealed that Mug is a nickname of
6 Derrick Rivera. Horry County law enforcement officers showed
7 Bradford Britton a South Carolina Department of Motor Vehicles
8 photo of Derrick Rivera, and Bradford Britton stated that the
9 person in the South Carolina Department of Motor Vehicles
10 photo is the same person he knew as Mug. Is that what that
11 says?

12 A Yes, sir.

13 Q Okay. And that's State's 89.

14 I'm going to hand you up a copy of State's 90. See if
15 you recognize that?

16 A Yes, sir.

17 Q What is that?

18 A It's Derrick Rivera's DMV record.

19 Q And that's a DMV photo of Derrick Rivera that the ID is
20 based off of?

21 A Yes, sir.

22 MR. HIXSON: We move State's 90 into evidence.

23 THE COURT: Any objection?

24 MR. MCGUIRE: No objection.

25 THE COURT: State's Exhibit No. 90 admitted into evidence

1 without objection.

2 (State's Exhibit No. 90, Rivera SC DMV Photo, was
3 received into evidence.)

4 BY MR. HIXSON:

5 Q Now, if you can, do you mind just reading the
6 identification information on it: Name, address, and height?

7 A It's got Derrick Jajuan River, 2106 Gilbert Street in
8 Georgetown, South Carolina. Five-foot-ten and 190 pounds.

9 Q Okay. And that's at the time the driver's license was
10 issued, obviously?

11 A Yes, sir.

12 MR. HIXSON: All right. Let's publish State's 90.

13 BY MR. HIXSON:

14 Q I notice Mr. Rivera isn't wearing any glasses in that
15 photograph. During your course of interaction with
16 Mr. Rivera, was he wearing any glasses when you saw
17 Mr. Rivera?

18 A No, sir.

19 Q Okay. Now, during the course of your discussions with
20 Bradford Britton, at some point in time, did Bradford Britton
21 consent to you allowing Horry County Police or Georgetown
22 County Police to take an evidentiary buccal swab from him?

23 A He did.

24 Q Okay. And what is that process generally like if someone
25 submits or by search warrant is ordered by the Court to submit

1 to taking a -- what we call a buccal swab or a DNA standard
2 swab? What is that process like?

3 A It's just a longer Q-tip that's struck on the side of the
4 cheek and placed into a cardboard box.

5 Q So you just -- the individual opens their mouth --

6 A And you just stick it in.

7 Q -- they swab inside, and then you package it back up so
8 you do what you can to seal it up so it doesn't get
9 contaminated in any way and preserve it; is that right?

10 A Yes, sir.

11 Q So State's 92. Do you recognize that item?

12 A Yes, sir.

13 Q What is that?

14 A It's the consent Bradford signed while we were in
15 Georgetown to take a buccal swab.

16 Q And what's he consenting to?

17 A Taking a DNA sample through a buccal swab.

18 Q Okay. And during the course of that, does he fill out
19 biographical information on the form?

20 A Yeah. He signs his name, prints it, and gives his phone
21 number and address.

22 Q And an officer witnesses it, making sure that's what
23 happened?

24 A Yes, sir.

25 Q And did you witness that, in addition to the signature

1 line; is that right?

2 **A** That was Detective Wydra.

3 **Q** He's the one that signed the bottom of that paper?

4 **A** Yes, sir.

5 **Q** And you were present during those interviews; right?

6 **A** Yes, sir.

7 **Q** Okay. And, also, you gave an indication to biographical
8 information. Can you read that to us? What does Bradford
9 Britton say his phone number is?

10 **A** (843) 240-0367.

11 **Q** That's what he says his phone number is. And what is his
12 address?

13 **A** 328 Kaminski Street in Georgetown.

14 **Q** Thank you. And that's the site where you executed a
15 search warrant for the Jetta; right?

16 **A** I think it was --

17 **Q** The Kaminski Street address?

18 **A** Yeah, 328 South Kaminski Street.

19 MR. HIXSON: Move 92 into evidence and publish, Your
20 Honor.

21 THE COURT: Any objection?

22 MR. McGUIRE: No objection.

23 THE COURT: All right. State's Exhibit 92 admitted into
24 evidence without objection.

25 (State's Exhibit No. 92, Britton DNA Consent, was

1 received into evidence.)

2 BY MR. HIXSON:

3 Q And you see the phone number down there? I think you
4 testified it's (843) 240-0367; right?

5 A Yes, sir.

6 Q Can you read that, Drew?

7 A Barely.

8 Q All right. Let's see where we are. You did a bunch of
9 stuff.

10 Okay. I think you were at the tail end of an interview
11 with Bradford Britton. So during the course of that
12 interview, you received information about G, Big Bro, but, at
13 that point in time, did Bradford Britton give any more
14 information concerning this defendant, Derrick Rivera, in that
15 interview?

16 A No, sir.

17 Q At the end of that interview, did -- what was -- did
18 Bradford Britton maintain anything about that he knew what was
19 going on?

20 A No. He said -- his statement was that he went and just
21 drove somebody to Horry County to pick up some money.

22 Q And that's it?

23 A That's it.

24 Q Was that interview concluded at some point in time and
25 was he transferred from Georgetown County up to Horry County

1 to go to J. Reuben Long Detention Center?

2 **A** Yes, sir. So, that night, he was taken by Georgetown
3 City to the Georgetown County Sheriff's Department, who houses
4 the prisoners for that county, and then he was transferred to
5 our detention facility.

6 **Q** Okay. And then sometime, I guess, we see on the 29th,
7 going into the 31st -- it would be going into the 31st after
8 that initial information, do you re-engage Bradford Britton
9 and have another discussion with him out at the M.L. Brown
10 building, this time up in Horry County?

11 **A** Yes, sir.

12 **Q** Can you please tell us about the nature of that
13 interview, how that interview started off?

14 **A** So he was read his Miranda rights again, and he agreed to
15 speak with us. He waived them. He said he was approached
16 by -- so, on the 29th, I called Sergeant John Gregory with the
17 Georgetown County Police Department.

18 **Q** That's okay. Let's just talk about the interview and not
19 get into the Georgetown stuff. Okay?

20 **A** Okay. So --

21 **Q** Let me -- I'm sorry; I interrupted you and I lost your
22 train of thought.

23 During the beginning of the second interview, does
24 Bradford Britton start talking about an individual's first
25 name?

1 **A** Yes.

2 **Q** Tell us -- start from that point.

3 **A** So he said he was approached by Derrick, and he said
4 Derrick told him he wanted to go hit a quick lick and that
5 he'd be in and out of the business.

6 **Q** And let me clarify. So on the 31st is when the DMV
7 identification process with the ID is when he gives the name
8 Derrick; is that right?

9 **A** Yes, sir.

10 **Q** Okay. Very good. Now, go downstream from that.

11 **A** All right. So he stated he dropped Derrick off at
12 Waccamaw Bingo, and he drove and waited down the road for a
13 few minutes. So, after some time passed, he drove back
14 towards the bingo hall and saw Derrick running towards him and
15 described him as being out of breath and vomiting and, like,
16 falling down like he was gassed or winded.

17 **Q** At some point -- oh, go ahead.

18 **A** So he said he picked him up, and they -- they left.

19 Bradford said, when he drove by, there were ambulances
20 and a few police cars at the bingo hall. And he stated he
21 observed Derrick with a black revolver with wooden grips on it
22 after picking him up.

23 **Q** At some point in time, does he mention driving through
24 the Tuscany neighborhood prior to going back -- going through
25 the Tuscany neighborhood?

1 **A** I want to say he said, while he was waiting on Derrick,
2 he had driven through there.

3 **Q** Are there any reference to, while Bradford Britton is
4 driving, that he sees Rivera messing with any clothing items
5 of any kind?

6 **A** At this time, he said he didn't.

7 **Q** Not in that interview; right?

8 **A** No.

9 **Q** So based on that information, how are you, as an
10 investigator, trying to evaluate whether you believe that
11 version of the events or not?

12 **A** Well, at this point, we had video from Healthy Homes, so
13 we could kind of see Bradford's car driving through a couple
14 of times, going through the alleyway. A short time after the
15 car goes through, there's a male that walks from the front
16 parking lot that comes walking through the alleyway into the
17 back door where all the witnesses said the subject had come
18 from.

19 **Q** And you kind of see, based on the timestamps, can you see
20 if the car is moving while someone else is walking?

21 **A** Yes, sir.

22 **Q** In your training and experience, what does that indicate
23 to you?

24 **A** There was at least two people involved.

25 **Q** Is there any indication, during the course of that second

1 interview at M.L. Brown, on what these two did after leaving
2 the Myrtle Beach area?

3 **A** Yes. So Bradford said they went down Forestbrook Road.
4 The best indication we could tell was he made a left onto Dick
5 Pond and made a right onto Highway 707 in Socastee heading
6 back towards Murrells Inlet, towards Georgetown County.

7 Bradford said he stopped at a gas station on 707 and got
8 Derrick a cup of water because he was still nauseous and
9 vomiting and out of breath.

10 **Q** And then after, I guess, going into the 707, what
11 happened after that? The 707 Scotchman store. Excuse me.

12 **A** He goes in and gets him some water, comes back out, and
13 they drive back to Bradford's house.

14 **Q** Okay. As it relates to the 707 Scotchman, did you try to
15 use that information to corroborate the veracity of this
16 version of the story?

17 **A** Yes. Detective Wydra obtained video from the store, and
18 you can see Bradford walk in and walk back out with a white
19 cup.

20 **Q** Okay. Do you think there's anything -- can you see
21 anything of evidentiary value? Do you see somebody come in
22 the store besides Bradford Britton?

23 **A** No, you don't. The video is shot, like, right on the
24 front door, capturing everybody that walks in. And
25 Bradford parks his car kind of -- if this is the front door,

1 the car is kind of parked right here. So you can see the car
2 pull up, headlights turn off. Bradford walks in, and you can
3 see there's somebody in the front passenger seat wearing like
4 a white or a light-colored shirt.

5 Q And then what do you see? Bradford Britton inside the
6 store, what does he get?

7 A He walks out with a white cup. Looks like an ice cup.
8 Like most gas stations will charge you less for an ice cup or
9 a water cup.

10 Q And did you see him leave the 707 Scotchman?

11 A You do. He goes back and gets in the car, in the
12 driver's seat.

13 Q Do you see anything, what he does with that white cup?

14 A There's, like, a white object that looks like it gets
15 passed to the passenger.

16 Q Were you able to secure that video? Or did you secure
17 the video?

18 A Detective Wydra did.

19 Q Now, as it relates to Bradford Britton, is there anything
20 identifiable relating to Bradford Britton's stature or build
21 that you see in that 707 video?

22 A That he was way heavier than the person that was inside
23 in the Waccamaw Bingo video.

24 Q Is Bradford a little chubby in that video?

25 A Yeah, he's a heavy-set male.

1 Q Okay. So is there anything else that you can recall of
2 evidentiary value that developed in the course of that second
3 interview that you can try to follow up with to see if details
4 of this version are true or not?

5 A Not that I can recall.

6 Q Okay. So based on information that he says, are you
7 fairly comfortable, based on those videos and what you're
8 looking at, are you fairly confident that Bradford Britton --
9 let me -- I think you said it already, just to clarify.

10 Is it safe to say that, at the end of the second video,
11 does Bradford Britton finally acknowledge guilty conduct about
12 what he knew on the way up to Myrtle Beach?

13 A He does.

14 Q And tell us about that.

15 A He said he knew that he was driving Derrick to go hit a
16 quick lick, which is slang for a robbery.

17 Q And prior to the first statement and everything else,
18 it's utter denial of everything else in the run-up towards the
19 end of the second interview; is that right?

20 A Yes, sir.

21 Q And then does he -- during the course of that interview,
22 does he acknowledge whether he or Mr. Rivera turned their cell
23 phones off during the course of the preparation for that
24 robbery?

25 A He said they both turned their phones off on the way

1 there.

2 **Q** At some point in time, did they reactivate them?

3 **A** Yes.

4 **Q** According to Bradford Britton.

5 **A** Yes.

6 **Q** Now, based on that information, did you take further
7 action as it relates to criminal charges against Mr. Britton
8 as well as criminal charges against the suspect that he
9 identified during the course of those, which is Derrick
10 Rivera?

11 **A** Yes, sir. We obtained murder warrants and armed robbery
12 warrants for both of them.

13 **Q** Okay. Very good.

14 And then Britton was served and incarcerated on those
15 warrants at that point. They're no longer Family Court
16 warrants at that point in time; now facing two counts of
17 murder and two counts of armed robbery?

18 **A** Yes, sir.

19 **Q** And, at that time, you also went to a magistrate and got
20 warrants for Mr. Rivera based on that information at that
21 point?

22 **A** I did.

23 **Q** Okay. Now, I guess since you have Bradford Britton in
24 custody, your focus is trying to find Mr. Rivera; is that
25 right?

1 **A** Yes, sir.

2 **Q** Okay. How did you go about doing that?

3 **A** We went to Georgetown. We contacted the Georgetown
4 County Sheriff's Office. While we were getting everybody
5 together to go try to locate him, we received some information
6 that he had traveled south or was heading south.

7 **Q** South from Georgetown?

8 **A** South from Georgetown towards Georgia.

9 **Q** Okay. And then did you elicit aid, I guess, from the
10 U.S. Marshal Service and Colleton County Sheriff's Department
11 and any other agencies?

12 **A** Yes, sir.

13 **Q** And, at some point in time, did you receive information
14 that Mr. Rivera may be in the area of Smoaks, South Carolina?

15 **A** Detective Spencer did.

16 **Q** And Detective Spencer, I guess is -- he's a task force
17 officer with the U.S. Marshal service; is that right?

18 **A** Yes, sir.

19 **Q** Okay. Did you yourself go down towards Smoaks, South
20 Carolina, and Colleton County?

21 **A** No, sir.

22 **Q** Okay. At some point in time around August 31st -- excuse
23 me, excuse me -- July 31st, did you receive information that
24 Colleton County Sheriff's Office that the Marshal service had
25 Mr. Rivera in custody?

1 **A** I received a phone call early -- like, I can't remember
2 exactly. It was between 2:00 and 4:00 in the morning on
3 August 1st that he had been taken into custody.

4 **Q** Okay. Now, at some point in time, was Mr. Rivera brought
5 back from Colleton County back to Horry County?

6 **A** He was driven back that morning.

7 **Q** Okay. And once you realized that, did you reach out to a
8 magistrate to get a search warrant to get a DNA standard from
9 Mr. Rivera?

10 **A** Yes, sir.

11 **Q** And did you, in fact, go out to J. Reuben Long Detention
12 Center, serve the warrants on Mr. Rivera, and execute the
13 search warrant for a DNA sample?

14 **A** I believe it was at the M.L. Brown building.

15 **Q** M.L. Brown building. I apologize. Thank you.

16 MR. HIXSON: At this time, we move State's 93 into
17 evidence.

18 THE COURT: Any objection?

19 MR. McGUIRE: No objection.

20 THE COURT: State's Exhibit 93 admitted into evidence.

21 (State's Exhibit No. 93, Defendant Buccal Swab, was
22 received into evidence.)

23 BY MR. HIXSON:

24 **Q** And you mentioned the process before about what the
25 extraction process is, taking a suspect's standard or buccal

1 swab. Is that the same process that you did with Mr. Britton
2 that you did with Mr. Rivera?

3 A Yes, sir, it's the same. Same exact process.

4 Q And that's kind of a fancy Q-tip?

5 A It's like what you see at a doctor's office. In a
6 sterile packaging and take it from there.

7 Q Let me show you what's been marked State's 93. See if
8 you recognize that.

9 A Yes, sir.

10 Q What is that?

11 A It's the -- at least the carton that I took from --

12 Q Is that the buccal swab and the carton? It's been
13 processed since then, obviously.

14 A Yes, sir.

15 MR. HIXSON: We move State's 93 into evidence.

16 MR. MCGUIRE: No objection.

17 THE COURT: I thought that's what we just put in, I
18 think.

19 MR. HIXSON: Okay. I apologize. I'm not thinking --

20 THE COURT: That's all right. It's in evidence.

21 BY MR. HIXSON:

22 Q So, Drew, what is the purpose of taking a suspect's
23 standard, generally speaking, in a case? Why do you take a
24 suspect standard?

25 A To compare to the items we collected on the scene.

1 Q And so is this kind of considered we know that this came
2 from a specific individual, know that for sure, and then you
3 try to compare that to an unknown -- an item of evidence that
4 you may have recovered?

5 A Yes, sir.

6 MR. HIXSON: Beg the Court's indulgence just for a
7 minute.

8 THE COURT: All right.

9 BY MR. HIXSON:

10 Q Let me just ask you this: Also during the course of your
11 investigation, did you make an effort to obtain -- not you,
12 your agency -- to obtain search warrants on cell phone records
13 for Bradford Britton as well as on these target telephone
14 numbers?

15 A Yes, sir.

16 Q And specifically the target telephone numbers that were
17 probative, did you obtain search warrants for provider records
18 for 240-0367?

19 A Yes, sir.

20 Q And that's attributed to Bradford Britton's cellphone?

21 A Yes, sir.

22 Q As well as Derrick Rivera's cell phone number at that
23 time: (843) 287-8558?

24 A Yes, sir.

25 Q And so was the cell phone provider, Verizon, responsive

1 to your request and provided your agency records concerning
2 that?

3 A They were.

4 Q Did your agency go through a process of trying to
5 determine whether or not those records were relevant to any
6 issue in this case?

7 A We did.

8 Q Did you do the significant share of looking through those
9 records or did Sean Wydra do that?

10 A Detective Wydra.

11 Q Okay. But it's your understanding, based on what
12 Detective Wydra did, that it's generally consistent with what
13 we have been talking here today?

14 A Yes, sir.

15 MR. HIXSON: I have no further questions.

16 THE COURT: All right. Cross-examination.

17 CROSS-EXAMINATION

18 BY MR. MCGUIRE:

19 Q Detective Edwards, are you the lead investigator in this
20 case?

21 A Yes, sir.

22 Q Does that make you sort of the chief of the case? You're
23 the person in charge?

24 A Person responsible, yeah.

25 Q Responsible.

1 So it would fall on you to task other officers to follow
2 up on things?

3 **A** Yeah. Our sergeant kind of took that responsibility.

4 **Q** And who is that?

5 **A** Gregory Lent.

6 **Q** Okay. Is he going to testify in this case?

7 **A** No, sir.

8 **Q** Okay. But you're referred to in these police reports as
9 the lead investigator?

10 **A** Yes, sir. I was on call. I was going to be the lead, I
11 guess you would say.

12 **Q** Let's start at the beginning. When you were at the scene
13 at the Myrtle Beach Bingo, the Waccamaw Bingo, did you review
14 the video that Officer Cestare was able to get working?

15 **A** I did not. We didn't want to contaminate the crime
16 scene. So Lieutenant Cestare was the one that was looking at
17 it.

18 **Q** Okay. And did Rebecca Phillips also see it?

19 **A** I do not know.

20 **Q** Okay. So you never saw it?

21 **A** Not that day. I saw the picture Lieutenant Cestare had
22 taken.

23 **Q** Right. He took some still shots with his cell phone.

24 **A** Yes.

25 **Q** Okay. If you would just give me one second.

1 Was one of the stills he took depicting the suspect at
2 the counter stealing the money?

3 **A** The only one that's sticking out in my head is the one of
4 when he's running towards the office.

5 **Q** How many stills did you see?

6 **A** I think that was the only one I saw at that time.

7 **Q** All right. That answers my question.

8 How soon thereafter did you see the video?

9 **A** It was a while. I don't remember exactly how long. We
10 had to send it off to get it fixed.

11 **Q** Well, the incident date is over two years ago. Did it
12 take you about a year to see it? Six months? Kind of a
13 ballpark.

14 **A** It was over a year.

15 **Q** Over a year.

16 **A** We had sent it off to -- or the FBI had it at one point,
17 and then it came back to us, trying to get it fixed.

18 **Q** Okay. Do the other -- when the other officers write a
19 report, does it automatically go to you, like via email or an
20 alert system or anything?

21 **A** They put it in, like, a case folder.

22 **Q** A physical copy or a computer file?

23 **A** Both.

24 **Q** Okay. And do you get an alert, like, so-and-so just
25 filed a report? Does it pop up on an email or anything?

1 **A** No, sir.

2 **Q** Do you have a process where you go and periodically
3 review the folder to see what's coming in?

4 **A** Generally, they'll give you -- they'll hand you a
5 physical copy of it.

6 **Q** So if I was an officer under your supervision and I wrote
7 a report, it would be my duty to actually give it to you, a
8 hard copy?

9 **A** If I'm a supervisor, our supervisor gets -- he sees
10 everything that's been submitted. But I don't -- I'm not -- I
11 wouldn't be considered a supervisor.

12 **Q** So tell me if this is right. So Officer Wydra files a
13 report. Does it -- so Mr. Lent is over here, the true
14 supervisor, I guess. You're the lead investigator. Does his
15 report sort of jump over to you to him?

16 **A** For -- I wouldn't say it jumps over. Like he would --
17 when he got his report finished, he would hand it to me.

18 **Q** Okay. So they do go to you?

19 **A** Yeah.

20 **Q** Okay. And you -- when they hand it to you, you actually
21 do review it and read it; right?

22 **A** Yes, sir.

23 **Q** Okay. And if there's anything in the report that needs
24 following up on, it's your job to make sure that gets done?

25 **A** Yes, sir.

1 Q Okay. And did you do that in this case? Did you give
2 people orders to go and do stuff, follow up?

3 A I believe Sergeant Lent kind of divvied out the task of
4 what we were going to do.

5 Q Okay. When a forensic pathologist issues a report, does
6 that go to you?

7 A It goes to the coroner's office, and then I have to
8 request it from them.

9 Q Did you?

10 A I did.

11 Q Okay. So you got it?

12 A Yes, sir.

13 Q Okay. Because sometimes the forensic pathologist
14 discovers evidence that you're unaware of; right?

15 A Yes, sir.

16 Q Until that moment; right?

17 A Yeah.

18 Q Okay. And the forensic pathologist in this case
19 indicated that she had fingernail clippings as evidence?

20 A Yes, sir.

21 Q And she turned it over to law enforcement?

22 A She did.

23 Q And as the lead investigator, you know it went to SLED;
24 right?

25 A Yep.

1 Q Okay. Are you also aware that they did not test it and
2 they sent it back to your department?

3 A I am. It was in the DNA report.

4 Q And when the fingernail clippings come back untested, did
5 you take any action?

6 A No. I asked why they weren't tested.

7 Q And did you get an answer?

8 A Yeah. Our property and evidence supervisor said they
9 only test so many items.

10 Q Okay. SLED -- they have quota and they won't go past it?

11 A Right.

12 Q Okay. What's the quota?

13 A I believe it's five items.

14 Q Five items?

15 A Yes, sir. Five to seven. Somewhere around there.

16 Q And who told you that?

17 A Lori Dudley.

18 Q Is she going to testify in this case?

19 A I don't know.

20 Q Okay. And what is Lori Dudley's job?

21 A She's the property and evidence supervisor.

22 Q So the fingernail clippings would have been beyond the
23 SLED quota?

24 A Everything that was sent to them to be tested, I
25 requested to be tested, and what I got back on the report was

1 what they tested.

2 Q And you asked, "Well, why weren't these items tested?"

3 And Ms. Dudley said, they're only going to test so much?

4 A Right.

5 Q Okay. So things outside the quota would be swabs from
6 the gun -- the victims' guns? Are you aware they were not
7 tested?

8 A I don't -- there was a lot of items that weren't tested.

9 Q Right. There was a lot of items that were not tested;
10 right?

11 A Yes, sir.

12 Q Okay. I'm going to -- I want to ask you about a couple
13 of things. In these interviews with Mr. Bradford Britton --

14 A Yes, sir.

15 Q -- he said that -- he said that his passenger -- now, you
16 understand Mr. Britton says his passenger is Derrick Rivera,
17 and, obviously, I disagree with that; right?

18 A Okay.

19 Q You understand that? I'm just asking if you understand
20 that.

21 A Okay.

22 Q Okay. So Britton says that his passenger instructed him
23 to go to the Surfside Bingo first; right?

24 A Yes, sir.

25 Q Okay. And he describes that in pretty great detail a

1 couple of times to you guys; right?

2 **A** Yes, sir.

3 **Q** He says they're going down 17, he's looking for the
4 Surfside Bingo. They pass it. He has to make a U-turn.

5 Where he makes the U-turn, there's a Krispy Kreme and a BP?

6 Do you remember him telling you all that?

7 **A** I remember him talking about going to the Surfside Bingo.

8 **Q** How about the Krispy Kreme and the BP?

9 **A** I don't remember that, no, sir.

10 **Q** Do you have a transcript of his statement?

11 **A** I do not.

12 (Counsel confer off the record.)

13 MR. MCGUIRE: Judge, if I could approach.

14 THE COURT: All right.

15 (Defendant's Exhibit No. 1, Transcript of Statement, was
16 marked for identification.)

17 BY MR. MCGUIRE:

18 **Q** Sir, I'm going to hand you what's been marked Defendant's

19 1. I'll just tell you it's a transcript.

20 **A** Okay.

21 **Q** I have a clip here so if you would be careful so it
22 doesn't fall into a million pieces. All right? If you would,
23 just take a look at page 165. Just read it to yourself.

24 Does that sort of refresh your recollection as to
25 Mr. Britton talking about the U-turn and the Krispy Kreme and

1 BP?

2 **A** Yeah, and them looking for the -- trying to find the
3 bingo place.

4 **Q** Right. Did you ever go out there to the Surfside Bingo?

5 **A** I did not.

6 **Q** Corroborate the fact that there is a Krispy Kreme there,
7 a BP station? Did you ever go to take a look at that stuff?

8 **A** I did not.

9 **Q** Okay. Now, Bradford Britton claims that his passenger
10 made a phone call at the Surfside Bingo; right? Do you
11 remember that?

12 **A** I do not.

13 **Q** All right. Take a look at that page and just give it a
14 read.

15 **A** (Reviewing document.) Okay.

16 **Q** Does that jog your memory a little bit?

17 **A** Yeah. He said he had made a phone call looking for the
18 guy he was supposed to pick money up from, and that he wasn't
19 there and they had to go to Waccamaw Bingo.

20 **Q** Right. That's what Bradford Britton said?

21 **A** That Derrick said, yeah.

22 **Q** Right. He says it's Derrick. Obviously, I disagree with
23 that. But he says his passenger uses their phone at the
24 Surfside Bingo; right?

25 **A** Yes, sir.

1 Q Is that call on his records?

2 A I don't think so.

3 Q Okay. Do you remember Bradford Britton telling you that
4 his passenger at the Surfside Bingo -- after receiving
5 instructions for whoever was on the other line, that his
6 passenger Googled the Myrtle Beach Bingo -- the Waccamaw
7 Bingo?

8 A Yes, sir.

9 Q You do remember that?

10 A Yes, sir.

11 Q Okay. Is there any evidence in the cell phone search or
12 records that Mr. Rivera Googled anything at Surfside?

13 A To the best of my knowledge, during the time around the
14 crime, there's no records for his phone number.

15 Q That's right. There's no evidence that his phone even
16 left Georgetown; right?

17 A Not to my knowledge.

18 Q Right. I mean, it's basically inactive for a period of
19 time; right?

20 A What's that?

21 Q It's inactive for a period of time?

22 A That's my understanding.

23 Q That's my understanding too.

24 So it would be impossible for Mr. Rivera to have made
25 that phone call from Surfside if his phone was completely

1 inactive; right?

2 **A** From that phone.

3 **Q** From that phone. Right?

4 And that's a piece of Britton's story that he hung on to,
5 the whole Surfside thing. He never gave that up, did he? He
6 never said, "By the way, we never went to Surfside"?

7 **A** No, he didn't.

8 **Q** I mean, that was one thing he always stuck to, and
9 there's no evidence that it happened with his phone.

10 **A** Right.

11 **Q** Do you remember Bradford Britton saying that he called
12 Derrick Rivera, like, right after the robbery, like, "Where
13 are you, man?" Do you remember that?

14 **A** He did.

15 **Q** And if that actually happened and he was calling
16 Mr. Rivera on his phone, there would be a record of that;
17 right?

18 **A** If he called the number we had, yeah.

19 **Q** But that's -- the records don't support that; right?

20 **A** Not the records that we have.

21 **Q** Right. There's no records to indicate that Bradford
22 Britton actually called Mr. Rivera during this robbery or
23 right after this robbery; right?

24 **A** Right.

25 **Q** And that was a detail that he gave you at the end of his

1 several versions. That was towards the end; right?

2 A Yeah, it was the second interview.

3 Q Okay. Do you remember Mr. Britton saying, "Look, I know
4 this guy, we hang out at the Money Saver, the local
5 convenience store." He told you that; right?

6 A Yes, sir.

7 Q And he said, "And I can prove that to you, because if you
8 go to the Money Saver and you get the video, you'll see us
9 right in front talking on Sunday"; right?

10 A Yes, sir.

11 Q Between the hours of 1:00 and 2:00.

12 A Yes, sir.

13 Q And you -- I believe it was Investigator Dudley who went
14 there and got the video?

15 A He got video from Georgetown City Police.

16 Q Okay. And that was reviewed. And, again, when
17 Mr. Bradford Britton is trying to connect himself with
18 Mr. Rivera, that video didn't show that?

19 A Right.

20 Q Okay. And that would be a lie from him; right?

21 A Yes, sir.

22 Q So sort of state the obvious, I mean, Bradford Britton
23 lied a lot when you guys were talking to him?

24 A He did.

25 Q And you guys got frustrated?

1 **A** We kept at it.

2 **Q** Right. And it was a marathon, and you guys told him, "We
3 can't even count the lies you've told us." Y'all made
4 comments like that to him?

5 **A** Yes, sir.

6 **Q** Because he was just lying and lying, and he stuck to it;
7 right?

8 **A** He did.

9 **Q** He was trying to distance himself from the Myrtle Beach
10 robbery. He said he went and got gas, right, when the robbery
11 was happening, and y'all got video from the gas station?

12 **A** Yes, sir.

13 **Q** Another lie?

14 **A** Yes, sir.

15 **Q** I mean, every time there was something you could really
16 actually prove that he pointed to, it was a lie?

17 **A** I believe so, yeah.

18 **Q** Right?

19 **A** Yes, sir.

20 **Q** I mean, one thing that he said about Derrick Rivera
21 about, hey, other than he lives with his mama and here's his
22 address and he's in my phone, when it came to actually proving
23 some connection between the two, like hanging out at the Money
24 Saver or any other thing like that or these phone calls, these
25 were all lies?

1 **A** As far as I know.

2 **Q** Going back to that Myrtle Beach phone call when he says,
3 you know, y'all can believe me, I called him like right after
4 this robbery, and I said, "Yo, man, where you at?", I mean,
5 that's not on his phone. We've established that; right?
6 That's not on Mr. Rivera's phone.

7 **A** It's not on the records.

8 **Q** Right. Based on the records, that didn't happen?

9 **A** Right.

10 **Q** That would be another lie for Mr. Britton?

11 **A** Okay, yeah.

12 **Q** I mean, you would agree with that?

13 **A** Yeah, it's not on the records.

14 **Q** So, while we're on the phone records, do you remember
15 telling Britton something along the lines of, "Look, man,
16 you're not going to rob a place with some guy you barely know.
17 It's going to be somebody you're tight with." Do you remember
18 saying something like that?

19 **A** Vaguely, yeah.

20 **Q** Because that would make sense; right?

21 **A** Yeah, you wouldn't want to commit a crime with somebody
22 you don't know.

23 **Q** Right. And you got permission to look through his phone
24 right there at the first interview; right?

25 **A** I believe so, yeah.

1 Q So you can see the calls coming in, the people's name or
2 nickname. You asked him about one guy named Chuck Dog?

3 A Okay. I don't remember.

4 Q That doesn't sound familiar?

5 A I remember I asked him about people. I don't remember
6 their specific names.

7 Q Okay. Do you remember -- and this is in the second
8 interview. Do you remember that there's a person in his phone
9 called Bump? Nickname Bump. B-u-m-p. Do you remember that?

10 A I don't.

11 Q Okay. Do you remember him telling you that's his friend
12 Chris? Do you remember reviewing the cell phone records to
13 see how many times Bump shows up in there?

14 A I don't.

15 Q Okay. But that would be a good thing to do if you're
16 trying to find out who he's tight with, who his buddy is, who
17 he's calling a lot; right?

18 A Right.

19 Q Okay. Did you do that?

20 A I looked through his phone, but I think some of the stuff
21 we got back on his cell phone records versus his phone showed
22 he had deleted phone calls and messages.

23 Q Right. The records would have everything.

24 A Right.

25 Q You and I can agree that Bradford probably deleted some

1 stuff on his phone?

2 **A** Yes.

3 **Q** I mean, he ultimately sort of admitted that, didn't he?

4 **A** I believe so.

5 **Q** But the records that you get from the telephone company,
6 despite somebody deleting something from their phone memory,
7 it's still on the telephone records; right?

8 **A** Yes.

9 **Q** And when you got the telephone records, did you do a
10 search to say, Well, let's see who he's talking to a whole
11 lot?

12 **A** Detective Wydra handled the cell phone analysis, like,
13 the record part.

14 **Q** Is is Widener or Wydra?

15 **A** Wydra. W-y-d-r-a.

16 **Q** Okay. Thank you.

17 So he would be the one to examine the records to see how
18 often Bradford Britton calls his buddies?

19 **A** Yeah.

20 **Q** Okay. Now, being the lead investigator, are you aware of
21 an officer from the J. Reuben Long Detention Center, which is
22 the Horry County Detention Center, making contact with your
23 team about Mr. Rivera and his clothes when he was booked in?
24 Does that sound familiar?

25 **A** Yeah.

1 Q It does?

2 A I believe so. I think somebody called and said they
3 thought they saw blood on his pants or something.

4 Q Okay. Thank you.

5 So are you aware of what happened with that, his pants or
6 his other clothing? Do you know what happened to it?

7 A We collected it and sent it to SLED.

8 Q Okay. And are you aware that nothing on his pants
9 connects him with the Myrtle Beach Bingo?

10 A Right.

11 Q Okay. And the fact that they noticed what they thought
12 was blood on it, they don't know where that came from; right?

13 A Yeah. It was like a week or it was several days
14 afterwards.

15 Q Right. I mean, he could have cut his arm landscaping or
16 cutting a bush or whatever.

17 A Right.

18 Q Okay. And there's no -- so we're clear, there's
19 absolutely no blood from Derrick Rivera at the Myrtle Beach
20 Bingo?

21 A Not that we found.

22 Q Okay. And I believe you tasked some officers to go
23 collect the property -- his property from the jail; is that
24 right? Was it just the pants or all his property?

25 A I think we collected everything.

1 Q Okay. Because that would be normal; right?

2 A Yes.

3 Q Okay. And it's right now sitting over at the Horry
4 County Police Department; right?

5 A Yeah.

6 Q It should be?

7 A I think SLED returned it all back to us.

8 Q Right. Well, and some stuff didn't go to SLED; right?

9 A Right.

10 Q Like his shoes, those didn't go to SLED, that he was
11 arrested in. His 11-and-a-half size shoes.

12 A I think only the pants went.

13 Q I agree with you. Just the pants went.

14 Has there been any effort to measure Mr. Rivera's foot?

15 A No, sir.

16 Q Okay. Did you know that he had 11-and-a-half shoes on
17 when he was arrested?

18 MR. HIXSON: Objection, Your Honor.

19 MR. MCGUIRE: I'm just asking if he knows.

20 MR. HIXSON: He don't know the shoe size, you know what
21 shoes he was arrested in --

22 THE COURT: Sustain the objection.

23 BY MR. MCGUIRE:

24 Q Do you know what size the shoe was that he was wearing
25 when he was arrested?

1 **A** I don't. I guess that was the 11, 11 and a half.

2 Whatever you just said.

3 **Q** Right. I mean, I know that, but are you aware of that?

4 **A** No.

5 **Q** Okay. Is that important?

6 **A** It could be.

7 **Q** How so?

8 **A** It's a different size than what was collected at the
9 scene.

10 **Q** Okay. And it would be inconsistent with the evidence at
11 the scene?

12 **A** It's not the same size as what was at the scene.

13 **Q** Right. One is 9 and a half. One is 11 and a half.
14 They're not consistent with each other.

15 **A** Right.

16 **Q** With regard to Bradford Britton, did he have a history in
17 Myrtle Beach; do you know?

18 **A** I don't believe so.

19 **Q** Okay. You're not aware of the fact that he had --

20 MR. HIXSON: Your Honor, object relating to criminal
21 history, I guess, if that's what --

22 MR. MCGUIRE: No, no, no.

23 MR. HIXSON: Not asking the criminal history?

24 MR. MCGUIRE: No, no.

25 BY MR. MCGUIRE:

1 Q I'm not asking you about his criminal history.

2 I'm asking, did you know he had a residence in Myrtle Beach at
3 one time?

4 A At one time, I believe he lived on Glenns Bay Road.

5 Q Yes. That's right.

6 And the license plate readers in this area showed that
7 his car was sort of active in Myrtle Beach for a time?

8 A I believe it had passed through the City of Myrtle Beach
9 at some point.

10 Q Right. I mean, I can only read what you guys put in the
11 report, and the reports indicate that his car was active in
12 Myrtle Beach. I don't know what that means.

13 A That just means it was picked up on a tag reader at some
14 point.

15 Q Okay. In the interview with Britton, he actually does
16 tell you that he was able to drive right past the bingo hall
17 when the fire trucks were there, the ambulances were there,
18 the police cars were there, all the lights going. He was able
19 to just drive right on by, wasn't he?

20 A That's what he said.

21 Q Did he say he was confident he could do that because they
22 didn't match the description of the robber? Did he tell you
23 why he was confident in doing that?

24 A I don't recall him saying that.

25 Q Okay.

1 **A** I think the only statement he made was he asked -- he
2 said he asked Derrick if he had killed somebody when they
3 drove by.

4 **Q** That's what he claims; right?

5 **A** Like jokingly, yeah.

6 **Q** Going back to the very beginning of this, when you guys
7 went, based on the license plate, it came back to Bradford
8 Britton's parents in Orangeburg, y'all went there and had a
9 conversation with them?

10 **A** Yes.

11 **Q** And they indicated that he was broke, broke; right?

12 **A** Yes.

13 **Q** Couldn't pay his rent?

14 **A** I think they said they had sent him some money or he had
15 asked for, like 50 bucks.

16 **Q** Do you recall that he was not able to pay his
17 \$600-per-month rent? Do you remember him saying that to you?

18 **A** I don't.

19 **Q** That's okay. But his mother said she was lending him
20 money?

21 **A** Yes.

22 **Q** Okay. And when you ask Bradford Britton about it, he
23 actually said part of the money was going to go buy washing
24 powder so he could wash clothes? Do you remember that?

25 **A** Yes.

1 Q Okay. When Bradford Britton was confronted by you guys,
2 about "Look, we know your car was in Tuscany resort
3 neighborhood," he told you that he was window shopping for a
4 potential home to buy?

5 A Yes.

6 Q Did that sound plausible at all to you?

7 A No.

8 Q Because he was broke; right? Couldn't pay his rent, and
9 the houses in there cost \$400,000 about.

10 A They're a couple hundred thousand, yeah.

11 Q Right. I don't know exactly the price, but you guys
12 confronted him with that and said, "Come on, man, there's no
13 way you can afford one of those houses"; right?

14 A Right.

15 Q And he kind of stuck with that for awhile; right?

16 A He did.

17 Q Do you know if the 11-and-a-half size shoes that were
18 taken from his property when he was arrested, do you know if
19 they had come into court?

20 A I don't know.

21 Q You haven't seen them in preparing for this trial?

22 A No, sir.

23 MR. MCGUIRE: Judge, if I could have just one second.

24 THE COURT: All right.

25 (Pause in the proceedings. Counsel confers with

1 defendant.)

2 MR. MCGUIRE: If I could have this marked as No. 2.

3 (Defendant's Exhibit No. 2, HCPD Evidence Record, was
4 marked for identification.)

5 MR. HIXSON: If you want to put it in, put it in, man.

6 MR. MCGUIRE: Yeah. Judge, I want to move No. 2 into
7 evidence.

8 THE COURT: Any objection?

9 MR. HIXSON: No, sir.

10 THE COURT: Defendant's Exhibit No. 2 admitted into
11 evidence without objection.

12 MR. HIXSON: I'm sure he can authenticate it. I'm sure
13 he'll know what that is.

14 (Defendant's Exhibit No. 2, HCPD Evidence Record, was
15 received into evidence.)

16 BY MR. MCGUIRE:

17 Q Detective Edwards, if you could just take a look at this
18 document.

19 A (Reviewing document.)

20 Q Oh, I'm sorry; did you read it?

21 A Yes, sir.

22 Q Okay. Do you recognize that?

23 A Yes.

24 Q Is your name on it?

25 A Yes, sir.

1 Q Okay. It describes an item of evidence. What is that?

2 A White and green shoes from Derrick Rivera.

3 Q Okay. And you put your name on it; right?

4 A Yes, sir.

5 Q And that indicates that you actually had possession of
6 the shoes he was wearing when he was arrested, and you're the
7 one that gave them to the Evidence Department?

8 A Yes, sir.

9 Q But you didn't know the size. I'm just asking you, now
10 that you see this, do you remember making note of the size at
11 all?

12 A I don't.

13 Q Okay.

14 (Pause in the proceedings.)

15 MR. MCGUIRE: Detective Edwards, that's all I have for
16 you. Thank you for coming.

17 THE COURT: Thank you.

18 MR. MCGUIRE: And, Your Honor, if I could make a request
19 that he remain under subpoena in case I need to recall him
20 after Bradford Britton's testimony.

21 THE COURT: All right. Redirect?

22 MR. HIXSON: Thank you, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. MCGUIRE:

25 Q Okay, Drew. We talked about efforts to corroborate fact

1 patterns and progressive truth-telling and different stories
2 come out; right?

3 **A** Yes.

4 **Q** And I think Mr. McGuire talked about that there weren't
5 any calls that you could find in those phone records about
6 that version of events; right?

7 **A** Yes, sir.

8 **Q** So, as an investigator, do you take that information to
9 say that you don't believe that version of the events then?

10 **A** No.

11 **Q** You can't corroborate it. Is that reason to disbelieve
12 that version?

13 **A** Not necessarily.

14 **Q** So, if you can't find a phone call -- in other words, the
15 Surfside story we were talking about, were you able to do
16 anything to verify whether that Surfside story, the first
17 versions were true or not?

18 **A** I believe the cell phone records showed them coming down
19 Highway 17 through Surfside, but other than that, we didn't
20 find anything else.

21 **Q** And I guess that's a good point. So kind of let's talk
22 about, just to clarify -- I don't want to get too much into
23 this, because you weren't the one that spent the majority of
24 the time going through the cell phone records; is that right?

25 **A** Right.

1 **Q** But let's be precise. There are quite a few phone calls
2 between Bradford Britton and this defendant -- well, let me
3 back up.

4 The numbers attributed to them, the 240 number and the
5 287 number, right, prior to and then after July 26 of 2019;
6 isn't that right?

7 **A** Yes, sir.

8 **Q** All right. And so also the information that you have is
9 that, during the course of your investigation, that during the
10 witching hour, during the time period when we believe 9:45
11 this happened, the 287 number, the Big Bro number was
12 inactivated from the network meaning you can't get any data on
13 where that thing is; isn't that right?

14 **A** That's my understanding from Detective Wydra.

15 **Q** I just wanted to clarify that, because I'm not sure if
16 we're talking about a phone that's been destroyed, for
17 instance, that you can't get data from or the actual
18 subscriber records themselves that are connected to the phone
19 by data but it's not the device itself.

20 **A** Right.

21 **Q** So is it your understanding that you couldn't get
22 information from the physical phone, but there are call
23 information from records?

24 **A** Yes. The only phone we ever recovered from Derrick's
25 possession was destroyed, so we never got records from the

1 actual physical phone.

2 **Q** Okay. That's just a clarification about that there are
3 -- you do have information, during the course of your
4 investigation, that Bradford Britton and Derrick Rivera
5 communicated with one another both before the 26th as well as
6 after the 26th?

7 **A** Yes, sir. They were in contact with each other.

8 **Q** I just wanted to clarify that because I think we were
9 kind of -- it starts to get selective.

10 And it's my understanding that you also recovered actual
11 text content information as well after the 26th; is that
12 right?

13 **A** Yes, sir.

14 **Q** Oh, let me follow up. Ultimately, at some point in time
15 after the second interview -- we didn't really talk much about
16 the third interview. Is it your understanding that
17 Mr. Britton -- I guess it's obvious, but we can't -- once he
18 was charged with the criminal offense, did he get an attorney?

19 **A** He did.

20 **Q** And then, during the course of while these charges are
21 pending against Mr. Britton, is it your understanding, at some
22 point in time, that, through his attorney, that he wanted to
23 give additional statements to law enforcement with his
24 attorney present concerning the pending criminal charges
25 against him?

1 **A** He did. There was a third interview.

2 **Q** And during the course of that third interview, was
3 Mr. Britton present with his attorney and yourself to talk
4 about the facts of the case?

5 **A** Yes, sir.

6 **Q** And during the course of that third interview with his
7 attorney present, did he -- was the -- I'm just trying to be
8 very careful on the way I say these things. Was the
9 information he provided you, was that consistent -- generally
10 consistent with the very last version of the second statement
11 that he gave you?

12 **A** It was.

13 MR. HIXSON: Okay. I have no further questions.

14 THE COURT: All right. You may step down.

15 All right. Ladies and gentlemen, we're going to go ahead
16 and break for lunch. I'm going to allow you to go to lunch on
17 your own today. Okay? It's a little bit after 12:30. Please
18 be back at 1:30 -- excuse me, at 2:30. I'm going to give you
19 not quite two hours to go eat lunch on your own. Please be
20 back at 2:30. We'll resume at that time.

21 Leave your notepads in the jury box. Do not discuss the
22 case with anyone, even among yourselves. Don't conduct any
23 independent investigations. Hope you have a good lunch, and
24 we'll see you back at 2:30. Thank you very much.

25 (The jury exited the courtroom at 12:39 p.m.)

1 THE COURT: All right. Anything from the State before we
2 recess for lunch?

3 MR. HIXSON: No, sir.

4 THE COURT: Anything from the defense?

5 MR. McGUIRE: No, sir.

6 THE COURT: All right. We'll be in recess until 2:30.

7 (A lunch recess was taken from 12:39 p.m. to 2:36 p.m.)

8 THE COURT: All right. Anything from the State before we
9 bring the jury in?

10 MR. HIXSON: No, sir.

11 THE COURT: Anything from the defense?

12 MR. McGUIRE: No, sir.

13 THE COURT: All right. Let's bring the jury in.

14 (The jury entered the courtroom at 2:37 p.m.)

15 THE COURT: All right, ladies and gentlemen. Welcome
16 back. Hope everybody had a good lunch. Make sure you have
17 your own notepads. Make sure you've turned off all cell
18 phone, pager devices, if you inadvertently brought them into
19 the courtroom. We're ready to resume the trial of the case.

20 Mr. Hixson, the State can call your next witness.

21 MR. HIXSON: Thank you, Your Honor. At this time, the
22 State would call Bradford Curtis Britton.

23 (Mr. Britton enters the courtroom.)

24 THE CLERK: Let me swear you in first.

25 BRADFORD BRITTON,

1 the witness, after having been duly sworn, was examined and
2 testified to as follows:

3 THE CLERK: Please be seated. State your full name and
4 spell your last name for the Court.

5 THE COURT: You'll need to sit here and you'll need to
6 remove your mask during your testimony. Okay?

7 THE WITNESS: All right.

8 MR. HIXSON: You have got to give your name to the court
9 reporter.

10 THE COURT: Yeah, please give the court reporter your
11 name.

12 THE WITNESS: Bradford Curtis Britton.

13 THE COURT: And could you spell your last name?

14 THE WITNESS: B-r-i-t-t-o-n.

15 THE COURT: All right. Mr. Hixson?

16 MR. HIXSON: Thank you.

17 DIRECT EXAMINATION

18 BY MR. HIXSON:

19 Q Good afternoon. How are you?

20 A Pretty good.

21 Q Well, everybody notices right away that you appear to be
22 in the custody of J. Reuben Long Detention Center; isn't that
23 right?

24 A Yes, sir.

25 Q Okay. You have been in there since I guess July -- would

1 have been July 30th, right, of 2019?

2 **A** Yes, sir.

3 **Q** Okay. And just kind of brief conversation I'm having
4 with you to make sure that we can hear each other, that you
5 can talk into the microphone because this Madam Court Reporter
6 here is recording everything that you say so there's no
7 mistakes and it's clear down the road. Make sense?

8 **A** Yes, sir.

9 **Q** Okay. Thank you.

10 And I guess, about that time, you got charged with two
11 counts of murder at least, right, and a count of armed
12 robbery. Those are the ones that we're talking about today;
13 is that right?

14 **A** Yes, sir.

15 **Q** At some point in time, did you retain an attorney, I
16 believe, or you got an attorney? Mr. Stuart Axelrod; is that
17 right?

18 **A** Yes, sir.

19 **Q** And Jonathan Miles is an attorney that works in
20 Mr. Axelrod's office; is that right?

21 **A** Yes, sir.

22 **Q** And do you see your attorney back here in the corner back
23 there?

24 **A** Yes, sir.

25 **Q** Okay. So your attorney is here to look out for your

1 interest, too, isn't he?

2 **A** Yes, sir.

3 **Q** All right. And I say all that because -- please tell the
4 jury, isn't it true that you're currently operating under a
5 proffer agreement with the State of South Carolina, and that's
6 why you're here testifying today; isn't that right?

7 **A** Yes, sir.

8 **Q** Okay. In fact, I guess isn't it true -- let's go back to
9 Thursday of last week that you pled guilty to attempted armed
10 robbery.

11 **A** Yes, sir.

12 **Q** Which carries zero to 20 years in prison.

13 **A** Yes, sir.

14 **Q** And you also pled guilty to accessory after the fact of
15 murder; isn't that right?

16 **A** Yes, sir.

17 **Q** And that carries up to zero to 15 years in prison; isn't
18 that right?

19 **A** Yes, sir.

20 **Q** So, all total right now, as you sit there, you're facing
21 35 years in prison right now; isn't that right?

22 **A** Yes, sir.

23 **Q** Now, let's just start into it and we'll go from there.
24 Okay?

25 **A** Yes, sir.

1 Q Let's go back, actually, to about the time that law
2 enforcement contacted you. Okay? You were at your house on
3 Kaminski Street in Georgetown?

4 A Yes, sir.

5 Q At some point in time, did the police come knocking with
6 a search warrant?

7 A Yes, sir.

8 Q And you had your Jetta parked in the driveway; right?

9 A Yes, sir.

10 Q At that point in time, they took you into arrest, didn't
11 they?

12 A Yes, sir.

13 Q Okay. And then did you give statements to law
14 enforcement following that?

15 A Yes, sir, I did.

16 Q And you lied to them?

17 A At first, yes, sir.

18 Q Yes, sir. Okay. So let's start talking about those
19 statements. Ultimately, did you give three total statements?
20 The first statement in Georgetown, the second statement at
21 M.L. Brown, and then a third statement with your lawyer after
22 you agreed to cooperate?

23 A Yes, sir.

24 Q Okay. Well, let's go back in time now to July 25th of
25 2019. Okay? Do you come to know a person by the name of G or

1 Mug or Big Bro?

2 A Yes, sir.

3 Q Okay. And who is that person that you came to know as?

4 Did you know his first name?

5 A I didn't know his first name until July 26th.

6 Q Okay. And did the law enforcement present you a DMV
7 photograph of that person? Did you identify that person as
8 Derrick Rivera?

9 A Yes, sir.

10 Q Okay. And now, as we sit here, do you see Derrick Rivera
11 in the courtroom today?

12 MR. HIXSON: I mean, I got to ask, we're in the COVID
13 environment from the Court of Appeals. The COVID environment,
14 as a result, we have masks on our faces in the courtroom, and
15 as such, I would ask the Court if -- well, if Mr. Rivera just
16 remove his mask.

17 THE COURT: All right.

18 (The defendant removes his face mask.)

19 BY MR. HIXSON:

20 Q Do you recognize that person as the person you call G or
21 Big Bro?

22 A Yes, sir.

23 MR. HIXSON: Thank you. Thank you, sir.

24 BY MR. HIXSON:

25 Q So let's go back to that period of time.

1 MR. HIXSON: Let the record reflect, because the Court of
2 Appeals can't see it, that the defendant stood up at counsel
3 table and Mr. Britton acknowledged and looked at him and said,
4 yes, that that was the individual. There were some non-verbal
5 gestures in the courtroom at that time.

6 BY MR. HIXSON:

7 Q Let's go back to before the 25th. All right? Did you
8 know Derrick from the neighborhood, basically? Did you know
9 this individual because he lived down the street off Gilbert
10 Street from you?

11 A Yes, sir.

12 Q Is that true?

13 A Yes, sir.

14 Q Okay. And then, at some point in time, did you guys talk
15 about -- communicate back and forth about potentially taking a
16 ride to Myrtle Beach?

17 A I'm sorry? Repeat the question.

18 Q At some point in time, did you two talk about taking a
19 ride to Myrtle Beach for some reason?

20 A Yes, sir.

21 Q Okay. Tell us about that, please.

22 A Well, he -- he briefly called me, and he asked me for a
23 ride. And I told him no the first time. Then, the second
24 time, he came by my house and asked me for a ride, and I told
25 him yes. He wouldn't tell me originally what his motive was

1 for going to Myrtle Beach. He just asked for a ride.

2 Q Now, let's mention -- you talk about how you came in
3 contact with the silver Jetta, the car. Tell me about how you
4 got that car.

5 A I purchased it from a friend of mine.

6 Q Okay. And where did the license plate come from?

7 A I had it on a -- I had it on a car that I -- a previous
8 car that I owned through my parents.

9 Q And your parents is Stella Britton; is that right?

10 A Yes, my mom.

11 Q Your mom. Okay.

12 And then were you working at that time or how were you
13 making any money during that period of time?

14 A I was giving quote/unquote Uber rides. I was giving
15 rides, and people would pay me for my services.

16 Q Did other people in the community know that you were
17 available to do that and you had wheels and you'd give them a
18 ride, if need be?

19 A Yes, sir.

20 Q Okay. So let's go from there. At some point in time,
21 this conversation took place that you said no at first?

22 A Yes, sir.

23 Q And then you said that you would? Is that what your
24 testimony currently is?

25 A Yes, sir.

1 Q All right. Tell us what happened after that. After
2 you -- you just testified that you agreed to say, "Yes, I'll
3 take you up that way." Tell us what happened then.

4 A I had run a couple of errands before I took him, and then
5 I took him. We left my house. We stopped for gas in Pawley's
6 Island. And we -- along the way, we smoked a blunt. And we
7 stopped by one bingo hall in Surfside, and he told me that
8 that wasn't the bingo hall he wanted to go to. He told me to
9 drive to Myrtle Beach.

10 And I drove to the bingo hall in question, and we circled
11 the building three times. Then I let him out at the top of
12 the parking lot.

13 Q Okay. Now, when you said that you said no a couple of
14 times or you said no initially --

15 A Right.

16 Q -- if you were just this Uber driver from the
17 neighborhood, why wouldn't you take the opportunity to, at
18 that time, say, "Sure, man"? Why did you say no at first?

19 A I had some previous errands to run and engagements.

20 Q Okay.

21 A Yes, sir.

22 Q Well, at some point in time, did this defendant tell you
23 why he wanted to go to the bingo parlor?

24 A No. No, sir.

25 Q Did he ever say it was for a quick lick?

1 **A** No, sir.

2 **Q** He never said that?

3 **A** He said it on the way to the bingo hall.

4 **Q** Oh, okay. I apologize.

5 **A** Yes, sir.

6 **Q** That's my fault.

7 So prior to getting into the car, it's your testimony now
8 that you thought it was just going up there to Surfside and
9 just to pick up money from somebody; is that right?

10 **A** Yes, sir.

11 **Q** And then, during the ride, did you have any conversation
12 on what the purpose of the ride was for then?

13 **A** After we -- after we left the gas station, he told me.

14 **Q** Said what?

15 **A** He said that he had to pick up some money and it would be
16 a quick lick.

17 **Q** And the way you interpret "quick lick" is perhaps a
18 robbery or something like that, is the way to interpret "quick
19 lick," in and out?

20 **A** It didn't register to me. I was under the influence.

21 **Q** All right. Fair enough. So what you're saying is you
22 didn't really understand what he meant by that, but he said
23 that?

24 **A** Yes, sir.

25 **Q** That's what your testimony today is?

1 **A** Yes, sir.

2 **Q** Okay. So you say that you get there and you circle a
3 couple of times. Do you see -- it's your testimony -- you see
4 this individual get out of the car; is that right?

5 **A** Yes, sir.

6 **Q** Do you recall, generally speaking, what he was wearing at
7 that time?

8 **A** He had on a sweatshirt and some sweatpants, and he had
9 something over his head. I didn't -- it didn't really
10 register to me what he had on his head.

11 **Q** Did you see him with a firearm or anything at that time?

12 **A** No, sir.

13 **Q** Then what did you do from that moment in time?

14 **A** I made a left out of the parking lot, and I went and
15 drove to the end of the -- end of the road to a cul-de-sac,
16 made a U-turn. And I came back through the road, and I parked
17 in the -- in the -- there's a warehouse next to the building,
18 and I just parked in the field -- in the warehouse field,
19 field of the warehouse.

20 **Q** Did -- according to your testimony, did Mr. Rivera give
21 you any instructions on what to do?

22 **A** He told me to meet him up the road.

23 **Q** Okay. Did he say anything about calling or something or
24 just stay there? Can you give me more detail on just staying
25 up the road?

1 **A** No. He just told me to turn my phone off -- he turned it
2 off because I was driving, and he just told me to meet him
3 further up the road, and that was it.

4 **Q** So let me bring up that point. Are you saying that, on
5 the way up there, that Mr. Rivera turned his phone off?

6 **A** Yes, sir.

7 **Q** And then turned your phone off at some point in time when
8 you were at the bingo parlor?

9 **A** He turned them off at the same time.

10 **Q** Okay. Do you have any recollection of when in the
11 process of where you were when turning this phone off
12 happened? On the way up there? Sitting in the parking lot?
13 In Georgetown? Do you have any recollection of that, when
14 that happened?

15 **A** Before I exited the parking lot of the bingo hall.

16 **Q** Okay. Okay. Oh, so go ahead. I think you were at the
17 point now that you park and then you move around and then you
18 let Derrick out -- Mr. Rivera out at that point.

19 **A** Right.

20 **Q** Do you see generally which way he went?

21 **A** I didn't notice. I just made the left turn.

22 **Q** At some point in time, do you see him again? Like, does
23 he come back towards the car at some point in time?

24 **A** About ten minutes after I parked.

25 **Q** All right. When you say that, when did you see him and

1 where was he coming from?

2 **A** He was coming from the direction of the bingo hall.

3 **Q** All right. Was he walking? Was he running?

4 **A** It was kind of a light jog. Light jogging, yes, sir.

5 **Q** And what was his demeanor like when you see him?

6 **A** He was out of breath and hyperventilating.

7 **Q** Okay. Now, you mentioned ten minutes. Ten minutes. How
8 do you know it was ten minutes versus any other time? Is that
9 your memory of it? Do you have a watch?

10 **A** No, sir. It's just a guesstimation. It was roughly 10
11 to 15 minutes.

12 **Q** Okay. All right. What happened after you saw
13 Mr. Rivera? Did he get back in the car?

14 **A** He got in the car, and I asked him what happened, and he
15 said nothing happened. Just told me to make a left turn and
16 go back in the direction that I had originally had driven to.
17 And he was just out of breath and breathing hard and said he
18 was nauseous. And I made a U-turn in the cul-de-sac and drove
19 back towards Forestbrook Road.

20 **Q** So while you're -- talking about driving in the
21 cul-de-sac, you're talking about back into, like, a
22 residential neighborhood?

23 **A** Yes, sir.

24 **Q** A bunch of houses around?

25 **A** Yes, sir.

1 Q I think, during the course of one of your statements, you
2 talked about looking through -- like driving through, window
3 shopping for houses or something back there, is the story you
4 initially told police; is that right?

5 A Yes, sir.

6 Q Something like that. But you really weren't shopping for
7 houses. You were trying to get away from that scene; right?
8 You were trying to drive away from the bingo parlor?

9 A Well, I think that's what he was directing me towards,
10 because he told me to make the left, yes, sir.

11 Q So during that -- your testimony is that Mr. Rivera is in
12 the seat. Do you see him adjusting his clothing or doing
13 anything with his clothes at all?

14 A He was taking clothing off, and he had a backpack on the
15 floor. I thought I saw him put some clothing in the backpack,
16 but he rolled the window down, but I never saw him throw
17 anything out of the window.

18 Q So -- and it's your recollection -- did you see him get
19 in the car with the backpack, a black backpack?

20 A Yes, sir.

21 Q So you say you never saw any clothes go out the window.
22 You just saw clothes coming off and the window down; is that
23 right?

24 A Right. Yes, sir.

25 Q And did you see a firearm at that time?

1 **A** I did, yes, sir.

2 **Q** Can you generally describe what your testimony is of what
3 you saw?

4 **A** It was a black revolver with a woodgrain handle.

5 **Q** Okay. And where did you see -- what did you see
6 Mr. Rivera do with that?

7 **A** He put it on the floorboard, yes, sir.

8 **Q** Okay. Now, at some time through this process, I guess
9 you were driving the vehicle?

10 **A** Yes, sir.

11 **Q** When you left the area of the bingo parlor, were you
12 going a little faster than you normally would when you were
13 leaving that area?

14 **A** No, sir.

15 **Q** Okay. So you're driving at a normal speed?

16 **A** Yes, sir.

17 **Q** All right. If there was video surveillance that shows
18 that you were going fast, would that not be consistent, like
19 you're going fast getting out of there?

20 **A** If it's on video, I was -- as far as I recollect, I was
21 driving the normal speed.

22 **Q** Well, you were there, man. I'm just trying to --

23 **A** Yes, sir.

24 **Q** You tell me the truth.

25 **A** Yes, sir.

1 Q When you left that scene, did you head back towards
2 Georgetown?

3 A Yes, sir.

4 Q And what direction did you go when you head back to
5 Georgetown?

6 A 707.

7 Q Okay. Now, at some point in time during the drive down
8 to 707, how was -- according to your testimony, how was
9 Mr. Rivera doing?

10 A He's breathing hard. He said he was nauseous, and he was
11 still hyperventilating.

12 Q Was he asking for anything?

13 A He asked me to stop and get him something, some water.

14 Q Okay.

15 A I stopped at the -- there was an Exxon gas station, and I
16 stopped and got him some water from there.

17 Q Did you go in and get him a glass of water, I guess?

18 A Yes, sir.

19 Q Did he get out of the car or stay in the car at that
20 time?

21 A He stayed in the car.

22 Q So you went in and went out, and then what happened?

23 A Then we drove back to Georgetown.

24 Q Did you give him the water?

25 A Yes, sir.

1 Q And head back to Georgetown?

2 A Yes, sir.

3 Q At some point in time, did you drive past an
4 individual -- the front of that bingo parlor after you had
5 gone in the Tuscan Bay Area? You probably don't know the
6 name of the residential areas; right? Into that neighborhood?

7 A I don't remember the name.

8 Q Okay. But, at some point in time, did you drive back
9 past the bingo parlor after him dropping Derrick off and
10 getting -- him getting back in the car?

11 A Yes, sir.

12 Q When you did that, did you see any activity going on
13 around there?

14 A There was a lot of law enforcement around, and that's why
15 I was prompted to ask him what happened. And he just kept
16 saying nothing happened.

17 Q Did he indicate anything? Any nature of anything
18 happening in there?

19 A No, sir.

20 Q Did he say there was a tussle that happened in there?

21 A He said he just had a tussle.

22 Q Did he say, "I shot somebody"?

23 A No. No, sir.

24 Q Did you ask him, "Hey, did you shoot somebody in there"?

25 A No, I just -- I just asked him what happened.

1 Q Okay. All right. So, from there, I think we're at the
2 point after 707, right, going to the convenience store down
3 towards 707?

4 A Right. Yes, sir.

5 Q And then you continue to go on down the road; is that
6 right? Do you have any other discussions in the course of the
7 drive from Myrtle Beach to Georgetown?

8 A No, sir.

9 Q Talk about anything?

10 A No, sir.

11 Q Were you concerned that something happened?

12 A I was. After seeing so many law enforcement and the fire
13 truck, I asked him -- I kept -- I continued to ask him what
14 happened on the way home but he said nothing happened.

15 Q Okay. You had mentioned wanting water and breathing hard
16 and all that kind of stuff. At some point in time, did
17 Mr. Rivera stay that way the entire time? Did he calm down?
18 Were things kind of settling down or what?

19 A He eventually calmed down when we reached Highway 17.

20 Q And so, at that point in time, you didn't want to ask
21 anymore questions or what? You're just riding in silence or
22 what?

23 A We just rode in silence.

24 Q All right. What happens when you get back to Georgetown?

25 A He went home.

1 Q At some point in time, did you see media accounts or
2 anything about what happened up in Myrtle Beach on July 26th
3 of 2019?

4 A No, sir.

5 Q Okay. At some point in time, do you guys continue to
6 communicate somehow, you know -- let me back up.

7 I think you mentioned that the phones were turned off;
8 right? That's what your testimony is?

9 A Yes, sir.

10 Q And then, at some point in time, were the phones turned
11 back on, on the way back to Georgetown?

12 A Yes, sir.

13 Q Do you recall that?

14 A Yes, sir.

15 Q And so do you guys communicate to each other at all
16 after -- obviously, you're sitting beside each other and you
17 don't need to call each other on the phone.

18 A Right.

19 Q After that, does either Mr. Rivera contact you or you
20 contact Rivera after the incidents on the night of the 26th?
21 I mean, y'all talked to each other and made calls?

22 A Yes, sir. The following day.

23 Q I'm sorry?

24 A The following day.

25 Q Okay. And then, in the days, like, on the 27th and on

1 the 28th, are you guys talking to each other at all?

2 A I'm sorry. Repeat the question.

3 Q I know. I gotcha, I gotcha.

4 This happens on the 26th; right?

5 A Yes, sir.

6 Q And so is it your testimony that, on the 25th, the day
7 before, you guys talked on the telephone, on the day prior to
8 going up to the bingo parlor?

9 A Briefly, yes, sir.

10 Q And then the day of and then the day after, what I'm
11 trying to ask is -- you guys both have phones; right?

12 A Yes, sir.

13 Q And are y'all talking to each other after the bingo
14 parlor incident?

15 A Yes, sir.

16 Q And then, the day after that; is that right? You're
17 still talking to each other?

18 A Yes, sir.

19 Q At some point in time, do you remember the day that the
20 police came to your house and got a search warrant and saw you
21 and arrested you? Do you remember what day that was?

22 A July 29th. Roughly.

23 Q I know. I'm just seeing if you know. I mean, it
24 happened to you, so....

25 A Yes, sir.

1 Q Had you seen Mr. Rivera in person at all during the
2 period of time? Had he ever come see you after the bingo or
3 it was just communication by --

4 A He came by and saw me the next day.

5 Q The next day?

6 A Yes, sir.

7 Q What was the nature of the contact the next day?

8 A It was just casual. He just came by. I think we smoked
9 a blunt.

10 Q Did y'all talk about what happened?

11 A No, sir.

12 Q Well, I got a question. Coming by to a man's -- did he
13 come to your house?

14 A Yes, sir.

15 Q Do you recall roughly what time of day that was when he
16 came by? I mean, early in the morning? 9:00? 10:00? You
17 mentioned breakfast, didn't you?

18 A Yes, sir. It was about 9:00 or 10:00.

19 Q All right. So he comes over to a man's house to eat
20 breakfast with him and smoke a blunt. Y'all are relatively
21 close or no?

22 A Casually close.

23 Q Casually close?

24 A Yes, sir.

25 Q Okay. All right. Now, then, let's talk about you

1 getting arrested, and then your initial interaction with the
2 law enforcement. That's how I kind of started this
3 conversation.

4 **A** Right.

5 **Q** When law enforcement came and first approached you and
6 asked you, "Hey, did you have anything to do with this?", what
7 was your answer?

8 **A** Originally, I answered no.

9 **Q** In fact, you repeatedly said, "No, I don't know what the
10 heck you're talking about," right?

11 **A** Yes, sir.

12 **Q** You denied your involvement and lied to them?

13 **A** Originally, yes, sir.

14 **Q** Did you tell law enforcement that there was this guy
15 named Trey that you loaned this car to?

16 **A** Yes, sir.

17 **Q** Are those all efforts to avoid -- to keep you from
18 getting arrested? Is that why you're lying?

19 **A** No, sir, I just -- to be honest, I was a little afraid.

20 **Q** Afraid of what?

21 **A** I have never been approached by the U.S. Marshals before.

22 **Q** Were you afraid that what happened is going to get
23 discovered and you were going to get arrested? Is that what
24 you were afraid of?

25 **A** I wasn't sure exactly what happened until they started to

1 question me, and then they -- originally, they told me what
2 had happened, and then I -- that's when I confessed.

3 Q Well, when they heard when somebody got killed -- two
4 people got killed at the bingo parlor and you're saying that
5 you took the man up there and dropped him off, you knew that,
6 but didn't tell anybody about that for quite a while; isn't
7 that right?

8 A I wasn't aware that somebody got killed.

9 Q You knew that you took the man up there and dropped him
10 off and then, later on, you found that out?

11 A Yes, sir.

12 Q Is that your testimony?

13 A Yes, sir.

14 Q Is that what you're saying?

15 A Yes, sir.

16 Q But you knew, at some point in time, he says you're going
17 in there for a lick. You knew that at some point in time?

18 A Yes, sir.

19 Q And knew what the purpose of the trip was. I know you're
20 an Uber driver, but you knew Uber was for a lick. At some
21 point in time, you knew that, didn't you?

22 A Yes, sir.

23 Q And so, during the course of the first interview, isn't
24 it true you make up all kinds of statements here, here, other
25 people involved?

1 **A** Yes, sir.

2 **Q** And then going into your second statement is when you
3 identified Mr. Rivera; isn't that right?

4 **A** Yes, sir.

5 **Q** Well, let me show you a couple of things, too. I think
6 you indicated that you had -- that Derrick Rivera's contact
7 information was in your phone; isn't that right?

8 **A** Yes, sir.

9 **Q** I'm going to show the witness what's been marked as
10 State's 91. See if you kind of recognize that, Bradford.

11 **A** Yes, sir.

12 **Q** And what is that? I mean, what is that? I'm sorry; I'm
13 going kind of fast.

14 **A** That's Big Bro. It's the contact I had him listed under
15 in my cell phone.

16 **Q** Okay. And I want to show you this marked as State's 92.
17 When you were down in Georgetown Police Department, did they
18 ask if you would consent to give him a DNA swab, a cheek swab
19 from when you were in custody down there?

20 **A** Yes, sir.

21 **Q** Okay. Show you State's 92. Do you recognize that?

22 **A** Yes, sir.

23 **Q** Did you fill that out and sign that?

24 **A** I did.

25 **Q** And that's your phone number on there: 240-0367?

1 **A** That's it, yes, sir.

2 **Q** Okay. All right. So, at the conclusion of this trial --
3 you haven't been sentenced on anything; right?

4 **A** Yes, sir -- no, sir.

5 **Q** Right. So this -- all your sentencing proceedings,
6 you're not done with this process. All this sentencing
7 proceedings is hanging over your head, isn't it?

8 **A** Yes, sir.

9 **Q** Right. And that's one of the reasons your attorney is
10 back there kind of paying attention to what's going on here,
11 right, making sure everything is on the up-and-up; right?

12 **A** Yes, sir.

13 **Q** All right. Let me ask you this also: During the course
14 of your entering your guilty pleas to those offenses last
15 week, you are required by law to enter a factual understanding
16 of why you're pleading guilty to and why you're telling the
17 State of South Carolina "I committed the offenses I'm pleading
18 guilty to," isn't that right?

19 **A** Yes, sir.

20 **Q** And so you had to agree that those are the facts that I
21 agree of what happened; isn't that right?

22 **A** Yes, sir.

23 MR. HIXSON: Okay. Beg the Court's indulgence.

24 THE COURT: All right.

25 (Pause in the proceedings.)

1 MR. HIXSON: I have no further questions at this time.

2 THE COURT: All right. Cross-examination?

3 CROSS-EXAMINATION

4 BY MR. MCGUIRE:

5 Q Mr. Britton, when do you want to go home? When do you
6 want to leave jail and go home?

7 A To be honest?

8 Q Yeah.

9 A Yesterday. Today. Tomorrow.

10 Q Today or tomorrow?

11 A Yes, sir.

12 Q Do you remember when you were being interviewed by the
13 detectives and they were telling you over and over, "If you
14 don't give somebody up, you're going to eat this murder
15 charge"? Do you remember stuff like that?

16 A Yes, sir.

17 Q Okay. And they said, basically, we're going to go after
18 you, and you're going to eat this murder charge or you got to
19 give us somebody. Right?

20 A Yes, sir.

21 Q Okay. And, ultimately, eventually, you gave them the
22 name Derrick, who goes by Mug; right?

23 A Yes, sir.

24 Q And, in that interview, after you give them the name
25 Derrick, you actually said to them, "Hey, am I going home now

1 in a couple of days or a couple of weeks?" Do you remember
2 saying that?

3 A No, sir.

4 Q Okay. You know that your interview was recorded; right?

5 A Yes, sir.

6 Q And it gets typed up like this. You're aware of that;
7 right?

8 A Yes, sir.

9 Q I want to ask you to move your water, if you would.

10 THE COURT: If you want to get some help right there, if
11 you want to just move it. Oh, his water. That's good.

12 MR. MCGUIRE: Appreciate it.

13 BY MR. MCGUIRE:

14 Q So this is right after you give them the name Derrick
15 Rivera. And what do you say? I want you to read this just to
16 yourself and then I'll ask you about it. Okay? You got that
17 line right there?

18 A Right.

19 Q Okay. And then it goes up here. Just read that to
20 yourself.

21 A (Reviewing document.) Okay.

22 Q Okay. You got it?

23 A Yes, sir.

24 Q Okay. So we can agree that, right after you give the
25 name Derrick Rivera, you ask the police officers, "Am I going

1 home in a couple of days now?"

2 **A** Okay. Yes, sir.

3 **Q** You do remember that now; right?

4 **A** Yes, sir.

5 **Q** Okay. And you -- right now, as we stand here right now,
6 as you sit there right now, you want to go home as soon as
7 possible?

8 **A** Yes, sir.

9 **Q** Okay. And the way to get home as soon as possible is to
10 tell the Government, the prosecution, what they need to hear
11 to convict Derrick Rivera; right? Let me rephrase that for
12 you.

13 **A** Okay.

14 **Q** You understand the prosecution right here, the
15 government --

16 **A** Yes, sir.

17 **Q** -- is trying to convict Derrick Rivera of murder. You
18 understand that; right?

19 **A** Yes, sir.

20 **Q** Okay. And, right now, you're cooperating with this team;
21 right?

22 **A** Yes, sir.

23 **Q** And your job is to help them convict Derrick Rivera;
24 right?

25 **A** Yes, sir, I guess. Yes, sir.

1 Q Well, are you confused about your role?

2 A No, sir.

3 Q You're on this team right here; right?

4 A I'm just here to do the right thing and tell the truth.

5 Q Do the right thing? Tell the truth?

6 A Yes, sir.

7 Q Okay. When you first started talking to the police, you
8 went straight to an alibi saying that "I was home"; right?

9 A Yes, sir.

10 Q You told them "I was home"; right?

11 A Yes, sir.

12 Q And your son, Elijah, lied for you and said he saw you at
13 9:30 that night when he got off work. You're aware of that;
14 right?

15 A I wasn't aware of that, no, sir.

16 Q Okay. He just decided to lie all by himself?

17 A I suppose, yes, sir.

18 Q Isn't it true you told him to lie?

19 A No, sir.

20 Q Isn't it true you said, "Look, I was in Myrtle Beach when
21 a robbery and murder went down. I need you, Elijah, my son,
22 if the police ask you, you say I picked you up from work at
23 9:30 in Georgetown." Isn't that right?

24 A No, sir.

25 Q If he 's lying, he just did that all by himself?

1 **A** Yes, sir.

2 **Q** After you said, "I was home" and after your son, Elijah,
3 said you picked him up from work, you went into one of your
4 first versions of your story, and that is that you lent your
5 car to a person named Trey; right?

6 **A** Yes, sir.

7 **Q** And you told the police that Trey had a close haircut,
8 short hair?

9 **A** Yes, sir.

10 **Q** You said he had brown skin?

11 **A** Yes, sir.

12 **Q** You said that he brought the car back about 1:00, 1:30 in
13 the morning? 1:00, 1:30 a.m., you're saying Trey brought the
14 car back at that time?

15 **A** Yes, sir.

16 **Q** Okay. When you were talking to the police, you said Trey
17 just brought the car home, he didn't say anything; right?

18 **A** Yes, sir.

19 **Q** You said he just gave you the keys, and Trey said, "I'm
20 sorry I'm late"; right?

21 **A** Yes, sir.

22 **Q** The police said, "Where does he live?" And you said, "I
23 don't know where Trey lives." Right?

24 **A** Yes, sir.

25 **Q** You told the police that Trey called you on your phone to