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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Lexington County

Honorable Donald B. Hocker, Circuit Court Judge

MARION WADE FRYE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001406

APPENDIX

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State of South Carolina
 County of Lexington

Court of General Sessions

State	)	
	)	
	)	Transcript of Record
v.	)	2016-GS-32-01113
	)	
Marion Wade Frye, Jr.	)	
	)	
<u>Defendant.</u>	)	

February 5 - 8, 2018
 Lexington, South Carolina

B E F O R E:

The Honorable R. Knox McMahon, Judge; and a
 jury.

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1 (The following proceedings were held February
2 5, 2018.)

3 THE COURT: All right. Solicitor, you may call
4 your first case for trial.

5 MS. MAYES: Your Honor, may it please the
6 Court?

7 THE COURT: Yes, ma'am.

8 MS. MAYES: Before the Court is Indictment
9 No. 2016-GS-32-1113, the State of South Carolina vs.
10 Marion Wade Frye, Jr. This indictment is for
11 murder.

12 Indictment No. 2017-GS-32-2551, the State of
13 South Carolina vs. Marion Wade Frye, Jr. This is
14 for possession of a weapon during the commission of
15 a violent crime.

16 Your Honor, the defendant is present in the
17 courtroom, and the State is ready for trial in this
18 case.

19 THE COURT: Thank you, Solicitor.

20 Mr. Mauldin, you represent Marion Wade Frye,
21 Jr.?

22 MR. MAULDIN: Yes, Your Honor.

23 THE COURT: And he is present in the courtroom?

24 MR. MAULDIN: Yes, Your Honor.

25 THE COURT: And he is ready for trial?

1 MR. MAULDIN: Yes, sir.

2 THE COURT: Thank you, Mr. Mauldin.

3 Ladies and gentlemen of the jury panel, if you
4 would please give me your complete and undivided
5 attention. We're going through a process whereby we
6 select a jury for the trial of this specific case.
7 You have been qualified generally to serve as
8 members of a jury panel. Now I will qualify you to
9 determine your eligibility and your qualifications
10 again to serve on this particular case. Our goal,
11 our mission, is to select a trial jury that will be
12 a fair and impartial jury in the trial of this case
13 for both Mr. Frye and the State of South Carolina.

14 I will ask you certain questions specific to
15 this particular case. Ladies and gentlemen,
16 momentarily I will read or publish to you the
17 indictments in this case. The indictments are not
18 evidence. The indictments are the formal charging
19 documents by which the case is brought before this
20 Court. The indictments contain mere allegations and
21 in no sense are they evidence of the crimes for
22 which Mr. Frye was indicted.

23 Again, they are formal charging documents that
24 brings the case before the Court. I read these
25 indictments to you because of particular questions I

1 will ask you thereafter.

2 Indictment 2016-GS-32-01113, the State of South
3 Carolina vs. Marion Wade Frye, Jr. The indictment
4 reads that Marion Wade Frye did in Lexington County
5 on or October 1st, 2015 unlawfully kill one Joshua
6 Prine, P-R-I-N-E, with malice aforethought either
7 express or implied; to wit, did shoot the victim,
8 Joshua Prine, with a firearm resulting in his death
9 in violation of 16-3-10 of the South Carolina code
10 of laws, 1976 as amended. That is an indictment for
11 murder.

12 Indictment 2017-GS-32-02551 alleges that Marion
13 Wade Frye did in Lexington County on or about that
14 same day, October 1st, 2015, knowingly and
15 willfully, possess a firearm during the commission
16 of a violent crime or attempt to commit a violent
17 crime; to wit murder. Such weapon is described as a
18 handgun in violation of 16-23-490 of the code of
19 laws of South Carolina, 1976 as amended. That is an
20 indictment for possession of a weapon during the
21 commission of a violent crime.

22 The State is represented by Assistant
23 Solicitors Mayes and Bell.

24 If y'all would please stand and introduce
25 yourself to the jury panel and any other member of

1 the solicitor's staff that may assist you in the
2 prosecution of this trial.

3 MS. MAYES: My name is Suzanne Mayes. I'm
4 deputy solicitor here in the 11th Judicial Circuit.
5 That includes Lexington, Edgefield, McCormick and
6 Saluda Counties. We are prosecutors on behalf of
7 the State. Also present is Assistant Solicitor Gill
8 Bell. And you'll also see in the courtroom our
9 investigator, Jill Smith, also with the 11th Circuit
10 Solicitor's Office.

11 THE COURT: Thank you, Solicitors.

12 Mr. Frye is represented by Mr. Mauldin.

13 If you'd please stand, introduce yourself and
14 your client to the jury panel.

15 MR. MAULDIN: Thank you, Your Honor.

16 My name is David Mauldin and I represent Marion
17 Wade Frye, Jr.

18 THE COURT: Thank you, Mr. Mauldin.

19 Thank you, Mr. Frye.

20 Starting with the attorneys, ladies and
21 gentlemen, is any member of the jury panel related
22 by blood or marriage, know, have any social,
23 business, or professional relationship with any of
24 the attorneys involved in the trial of this case,
25 again, Assistant Solicitor Mayes, Assistant

1 Solicitor Bell, or Mr. Mauldin? If so, please
2 stand.

3 (No response.)

4 THE COURT: Has any member of the jury panel
5 ever been represented by or a member of your
6 immediate family or close personal friend ever been
7 represented by Assistant Solicitor Mayes, Bell or
8 Mr. Mauldin? If so, please stand.

9 (No response.)

10 THE COURT: Has any member of the jury panel
11 ever been involved in a case, in the trial of a case
12 as a witness or otherwise in which either Mr.
13 Mauldin, Assistant Solicitor Mayes or Assistant
14 Solicitor Bell was representing one side or the
15 other? If so, please stand.

16 (No response.)

17 THE COURT: Does any member of the jury panel
18 know in any way any of the attorneys involved in the
19 trial of this case? If so, please stand.

20 (No response.)

21 THE COURT: Also, Mr. Frye stood before you.
22 Is any member of the jury panel related by blood or
23 marriage, personal friends, have any business,
24 social, professional relationship with Mr. Frye, the
25 named defendant in this case? If so, please stand.

1 (No response.)

2 THE COURT: The indictments allege two crimes:
3 One, the crime of murder; the other, the crime of
4 possession of a weapon during the commission of a
5 violent crime. The named victim is Joshua Prine.
6 Again, the spelling is P-R-I-N-E.

7 Is any member of the jury panel related by
8 blood or marriage, have any -- or had any social,
9 business, or professional relationship with the
10 named victim in the indictment, Joshua Prine? Did
11 you know Mr. Prine or any member of Mr. Prine's
12 family? If so, please stand.

13 (No response.)

14 THE COURT: Again, the allegation alleges that
15 this incident occurred on 1 October 2015 in
16 Lexington County.

17 Does any member have any knowledge of the facts
18 of this case from any source whatsoever? Radio,
19 television, internet, or hearsay, in any manner
20 whatsoever? If so, please stand.

21 (No response.)

22 THE COURT: Does any member of the jury panel
23 have any bias or prejudice towards the parties, that
24 being Mr. Frye or the State of South Carolina, or
25 towards the subject matter involved in the

1 indictment? If so, please stand.

2 (No response.)

3 THE COURT: Has any member of the jury panel or
4 any member of your immediate family or a close
5 personal friend ever been involved in any manner
6 whatsoever, witness, family member of a victim or a
7 defendant or in any way involved in murder or
8 possession of a weapon during the commission of a
9 violent crime? Either side? If so, please stand.

10 All right. Yes, if y'all would just line up on
11 the rail for me, please. Just come forward, then
12 line up on the rail. The sheriff is coming forward
13 now.

14 Yes, Mr. Bailiff.

15 THE BAILIFF: Juror No. 173, Your Honor.

16 THE COURT: Good morning. Tell me your name,
17 please.

18 POTENTIAL JUROR: Vivian Rodriguez.

19 THE COURT: And tell me --

20 POTENTIAL JUROR: My uncle was murdered in
21 Honduras.

22 THE COURT: Can you give me a time frame?

23 POTENTIAL JUROR: It would have been 19, I
24 would say, 96.

25 THE COURT: Given the fact that that occurred

1 in your family, to your family member, can you be a
2 fair and impartial juror in the trial of this case
3 for both Mr. Frye and the State?

4 POTENTIAL JUROR: Yes, sir.

5 THE COURT: Thank you. I believe you can stay
6 with us. Do not say anything to your fellow jurors.
7 Thank you.

8 THE BAILIFF: Juror No. 138, Your Honor.

9 THE COURT: Good morning. Yes, sir.

10 POTENTIAL JUROR: William Matthews. My son is
11 assistant district attorney in Wilmington.

12 THE COURT: How long has he been in that
13 position?

14 POTENTIAL JUROR: About three years.

15 THE COURT: Does he prosecute these types of
16 cases?

17 POTENTIAL JUROR: Murder trial last year I
18 attended.

19 THE COURT: Given that fact, can you be a fair
20 and impartial juror in the trial of this case --

21 POTENTIAL JUROR: I can.

22 THE COURT: -- for Mr. Frye and the State?

23 POTENTIAL JUROR: I can.

24 THE COURT: Thank you. I believe you can stay
25 with us. Tell me your number one more time.

1 POTENTIAL JUROR: 138.

2 THE COURT: Thank you so much.

3 Yes, sir.

4 THE BAILIFF: Juror No. 99, Your Honor.

5 THE COURT: Good morning. Yes, sir.

6 POTENTIAL JUROR: I testified in a murder trial
7 when I was with the school district, Richland School
8 District 1. I was the psychologist and testified at
9 the trial.

10 THE COURT: What case was that?

11 POTENTIAL JUROR: It was a parent who killed
12 their stepchild years ago.

13 THE COURT: Can you give me the time frame?

14 POTENTIAL JUROR: Gosh, no. Probably in the
15 '80s or '90s.

16 THE COURT: I remember those days better than I
17 do these days.

18 POTENTIAL JUROR: The parent said the child had
19 been abducted from school and they later found the
20 child's body.

21 THE COURT: Given the fact that you testified
22 in that capacity in a trial such as that, can you be
23 a fair and impartial juror in the trial of this case
24 for both Mr. Frye and the State?

25 POTENTIAL JUROR: I think so.

1 THE COURT: When you say you think so, that may
2 just be semantics.

3 POTENTIAL JUROR: Yes.

4 THE COURT: Ever been on jury duty?

5 POTENTIAL JUROR: Yes.

6 THE COURT: When?

7 POTENTIAL JUROR: Years ago in Richland County.

8 THE COURT: The same time frame as this other?

9 POTENTIAL JUROR: At least, 15 or 16 years ago.

10 THE COURT: I believe you can stay with us.

11 Thank you. Thank you very much. Yes, sir.

12 Yes, sir.

13 THE BAILIFF: Juror No. 203, Your Honor.

14 THE COURT: Good morning. Tell me your
15 response.

16 POTENTIAL JUROR: My wife's sister was murdered
17 pretty rapidly. She worked at the Sheriff's
18 Department, Lindsey Lee, last year. And I just
19 don't know how much I could really -- we went
20 through a big family ordeal and everything with
21 that.

22 THE COURT: Do you feel like you can be a fair
23 and impartial juror in the trial of this case for
24 Mr. Frye and the State? There's no right or wrong
25 -- whatever answer you give is the right answer.

1 POTENTIAL JUROR: Honestly, I don't think I can
2 be fair.

3 THE COURT: And that's the right answer.
4 That's what we're looking for and that's your
5 response.

6 I'm going to excuse you from the trial of this
7 case. Please do not say anything to your fellow
8 jurors. Go back and have a seat, but do not say
9 anything to your fellow jurors.

10 POTENTIAL JUROR: Yes, sir.

11 THE COURT: Yes, sir.

12 THE BAILIFF: Juror No. 126, Your Honor.

13 THE COURT: Good morning.

14 POTENTIAL JUROR: Good morning.

15 THE COURT: Tell me your response.

16 POTENTIAL JUROR: I don't know that this
17 counts: About eight years ago, my cousin was
18 involved in a -- or went to prison for negligence
19 and vehicular manslaughter. There wasn't a weapon.
20 I didn't know if you needed that or not.

21 THE COURT: Where did that occur?

22 POTENTIAL JUROR: It occurred, I think it was
23 in North Carolina. She's local. She happened to be
24 in North Carolina at the time.

25 THE COURT: What -- so the offense occurred in

1 North Carolina, but she is local?

2 POTENTIAL JUROR: She is from South Carolina,
3 yes, sir.

4 THE COURT: Tell me again the time frame.

5 POTENTIAL JUROR: It was about eight years ago,
6 nine years ago maybe.

7 THE COURT: And given that fact, can you be a
8 fair and impartial juror in the trial of this case
9 for both the State and the defense?

10 POTENTIAL JUROR: I believe I can be, yes, sir.

11 THE COURT: When you say you believe you can,
12 that's -- I find that to be semantics.

13 POTENTIAL JUROR: Yes, I can be.

14 THE COURT: Okay. I believe you can stay with
15 us.

16 Yes, sir.

17 THE BAILIFF: Juror No. 64, Your Honor.

18 THE COURT: Yes, ma'am. Good morning. Tell me
19 your name, please.

20 POTENTIAL JUROR: Denise Dunkley.

21 THE COURT: Okay, Ms. Dunkley.

22 POTENTIAL JUROR: My aunt's house was being
23 burglarized and they had a weapon, just last year or
24 the year before.

25 THE COURT: And that was local?

1 POTENTIAL JUROR: Smoaks, South Carolina.

2 THE COURT: Given that fact, can you be a fair
3 and impartial juror in the trial of this case for
4 both the State and the defense?

5 POTENTIAL JUROR: I don't think so.

6 THE COURT: You cannot.

7 POTENTIAL JUROR: I just --

8 THE COURT: There's no wrong answer. Whatever
9 your answer is, is the correct answer. You know
10 yourself best.

11 POTENTIAL JUROR: Right.

12 THE COURT: I'm going to set 64 aside for the
13 trial of this case.

14 Please do not say anything to the other jurors.
15 Yes, sir.

16 THE BAILIFF: Juror No. 7, Your Honor.

17 THE COURT: Good morning. And tell me your
18 response.

19 POTENTIAL JUROR: I'm -- although I did not
20 know this person, my cousin's son was shot to death
21 in a drug situation. And I thought I needed to err
22 on caution and tell you that.

23 THE COURT: Of course. And give me a time
24 frame.

25 POTENTIAL JUROR: It's been at least 15 years.

1 THE COURT: And a location.

2 POTENTIAL JUROR: I don't know if it was North
3 Carolina or South Carolina. I'm not sure where she
4 lived when that happened.

5 THE COURT: Given those facts, can you be a
6 fair and impartial juror in the trial of this case
7 for both Mr. Frye and the State?

8 POTENTIAL JUROR: Yes.

9 THE COURT: No doubt in your mind?

10 POTENTIAL JUROR: No doubt in my mind.

11 THE COURT: Thank you. I believe you can stay
12 with us.

13 THE BAILIFF: Juror No. 13, Your Honor.

14 THE COURT: Good morning.

15 POTENTIAL JUROR: Good morning.

16 THE COURT: Tell me your response.

17 POTENTIAL JUROR: In November of last year, a
18 family friend was killed in Greenville by a blow to
19 the head.

20 THE COURT: Given that fact, can you be a fair
21 and impartial juror in the trial of this case for
22 both Mr. Frye and the State?

23 POTENTIAL JUROR: I hope to.

24 THE COURT: When you say you hope, can you
25 explain that to me?

1 POTENTIAL JUROR: I don't feel I can't.

2 THE COURT: In other words, if you're selected
3 as a juror on the trial of this case, I would direct
4 that you decide the case based on the evidence,
5 witnesses testifying under oath in this case
6 uninfluenced by what may have happened in your
7 experience with this in Greenville.

8 POTENTIAL JUROR: Yes.

9 THE COURT: You can set that aside and be a
10 fair and impartial juror in the trial of this case
11 for both Mr. Frye and the State based on the
12 evidence that is presented in this trial and the law
13 as I tell you the law is?

14 POTENTIAL JUROR: Yes, sir.

15 THE COURT: Any doubt in your mind?

16 POTENTIAL JUROR: No, sir.

17 THE COURT: Thank you. I believe you can stay
18 with us.

19 Yes, sir.

20 THE BAILIFF: Juror No. 105, Your Honor.

21 POTENTIAL JUROR: I'm not sure about -- you
22 asked a while ago had anybody in our family been
23 prosecuted or defended by.

24 THE COURT: Either side, that's really what I'm
25 asking. Investigated for, witnesses --

1 POTENTIAL JUROR: My son was up there and the
2 Lexington County Solicitor's Office was prosecuting
3 against him, but I don't remember what the names of
4 the people were, so I don't know.

5 THE COURT: Sure. What was your son being
6 prosecuted for?

7 POTENTIAL JUROR: Domestic violence.

8 THE COURT: Can you give me the time frame?

9 POTENTIAL JUROR: It's been about three or four
10 years ago.

11 THE COURT: What was your son's name?

12 POTENTIAL JUROR: Roy J. Jenkins, Jr.

13 THE COURT: And it didn't involve a death?

14 POTENTIAL JUROR: No.

15 THE COURT: Given those facts and the fact that
16 the -- this same Solicitor's Office or members of
17 the solicitor's staff prosecuted your son, can you
18 be a fair and impartial juror in the trial of this
19 case for both the State and Mr. Frye?

20 POTENTIAL JUROR: Yes, sir, I think so.

21 THE COURT: Any doubt in your mind?

22 POTENTIAL JUROR: No, sir.

23 THE COURT: Thank you. I believe you can stay
24 with us.

25 Yes, sir.

1 THE BAILIFF: Juror No. 28, Your Honor.

2 THE COURT: Good morning.

3 POTENTIAL JUROR: Good morning. I believe I
4 know the -- Joshua Prine, if his sister is Nicole --
5 if his sister's name is Nicole Prine, I went -- my
6 mom's really good friends and stuff. They used to
7 hang out with Nicole Prine.

8 THE COURT: Your mom --

9 POTENTIAL JUROR: One of my sister's friend's
10 mom used to go over to her house. And we never hung
11 out with Josh, but Nicole Prine and stuff like that.

12 THE COURT: So you know Joshua Prine's --

13 POTENTIAL JUROR: Sister.

14 THE COURT: -- family? Sister?

15 POTENTIAL JUROR: Just sister, yes, sir.

16 THE COURT: Were y'all close friends?

17 POTENTIAL JUROR: No, sir.

18 THE COURT: Acquaintances?

19 POTENTIAL JUROR: No, sir. I don't talk to
20 her. I just seen her years ago over in Swansea.

21 THE COURT: When you talk about years ago, give
22 me a time frame.

23 POTENTIAL JUROR: About 20 years ago. 15, 20
24 years ago.

25 THE COURT: I would have thought 20 years ago,

1 you'd be about five or one.

2 POTENTIAL JUROR: Unfortunately, I'm 30 with
3 gray hair.

4 THE COURT: Given those facts, can you be a
5 fair and impartial juror in the trial of this case
6 for both Mr. Frye and the State?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: Any doubt in your mind?

9 POTENTIAL JUROR: No, sir.

10 THE COURT: I believe you can stay with us.
11 Yes, sir.

12 THE BAILIFF: That's it, Your Honor.

13 THE COURT: Any others?

14 (No response.)

15 THE COURT: Thank you.

16 This document I'm looking at has Kitty Drive.
17 Is it Kitty Wake Drive?

18 THE DEFENDANT: No, sir.

19 THE COURT: It's Kitty Drive?

20 MS. MAYES: That's correct.

21 THE COURT: Ladies and gentlemen, I did
22 introduce Mr. Frye -- excuse me, Mr. Mauldin
23 introduced Mr. Frye, his client, to you earlier. He
24 is formerly of Kitty Drive in the Red Bank area of
25 Lexington County.

1 I'm going to ask you, has any member of the
2 jury panel ever done business with, now or in the
3 past, Frye Installation? If so, please stand.

4 (No response.)

5 THE COURT: Did any member of the jury panel
6 attend White Knoll High School during the years 2004
7 through 2006? If so, please stand.

8 (No response.)

9 THE COURT: Has any member of the jury panel or
10 member of your immediate family or close personal
11 friend, besides those of you who have come before --
12 come up here before with that question I asked
13 previously, been a victim of or accused of a crime
14 of personal violence? If so, please stand.

15 (No response.)

16 THE COURT: Is any member of the jury panel or
17 member of your immediate family or a close personal
18 friend currently a law enforcement officer or has
19 previously been a law enforcement officer? If so,
20 please stand.

21 All right. Let's start all the way to my left.

22 Sir, tell me your number, please.

23 POTENTIAL JUROR: 36.

24 THE COURT: Tell me the relationship.

25 POTENTIAL JUROR: My next-door neighbor and

1 good friend is a retired deputy sheriff from
2 Richland County.

3 THE COURT: How long have y'all been next-door
4 neighbors?

5 POTENTIAL JUROR: About 16 years.

6 THE COURT: How long have y'all been best
7 friends?

8 POTENTIAL JUROR: About the same.

9 THE COURT: Well, congratulations.

10 POTENTIAL JUROR: He's a good neighbor.

11 THE COURT: Given those facts, can you be a
12 fair and impartial juror in the trial of this case
13 for both Mr. Frye and the State?

14 POTENTIAL JUROR: Yes, sir.

15 THE COURT: Thank you. You may be seated.
16 Yes, sir, your number, sir?

17 POTENTIAL JUROR: 174.

18 THE COURT: And your response?

19 POTENTIAL JUROR: I was a police officer
20 from -- 1991 to 2004 for Lexington City and
21 Lexington County.

22 THE COURT: What is your occupation now?

23 POTENTIAL JUROR: I am a supervisor for an oil
24 company.

25 THE COURT: Given those facts of your previous

1 law enforcement, can you be a fair and impartial
2 juror in the trial of this case for both Mr. Frye
3 and the State?

4 POTENTIAL JUROR: Yes, sir.

5 THE COURT: Thank you. You may be seated.

6 Yes, ma'am, the lady in the blue dress.

7 POTENTIAL JUROR: Sir?

8 THE COURT: Your number?

9 POTENTIAL JUROR: 90.

10 THE COURT: And your response?

11 POTENTIAL JUROR: My next-door neighbor was a
12 police officer.

13 THE COURT: And how long has he or she been
14 your next door neighbor?

15 POTENTIAL JUROR: Seventeen years.

16 THE COURT: Given those facts, can you be a
17 fair and impartial juror in the trial of this case
18 for both Mr. Frye and the State?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: Thank you. You may be seated.

21 Yes, ma'am, your number, please?

22 POTENTIAL JUROR: 141.

23 THE COURT: And your response?

24 POTENTIAL JUROR: My grandfather worked for
25 Richland County Police Department for 35 years as a

1 police officer.

2 THE COURT: Can I ask who that was?

3 POTENTIAL JUROR: Bud Henderson.

4 THE COURT: Yes, ma'am. Given that fact, can

5 you be a fair and impartial juror in the trial of

6 this case for both Mr. Frye and the State?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: Thank you. You may be seated.

9 Yes, your number, please?

10 POTENTIAL JUROR: 116.

11 THE COURT: And your response?

12 POTENTIAL JUROR: My brother-in-law is a state

13 highway patrolman.

14 THE COURT: Given that fact, can you be a fair

15 and impartial juror in the trial of this case for

16 both the State and Mr. Frye?

17 POTENTIAL JUROR: Yes, sir.

18 THE COURT: Thank you. You may be seated.

19 The gentleman in the blue?

20 POTENTIAL JUROR: 205.

21 THE COURT: Your response?

22 POTENTIAL JUROR: My brother-in-law was a New

23 York City police officer.

24 THE COURT: Given that fact, can you be a fair

25 and impartial juror in the trial of this case for

1 both Mr. Frye and the State?

2 POTENTIAL JUROR: Yes, sir.

3 THE COURT: Thank you.

4 Yes, sir, white shirt?

5 POTENTIAL JUROR: Number 35.

6 THE COURT: Response?

7 POTENTIAL JUROR: My father-in-law was retired
8 as a Richland County deputy sheriff for 30 years.

9 THE COURT: Given that fact, can you be a fair
10 and impartial juror in the trial of this case for
11 both Mr. Frye and the State?

12 POTENTIAL JUROR: Yes, sir.

13 THE COURT: Thank you. You may be seated.

14 Yes, sir, in the green.

15 POTENTIAL JUROR: 18.

16 THE COURT: Response?

17 POTENTIAL JUROR: The last three years of my
18 service in the fire department, I was promoted to
19 fire marshal with law enforcement capability.

20 THE COURT: Given that fact, can you be a fair
21 and impartial juror in the trial of this case for
22 both Mr. Frye and the State?

23 POTENTIAL JUROR: I can.

24 THE COURT: Thank you. You may be seated.

25 I'm going to take a shot at this color,

1 burgundy, no garnet. Garnet, I'm sorry.

2 POTENTIAL JUROR: My father retired -- 143. My
3 father retired from Columbia Police Department with
4 28 years of service.

5 THE COURT: Who was your father?

6 POTENTIAL JUROR: Sergeant McKey, Steven McKey.

7 THE COURT: Tell me your number again, please.

8 POTENTIAL JUROR: 143.

9 THE COURT: 143. Given that fact, can you be a
10 fair and impartial juror in the trial of this case
11 for both Mr. Frye and the State?

12 POTENTIAL JUROR: Yes, sir.

13 THE COURT: Thank you.

14 POTENTIAL JUROR: 142, my nephew is a Clover,
15 South Carolina detective.

16 THE COURT: Given that fact, can you be a fair
17 and impartial juror in the trial of this case for
18 both Mr. Frye and the State?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: Thank you.

21 Yes, ma'am, your number?

22 POTENTIAL JUROR: 120. My brother is a
23 Washington State patrol officer.

24 THE COURT: Given that fact, can you be a fair
25 and impartial juror in the trial of this case for

1 both the State and Mr. Frye?

2 POTENTIAL JUROR: Yes, sir.

3 THE COURT: Thank you.

4 Yes, ma'am, your number?

5 POTENTIAL JUROR: 13.

6 THE COURT: Response?

7 POTENTIAL JUROR: Next-door neighbor's son
8 works as a Richland County police officer.

9 THE COURT: Given that fact, can you be a fair
10 and impartial juror in the trial of this case for
11 both Mr. Frye and the State?

12 POTENTIAL JUROR: Yes, sir.

13 THE COURT: Thank you. You may be seated.

14 And the young lady on the aisle, this is number
15 64.

16 I excused number 64, Madam Clerk?

17 THE CLERK: Yes, sir, you did.

18 THE COURT: You may be seated. Thank you.

19 Thank you very much.

20 Yes?

21 POTENTIAL JUROR: Number 112.

22 THE COURT: And response?

23 POTENTIAL JUROR: My ex-husband, 40 years ago,
24 was a police officer for about three years ago.

25 THE COURT: Given that fact, can you be a fair

1 and impartial juror in the trial of this case for
2 both Mr. Frye and the State?

3 POTENTIAL JUROR: Yes, sir.

4 THE COURT: Thank you. You may be seated.

5 Yes, ma'am, your number?

6 POTENTIAL JUROR: 222.

7 THE COURT: And response?

8 POTENTIAL JUROR: My nephew is a police officer
9 with City of New York.

10 THE COURT: NYPD?

11 POTENTIAL JUROR: NYPD, yes.

12 THE COURT: Given that fact, can you be a fair
13 and impartial juror in the trial of this case for
14 both Mr. Frye and the State?

15 POTENTIAL JUROR: Yes.

16 THE COURT: Thank you. You may be seated.

17 Any others?

18 (No response.)

19 THE COURT: Is any member of the jury panel a
20 member of or contributor to any organization that
21 supports law enforcement or concerns victims' rights
22 or victims or organizations that promote stricter
23 enforcement of the law? The other side of that is
24 any organizations that may support Project Innocent
25 or prisoners' rights? If so, please stand.

1 (No response.)

2 THE COURT: Does any member of the jury panel
3 have any religious, moral, personal beliefs or
4 opinions which would prevent you from passing
5 judgment on another person as a member of the jury
6 panel? If so, please stand.

7 (No response.)

8 THE COURT: I'm going to call a rather lengthy
9 list of witnesses in the trial of this case. The
10 question will be, is any member of the jury panel
11 related by blood or marriage, personal, social
12 friends, have any business or professional
13 relationship with any of the individuals whose names
14 I call.

15 I would ask if any of these individuals are
16 present when your names are called, if you'd please
17 stand and face the jury panel.

18 I would advise the jury panel that the
19 witnesses are not required to be present during this
20 proceeding; therefore, names may be called and no
21 one stands.

22 Nikki Rodgers, Lexington County 911
23 Communication Center; Angela Gunter; Sherry Jonas,
24 both also with the Lexington County 911
25 Communications Center; Lieutenant -- the next five

1 names will all be with the Lexington County
2 Sheriff's Department. Lieutenant Jesse Laintz.

3 This is Lieutenant Laintz to my front right.

4 Thank you, Lieutenant.

5 Detective Benjamin Booth.

6 Detective Booth to my front right.

7 Glenn Ross, crime scene investigator with the
8 Lexington County Sheriff's Department; Heather
9 Clary, crime scene, Lexington County Sheriff's
10 Department; Brenda Snellgrove, Lexington County
11 Sheriff's Department, crime scene.

12 The next five names are also with the Lexington
13 County Sheriff's Department: Sergeant Caleb Black;
14 Detective John Mobley; Detective Justin Ashley;
15 Candy Kyzer; Beth Holliman.

16 The next four names with the Lexington County
17 Sheriff's Department: Doug Novak; James Kemfort,
18 K-E-M-F-O-R-T; Detective Joe Hart; Deputy Nathaniel
19 Mazzell.

20 Again, ladies and gentlemen, the question is,
21 is any member of the jury panel related by blood or
22 marriage, have any social, business or professional
23 relationship with any of these individuals whose
24 names I called and/or who stand before you?

25 (No response.)

1 THE COURT: The next five names have no
2 occupation listed. That doesn't mean they're
3 unemployed; it's just not listed on my witness list,
4 but all indicate being from Lexington: Christopher
5 Lambert; Anthony "Ryan" Boulware; Katie Jumper
6 Vinson.

7 This is Ms. Vinson to my front right.

8 Thank you, Ms. Vinson.

9 Aaron "A.J." Gwilliam; Brandi Slusher.

10 Your number, please?

11 POTENTIAL JUROR: 28.

12 THE COURT: Step up here for me. I should have
13 remembered that number. You been up here before,
14 right?

15 POTENTIAL JUROR: Yes, sir.

16 THE CLERK: We have another one standing behind
17 her.

18 THE COURT: Yes, ma'am. Number 28.

19 POTENTIAL JUROR: I believe I went to -- I
20 think I went to high school with Katie Jumper
21 Vinson.

22 THE COURT: Where did you go to high school?

23 POTENTIAL JUROR: Airport High School,
24 graduated in 2005. We were never friends, but --

25 THE COURT: She's lost all credibility with me.

1 She tells me she's 30. She tells me she graduated
2 13 years ago.

3 Given that fact, can you be a fair and
4 impartial juror -- if she were called as a witness,
5 can you be a fair and impartial juror in the trial
6 of this case for both Mr. Frye and the State?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: Any doubt in your mind about that?

9 POTENTIAL JUROR: No, sir.

10 THE COURT: Tell me your last name again.

11 POTENTIAL JUROR: Bryant, B-R-Y-A-N-T.

12 THE COURT: Thank you.

13 Yes, sir.

14 THE BAILIFF: Juror No. 60, Your Honor.

15 THE COURT: Good morning.

16 POTENTIAL JUROR: Good morning.

17 THE COURT: And tell me your name.

18 POTENTIAL JUROR: Christopher Derrick.

19 THE COURT: Where are you from, Mr. Derrick?

20 POTENTIAL JUROR: Cayce, South Carolina.

21 THE COURT: Tell me your response.

22 POTENTIAL JUROR: Erin Lambert, went to high
23 school together.

24 THE COURT: Where did you go to high school?

25 POTENTIAL JUROR: Brookland-Cayce.

1 THE COURT: And when did you graduate?

2 THE CLERK: Judge, I don't think we have an
3 Erin Lambert. We have a Christopher Lambert and
4 then an Aaron Gwilliam.

5 POTENTIAL JUROR: Okay. I believe Erin was
6 Christopher's sister.

7 THE COURT: Given those facts, can you be a
8 fair and impartial juror in the trial of this case
9 for both Mr. Frye and the State?

10 POTENTIAL JUROR: Yes, sir.

11 THE COURT: Any doubt in your mind about that?

12 POTENTIAL JUROR: No, sir.

13 THE COURT: Thank you, Mr. Derrick.

14 Step back up here a minute, Mr. Mauldin,
15 Solicitor.

16 (Sidebar.)

17 THE COURT: The next three names, ladies and
18 gentlemen, all indicate residents of Lexington:
19 Matthew Bowers; Hannah Montgomery; Matthew Hartley;
20 Kyle Williams, Lexington County Emergency Medical
21 Services; Amy Stephens, South Carolina Law
22 Enforcement Division; Jackie Davis, South Carolina
23 Law Enforcement.

24 The next two names are with the Lexington
25 County Sheriff's Department: Tom Smith; Shannon

1 Dykes. This is Officer Smith to my front right.

2 Thank you, Officer Smith.

3 Lieutenant Cain Mayrant, Lexington County
4 Detention Center; Reggie Lighty, Lexington County
5 Detention Center; Mike Phipps, crime scene
6 investigation, Lexington County Sheriff's
7 Department.

8 The next five names also all with the State Law
9 Enforcement Division: Kelly Bugden, Meg Walker,
10 Michelle Eichenmiller, Verona Herrerra, Jennifer
11 Bartman; Dr. Janice Ross, Newberry Pathology
12 Associates.

13 The next two names with the Lexington County
14 Department of Social Services: Angela Jenkins,
15 Kristine Bear.

16 The next two names, all indicating residents of
17 Lexington, Colleen Corbin, Trent Finklea.

18 The next several names, ladies and gentlemen,
19 indicate only the position that these individuals
20 may hold and does not list the names specifically.
21 Custodian of the records Verizon Corporation;
22 custodian of records AT&T Corporation; Clarissa
23 Dubar, South Carolina Department of Motor Vehicles;
24 Debbie Rabb, South Carolina Department of Motor
25 Vehicles; and custodian of records Midlands Exam and

1 Drug Screening, Inc.

2 Yes, your number, please?

3 POTENTIAL JUROR: 77.

4 THE COURT: Step up here for me, please.

5 Yes, ma'am. 177?

6 POTENTIAL JUROR: No, 77.

7 THE COURT: And your name?

8 POTENTIAL JUROR: Carrie Glenn.

9 THE COURT: And your response?

10 POTENTIAL JUROR: Midlands Exam and Drug
11 Screenings provides drug screening services for the
12 company I work for.

13 THE COURT: And tell me who you work for?

14 POTENTIAL JUROR: South Lake Transport.

15 THE COURT: And that's mandatory --

16 POTENTIAL JUROR: Mandatory.

17 THE COURT: -- for your employees?

18 POTENTIAL JUROR: Yes.

19 THE COURT: And how long have you been at your
20 company?

21 POTENTIAL JUROR: 18 years.

22 THE COURT: How long have they been providing
23 the services?

24 POTENTIAL JURORS: 18 years.

25 THE COURT: Given those facts, can you be a

1 fair and impartial juror in the trial of this case
2 for both Mr. Frye and the State?

3 POTENTIAL JUROR: Yes, sir.

4 THE COURT: Thank you.

5 Any others?

6 (No response.)

7 THE COURT: The next four names, Jeffrey
8 Behymer, these all indicate residents of Lexington,
9 Jenny Porter; Carlos Bethel; KM .

10 The next two names, Doris Yarborough and
11 Charlotte Crow, both with the State Law Enforcement
12 Division; Katelyn Turner. Ms. Turner to my far
13 right.

14 Thank you, Ms. Turner.

15 Melinda Frye. Ms. Frye, also, to my far right.

16 Thank you, Ms. Frye.

17 Michael Alveshire.

18 Solicitor, Mr. Mauldin, look again and make
19 sure I did not miss any witness names.

20 MS. MAYES: May we approach?

21 THE COURT: Yes, ma'am. Of course.

22 (Sidebar.)

23 THE COURT: Several more names, ladies and
24 gentlemen, some of which I skipped. So we'll go
25 back to these, all indicated residents of Lexington

1 County. Raymond Boyer, Jr. Mr. Boyer to my front
2 right.

3 Thank you, Mr. Boyer.

4 Kimberly Chandler, Lexington; Amanda Smoak,
5 Lexington, Amanda Strickland, Lexington.

6 Solicitor and Mr. Mauldin, does that cover all
7 the ones -- the names of the individuals on the
8 first page?

9 MS. MAYES: Yes, sir.

10 THE COURT: All right. Then on the second
11 page, all covered with the exception of the
12 handwritten ones; is that correct?

13 MS. MAYES: Yes, sir.

14 THE COURT: Steven Whisonate,
15 W-H-I-S-O-N-A-T-E, and Carolyn Whisonate, both
16 indicated of Lexington. And previously, Ms. Turner,
17 Katelyn Turner, stood before you and both the
18 solicitor and Mr. Mauldin indicated also known as,
19 but it's not like also known as; it's just a maiden
20 name. Many people know Ms. Turner as Katie
21 Campbell.

22 Is any member of the jury panel related by
23 blood or marriage, close personal friends, have any
24 social, business, professional relationship with any
25 of these individuals whose names I called and/or who

1 stood before you and you have not stood previously?

2 If so, please stand.

3 (No response.)

4 THE COURT: Step up here, please, Solicitor and
5 Mr. Mauldin.

6 (Sidebar conference.)

7 THE COURT: Has any member of the jury panel
8 ever taken any type of course that may relate to
9 firearms or firearms safety that you think would
10 prevent you from being a fair and impartial juror in
11 the trial of this case for both Mr. Frye or the
12 State? So it's a course in firearms and firearms
13 safety and based on that course, you think it may
14 prevent you from being a fair and impartial juror in
15 the trial of this case both for Mr. Frye or for the
16 State. If so, please stand.

17 (No response.)

18 THE COURT: Thank you.

19 Any additional requested voir dire from the
20 State?

21 MS. MAYES: None from the State, Your Honor.

22 THE COURT: From the defense?

23 MR. MAULDIN: No, Your Honor.

24 THE COURT: So, finally, ladies and gentlemen,
25 knowing our purpose is to select a jury panel for

1 the trial of this specific case and the composition
2 of that panel will be such that you can be fair and
3 impartial in the trial of this case for both the
4 State and Mr. Frye, I have found, as I'm sure each
5 of you has found, that we know ourselves best. We
6 know our background, our history, our experiences,
7 our educational levels and the like. And I asked
8 these various questions of you and there may be a
9 question that is stirring around in your mind,
10 knowing yourself best, that I haven't asked. You
11 know very little, just very little about the case.
12 You know nothing about the facts of the case, nobody
13 has testified. The indictment is not evidence,
14 formal charging documents.

15 But in searching your mind, is there any member
16 of the jury panel who knows any reason whatsoever
17 why you feel like you could not be a fair and
18 impartial juror in the trial of this case for both
19 Mr. Frye and the State? If you have a concern in
20 your mind, I want to address it now. I don't want
21 to address it when you're sitting over here in the
22 jury panel, I want to address it now. So if anyone
23 has any concern in that regard, please stand.

24 Yes, your number, please?

25 POTENTIAL JUROR: 116.

1 THE COURT: If you'd step up here for me,
2 please.

3 And yes, sir, you may come.

4 THE BAILIFF: 116, Your Honor.

5 THE COURT: Good afternoon.

6 POTENTIAL JUROR: I wasn't sure if it was
7 pertinent to the case or not. One of my best
8 friends from school, I found out about six months
9 ago her husband had killed her and then killed
10 himself. And also, I had been in a lot of abusive
11 relationships, abused by family members when I was
12 little, and I'm currently still in an abusive
13 relationship. From 2008 to 2013, I had to take my
14 husband to court for sexual abuse to my children,
15 physical abuse to my children. And that really
16 stirred up a lot things in me, so I can't honestly
17 say I could be fair and impartial. If it was
18 anything similar to that, sometimes I run in my
19 emotions and things like that.

20 THE COURT: You feel like because of those
21 experiences, even if you put it aside in the trial,
22 if you were selected as a juror, you might not be
23 able to stay focused. Is that --

24 POTENTIAL JUROR: Just hearing about this case,
25 it kind of puts me back in similar situations. It

1 was kind of like almost a panicky-type of thing.

2 And I don't want to do anything to ruin the case.

3 THE COURT: All right. I'll set you aside for
4 the trial of this case with your concern.

5 POTENTIAL JUROR: Right.

6 THE COURT: Do you have support?

7 POTENTIAL JUROR: Yes, sir. I have a therapist
8 I'm going to. And she says I have PTSD from a lot
9 of those things. I could try real hard to be fair
10 and impartial, but I can't guarantee it 100 percent.
11 So --

12 THE COURT: But you have an adequate support
13 system?

14 POTENTIAL JUROR: Yes, sir. I --

15 THE COURT: You don't have to tell me what it
16 is. I'm just trying to make sure you're receiving
17 the proper services.

18 POTENTIAL JUROR: Yes, sir.

19 THE COURT: Thank you very much.

20 Seal that last part of the record.

21 THE BAILIFF: 126, Your Honor.

22 POTENTIAL JUROR: I don't know that it's going
23 to be revealed, but I'm curious as to what
24 punishment the State is seeking.

25 THE COURT: See, that's not an issue for the

1 jury. That's an issue for me because --
2 punishment -- the jury is the finder of the facts.
3 And depending on what the verdict is, punishment is
4 up to me within the confines of the law.

5 POTENTIAL JUROR: Sure, I understand.

6 THE COURT: I follow the law.

7 POTENTIAL JUROR: Then I have no problem. I
8 can be fair and impartial.

9 THE COURT: In your mind, if it was a
10 particular punishment, you feel like it would cause
11 you to -- affect your impartiality?

12 POTENTIAL JUROR: I will be perfectly honest;
13 if I was told that a death penalty was being sought,
14 I would have a huge problem with that.

15 THE COURT: Would you mind stepping over to the
16 corner of the jury box for me just a moment?

17 Y'all got anything to say?

18 (Side bar conference.)

19 THE COURT: Yes, sir.

20 I'm going to set you aside from the trial of
21 this case. There's no negative reflection on you
22 whatsoever; I want you to know that. But I'm going
23 to set you aside from the trial of this case.

24 POTENTIAL JUROR: Okay.

25 THE COURT: Any others?

1 THE BAILIFF: Number 13, Your Honor.

2 POTENTIAL JUROR: I have a concern -- my
3 concern is if it came down to sentencing, I don't
4 know if I could ask for the death penalty.

5 THE COURT: I'm going to set you aside for the
6 trial of this case.

7 Thank you. Thank you for coming forward. You
8 may return to your seat.

9 THE BAILIFF: Number 47, Your Honor.

10 THE COURT: Tell me your name.

11 POTENTIAL JUROR: It's not a concern. There
12 was a name on the list -- I'm sorry for not bringing
13 it up earlier -- Matthew Bowers. I'm not sure if
14 you said he was a resident or if he is with
15 Lexington Police.

16 MS. MAYES: He's a citizen. He is not a member
17 of law enforcement.

18 POTENTIAL JUROR: I know of an insurance agent
19 named Matthew Bowers.

20 MS. MAYES: That would not be the same one.

21 THE COURT: Let's say it was the same one.
22 Could you be a fair and impartial juror in the trial
23 of this case for both Mr. Frye and the State even if
24 it was the Matthews Bowers you knew?

25 POTENTIAL JUROR: Yes, sir.

1 THE COURT: What do you do?

2 POTENTIAL JUROR: I work in insurance.

3 THE COURT: Thank you. I believe you can stay
4 with us.

5 Any others?

6 (No response.)

7 THE COURT: Thank you. All right. I find the
8 remainder of our panel is qualified with the
9 exception of those that I did set aside, Madam
10 Clerk. And you have recorded all of those numbers?

11 THE CLERK: Yes, sir.

12 THE COURT: If you would give us a panel,
13 please.

14 Solicitor, the strikes?

15 MS. MAYES: Five and ten.

16 THE COURT: Mr. Mauldin, the strikes?

17 MR. MAULDIN: Five for the State, ten for the
18 defense, Your Honor.

19 THE COURT: Thank you very much.

20 I want three alternates, Madam Clerk.

21 THE CLERK: Yes, sir, Your Honor.

22 THE COURT: Madam Clerk, if you would explain
23 to the jury the procedure and give us a panel,
24 please.

25 THE CLERK: Yes, sir.

1 As I call your number and name, come forward
2 like I showed you earlier to the podium, just like
3 the bailiff's doing right now, and remain there
4 until I give you instructions on whether to go to
5 the jury box or return to your seat.

6 Number 21, Freddie Brock.

7 (Juror No. 21 comes forward.)

8 THE CLERK: What say you for the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say you for the defense?

11 MR. MAULDIN: Please seat Mr. Brock.

12 THE CLERK: Have a seat in the jury box, sir.

13 Number 113, Ramona Keith.

14 (Juror No. 113 comes forward.)

15 MS. MAYES: May we approach?

16 THE COURT: Ma'am?

17 MS. MAYES: Nothing further, Your Honor.

18 THE CLERK: What say you for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say you for the defense?

21 MR. MAULDIN: Please seat the juror.

22 THE CLERK: Have a seat in the jury box, ma'am.

23 Number 76, Kyle Gerow.

24 (Juror No. 76 comes forward.)

25 THE CLERK: What say you for the State?

1 MS. MAYES: Please present the juror.

2 THE CLERK: What say you for the defense?

3 MR. MAULDIN: Please seat the juror.

4 THE CLERK: Have a seat in the jury box, sir.

5 160, Elizabeth Partlo.

6 (Juror No. 160 comes forward.)

7 THE CLERK: What say you for the State?

8 MS. MAYES: Please excuse the juror from the
9 trial of this case.

10 THE CLERK: Return to your seat, please, ma'am.

11 Number 19, Patrick Booth.

12 (Juror No. 19 comes forward.)

13 THE CLERK: What say you for the State?

14 MS. MAYES: Please present the juror.

15 THE CLERK: What say you for the defense?

16 MR. MAULDIN: Please seat this juror.

17 THE CLERK: Have a seat in the jury box, sir.

18 138, William Matthews.

19 (Juror No. 138 comes forward.)

20 THE CLERK: What say you for the State?

21 MS. MAYES: Please present the juror.

22 THE CLERK: What say you for the defense?

23 MR. MAULDIN: Please excuse Mr. Matthews.

24 THE CLERK: Return to your seat, please, sir.

25 36, Darren Carter.

1 (Juror No. 36 comes forward.)

2 THE CLERK: What say you for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say you for the defense?

5 MR. MAULDIN: Please seat Mr. Carter.

6 THE CLERK: Have a seat in the jury box, sir.

7 143, Steven McKey.

8 (Juror No. 143 comes forward.)

9 THE CLERK: What say you for the State?

10 MS. MAYES: Please present the juror.

11 THE CLERK: What say you for the defense?

12 MR. MAULDIN: Please seat Mr. McKey.

13 THE CLERK: Have a seat in the jury box, sir.

14 109, Willie Jones.

15 (Juror No. 109 comes forward.)

16 THE CLERK: What say you for the State?

17 MS. MAYES: Please excuse the juror from the
18 trial of this case.

19 THE CLERK: Return to your seat, please, sir.

20 67, Katrina Ewing.

21 (Juror No. 67 comes forward.)

22 THE CLERK: What say you for the State?

23 MS. MAYES: Beg the Court's indulgence.

24 Please present the juror.

25 THE CLERK: What say you for the defense?

1 MR. MAULDIN: Please excuse Ms. Ewing.

2 THE CLERK: Return to your seat, please, ma'am.

3 179, Amy Scragg.

4 (Juror No. 179 comes forward.)

5 THE CLERK: What say you for the State?

6 MS. MAYES: Please present the juror.

7 THE CLERK: What say you for the defense?

8 MR. MAULDIN: Please seat Ms. Scragg.

9 THE CLERK: Have a seat in the jury box, ma'am.

10 Number 9, James Baker.

11 (Juror No. 9 comes forward.)

12 THE CLERK: What say you for the State?

13 MS. MAYES: Please present the juror.

14 THE CLERK: What say you for the defense?

15 MR. MAULDIN: Please excuse Mr. Baker.

16 THE CLERK: Return to your seat, please, sir.

17 Number 10, John Ball.

18 (Juror No. 10 comes forward.)

19 THE CLERK: What say you for the State?

20 MS. MAYES: Please present the juror.

21 THE CLERK: What say you for the defense?

22 MR. MAULDIN: Please seat Mr. Ball.

23 THE CLERK: Have a seat in the jury box, sir.

24 204, Janie Vaughn.

25 (Juror No. 204 comes forward.)

1 THE CLERK: What say you for the State?

2 MS. MAYES: Please present the juror.

3 THE CLERK: What say you for the defense?

4 MR. MAULDIN: Please excuse Ms. Vaughn.

5 THE CLERK: Return to your seat, please, ma'am.

6 66, Jonathan Epting.

7 (Juror No. 66 comes forward.)

8 THE CLERK: What say you for the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say you for the defense?

11 MR. MAULDIN: Please seat Mr. Epting.

12 THE CLERK: Have a seat in the jury box, sir.

13 122, Tammy Lassiter.

14 (Juror No. 122 comes forward.)

15 THE CLERK: What say you for the State?

16 MS. MAYES: Please present the juror.

17 THE CLERK: What say you for the defense?

18 MR. MAULDIN: Please seat Ms. Lassiter.

19 THE CLERK: Have a seat in the jury box, ma'am.

20 158, Donald Owens.

21 (Juror No. 158 comes forward.)

22 THE CLERK: What say you for the State?

23 MS. MAYES: Please present the juror.

24 THE COURT: What say you for the defense?

25 MR. MAULDIN: Please seat Mr. Owens.

1 THE CLERK: Have a seat in the jury box, sir.

2 31, Douglas Busbee.

3 (Juror No. 31 comes forward.)

4 THE CLERK: What say you for the State?

5 MS. MAYES: Please excuse the juror from the

6 trial of this case.

7 THE CLERK: Return to your seat, please, sir.

8 28, Nicole Bryant.

9 (Juror No. 28 comes forward.)

10 THE CLERK: What say you for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MR. MAULDIN: Please excuse Ms. Bryant.

14 THE CLERK: Return to your seat, please, ma'am.

15 58, Stephanie Detherage.

16 (Juror No. 58 comes forward.)

17 THE CLERK: What say you for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say you for the defense?

20 MR. MAULDIN: Please seat the juror.

21 THE CLERK: Have a seat in the jury box, ma'am.

22 Proceed with the alternates, Your Honor?

23 THE COURT: Yes, ma'am.

24 THE CLERK: Number 8, Travis Eskew.

25 (Juror No. 8 comes forward.)

1 THE CLERK: What say you for the State?

2 MS. MAYES: Please present the juror.

3 THE CLERK: What say you for the defense?

4 MR. MAULDIN: Please seat Mr. Eskew.

5 THE CLERK: Have a seat in the jury box, sir.

6 Number 105, Roy Jenkins.

7 (Juror No. 105 comes forward.)

8 THE CLERK: What say you for the State?

9 MS. MAYES: Please excuse the juror from the
10 trial of this case.

11 THE CLERK: Return to your seat, sir.

12 Number 60, Christopher Derrick.

13 (Juror No. 60 comes forward.)

14 THE CLERK: What say you for the State?

15 MS. MAYES: Please present the juror.

16 THE CLERK: What say for the defense?

17 MR. MAULDIN: Please excuse Mr. Derrick.

18 THE CLERK: Return to your seat, sir.

19 165, Charlie Pender.

20 (Juror No. 165 comes forward.)

21 THE CLERK: What say you for the State?

22 MS. MAYES: Please present the juror.

23 THE CLERK: What say you for the defense?

24 MR. MAULDIN: Please seat Mr. Pender.

25 THE CLERK: Have a seat in the jury box, sir.

1 Second alternate.

2 Number 208, Gary Watts.

3 (Juror No. 208 comes forward.)

4 THE CLERK: What say you for the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say you for the defense?

7 MR. MAULDIN: Please seat the juror.

8 THE CLERK: That's the third alternate, Your
9 Honor.

10 THE COURT: Thank you, Madam Clerk.

11 Any motions regarding the jury selection
12 process from the State?

13 MS. MAYES: None from the State, Your Honor.

14 THE COURT: From the defense?

15 MR. MAULDIN: No, Your Honor.

16 THE COURT: Thank you.

17 Momentarily, ladies and gentlemen, I'm going to
18 ask you to please step to your jury room with the
19 bailiff. I'm going to address your colleagues
20 concerning their jury service for the remainder of
21 the week and find out where we're at
22 administratively. You know, it's going on 1:00,
23 1300 hours, see where we're at administratively.

24 During this brief recess, do not discuss the
25 case with your fellow jurors. I will give you

1 lengthier instructions concerning your duty and
2 responsibilities while you're members of this trial
3 jury. But there's one thread that will go
4 throughout: You may not discuss the case with
5 others, that includes your fellow jurors, family,
6 friends, or anyone else until you've heard all the
7 evidence, all the testimony in the trial of the
8 case, the closing arguments by the attorneys, the
9 instruction on the law by the Court, and then
10 directed by the Court to begin your deliberations
11 with your fellow jurors in your jury room.

12 So if you would please go to your jury room
13 with your bailiff. He will show you your new
14 temporary quarters, your jury room. And I'll have
15 you back momentarily. Thank you very much.

16 (The jury exits the courtroom at 12:42 p.m.)

17 THE COURT: After 6:00; is that correct?

18 MS. MAYES: Yes, sir, Your Honor.

19 THE COURT: Ladies and gentlemen of the jury
20 panel that were not selected for the trial jury in
21 the trial of this case, momentarily I'm going to
22 release you from your jury service for the remainder
23 of the afternoon and the evening. I'm going to ask
24 that you please call back your juror information
25 number after 6:00. After 1800 hours tonight, if you

1 would call that number back. I think you can also
2 check the jury status on the internet. It will
3 prompt you and give you instructions concerning your
4 jury service for the remainder of the week. Call
5 back after 6:00 this evening. Are there any
6 questions in that regard?

7 (No response.)

8 THE COURT: It has been my pleasure and
9 privilege to be with y'all this morning. I salute
10 you for your civic-mindedness. Thank you for being
11 here. We would not be able to conduct your and our
12 criminal justice system without you. With that
13 being said, you're now excused. Please call back
14 after 6:00, 1800 hours tonight. Thank you very
15 much.

16 (The jury pool is excused.)

17 THE COURT: All right. It's quarter to 1:00.
18 What is your position as far as when to start the
19 trial of the case?

20 MS. MAYES: May we approach, Your Honor?

21 THE COURT: Yes, ma'am, of course.

22 (Side bar conference.)

23 (The jury enters the courtroom at 12:50 p.m.)

24 THE COURT: Welcome back, ladies and gentlemen.
25 Momentarily, I'm going to release you from your jury

1 service for the remainder of the day and evening and
2 ask you to report back at 9:30 in the morning, at
3 9:30 in the morning.

4 This case is like most others; there are
5 certain pretrial motions I must take up outside of
6 your presence before the trial actually begins with
7 the jury and the calling of witnesses, so it would
8 be more efficient use of your time, which is very
9 valuable to me, for y'all to be released this
10 afternoon and report back rather than hold you
11 captive back there and not have the ability to
12 predict how long those motions may take. So I'll
13 try to hear those motions this afternoon and,
14 perhaps, on into the evening hours to where when you
15 arrive back in the morning, the decks will be clear
16 to begin the trial of the case.

17 I'm going to give you certain instructions that
18 you must follow throughout the trial of this case:
19 During the trial of this case, you shall not discuss
20 this case with others, including your fellow jurors,
21 family, friends, or anyone else. If anyone talks
22 with you or tries to talk with you about the case,
23 please let me know. If you know that person, I will
24 deal with that person. If you do not, you can
25 describe that person to me and I will attempt to

1 identify that person and deal with that person. So
2 you may not discuss the case with others until
3 you've heard all the evidence, all the testimony,
4 closing arguments by the attorneys, instruction on
5 the law by the Court and then directed by the Court
6 to begin your deliberations with your fellow jurors
7 in your jury room.

8 You may not read, watch, or listen to any news
9 reports about the case should there be any. You may
10 not use your computer, cellular phone or other
11 electronic device with communication capabilities
12 while in attendance at trial or during
13 deliberations. These devices may not even be taken
14 into the jury room during the course of the trial.
15 These devices may be used during lunch breaks and
16 the evening hours, of course, but may not be used to
17 obtain or disclose information which is prohibited.

18 Information which is prohibited includes, but
19 is not limited, to the following: Information about
20 a party, a witness, an attorney, or a court officer,
21 news accounts of the case, past, if there were any,
22 or present from any news source what soever. Again,
23 radio, television, internet, what have you.
24 Information collected through juror research on any
25 topics raised or testimony offered by witnesses.

1 You couldn't go research the law. You receive the
2 law as I tell you the law is prior to and during the
3 course -- during the -- prior to the trial, during
4 the course of the trial, and at the conclusion of
5 the trial before you retire for your deliberations,
6 or any information collected through juror research
7 on any other topic the juror might think would be
8 helpful in deciding the case.

9 You decide the case within the four walls of
10 the courthouse, the facts as you find them to be
11 from the testimony of the witnesses sworn under oath
12 before you, any physical items of evidence that may
13 be introduced and any reasonable inferences you
14 think may be properly drawn from the evidence. Do
15 not do any independent research or any research on
16 the internet or any other source whatsoever.

17 Are there any questions in that regard?

18 (No response.)

19 THE COURT: Thank you very much. I will see
20 you promptly at 9:30 in morning with one caveat: I
21 tell people it appears common among South Carolina
22 circuit court judges they can't tell time. As many
23 times I have to deal with issues outside of your
24 presence and there may be times during this trial,
25 you may feel you, perhaps, are being held captive in

1 that jury room because I -- like I always told my
2 children, I can predict anything but the future, but
3 I try. Your time is very valuable to me. My hope
4 is we start promptly at 9:30 in the morning.

5 The other thing I say is -- but don't tell any
6 of my colleagues on the bench; none of us have a
7 personality. I don't know what covered it up or if
8 we never had one or what have you. But your time is
9 very valuable to me and I thank you very much for
10 your service, because we could not be about this
11 very important task of administering your and our
12 criminal justice system without you.

13 You're now excused until 9:30 in the morning.
14 Thank you very much.

15 (The jury was excused for the day at 12:59 PM.)

16 THE COURT: Anything from the State, Solicitor?

17 MS. MAYES: Nothing from the State, Your Honor.

18 THE COURT: Defense?

19 MR. MAULDIN: No, Your Honor.

20 THE COURT: Mr. Mauldin, would you care to
21 address Mr. Frye's bond?

22 MR. MAULDIN: Yes, Your Honor. Mr. Frye did
23 post bond last November, November of 2017. He's
24 been out on bond for three months now. He is
25 wearing a leg monitor, so he is traceable by that.

1 I've contacted his bonding company and Friday, they
2 did fax me a statement saying they are willing to
3 carry on the liability for his bond during the
4 course.

5 THE COURT: Thank you, Mr. Mauldin.

6 He also has a bond for child neglect?

7 MR. MAULDIN: They served him with an arrest
8 warrant. It's stemming out of the same incident,
9 but the State is not proceeding with that charge at
10 trial.

11 THE COURT: So the allegations would be of
12 child neglect, murder, possession of a firearm on
13 1-October-15, the allegations?

14 MR. MAULDIN: Yes, Your Honor --

15 THE COURT: They're the same event?

16 MR. MAULDIN: Yes, sir.

17 THE COURT: Whatever occurred.

18 MR. MAULDIN: Right. He did not post bond on
19 one and then, subsequently, arrested on another.
20 They served the warrants, I think, a little apart
21 from one another, but it wasn't two separate
22 incidents.

23 THE COURT: Anything further, Mr. Mauldin?

24 MR. MAULDIN: No, sir.

25 THE COURT: Solicitor?

1 MS. MAYES: Yes, sir, Your Honor. The State
2 would move to revoke his bond at this point in time.
3 The case has been called, carries potential life
4 sentence. In addition to that, I've had a previous
5 event where an offender was wearing a GPS monitor,
6 ankle bracelet and cut it off and we were unable to
7 locate him for almost a year. So just wearing the
8 bracelet, unfortunately, for us is not enough to
9 ensure that he will not flee.

10 THE COURT: I think at this juncture with the
11 case having been called for trial, that I look at it
12 through that lens, which the judge that set the bond
13 was looking through a different lens at a different
14 point in time, a snapshot of time, if you will. The
15 judge previously, in setting the bond, found he was
16 not entitled to a PR bond, that he would represent a
17 danger to the community and a potential flight risk.
18 I think that increases at this juncture of the
19 dangerousness and the flight risk. And given that
20 the charge, the one charge carries a potential life
21 sentence and that it is considered a violent crime
22 under 16-1-60, his bond is revoked. He is in the
23 custody of the Lexington County Detention Center.

24 Make sure the -- and I know they -- I hope they
25 always do, I think they do, that he has, through the

1 jail, access to his attorneys on a very liberal
2 schedule. Thank you very much. He's in custody.

3 Court will be in recess until 2:30.

4 Thank you, Solicitors.

5 Thank you, Mr. Mauldin.

6 (Lunch break.)

7 THE COURT: Solicitor and Mr. Mauldin, are
8 y'all ready?

9 MS. MAYES: Yes, Your Honor.

10 MR. MAULDIN: Yes, Your Honor.

11 THE COURT: And the first motion, Solicitor,
12 what would that be?

13 MS. MAYES: This would be Jackson v. Denno,
14 Your Honor. We have three officers potentially
15 testifying in reference to verbal statements that
16 were made by Mr. Frye following his apprehension on
17 October 2nd, 2015.

18 THE COURT: All right. You may call your first
19 witness.

20 MR. BELL: Thank you, Your Honor. State calls
21 Investigator Tom Smith to the stand.

22 THOMAS SMITH

23 being first duly sworn, testified as follows:

24 THE WITNESS: I do.

25 THE CLERK: Have a seat, sir. Once you're

1 seated, state your full name, spelling your last on
2 the record, please.

3 THE WITNESS: Thomas Alvin Smith, S-M-I-T-H.

4 DIRECT EXAMINATION

5 BY MR. BELL:

6 Q. Investigator Smith, who do you work for?

7 A. Lexington County Sheriff's Department.

8 Q. How long have you been with them?

9 A. Since December of 2013.

10 Q. Were you employed by them back in October of
11 2015?

12 A. I was.

13 Q. In what capacity were you working for the
14 Sheriff's Department in 2015?

15 A. I was a patrol deputy.

16 Q. Did you have reason to come into contact with
17 Marion Wade Frye October 2nd of 2015?

18 A. Yes, sir.

19 Q. And what was the purpose of coming into contact
20 with him?

21 A. I was dispatched over to pick him up from
22 Richland County and transport him to our Sheriff's
23 Department.

24 Q. And what was your understanding as to his
25 custody status with Richland?

1 A. I was told that he had been arrested and that I
2 was to transport him.

3 Q. Where did you go to pick him up?

4 A. A convenience store on the corner of Beatty and
5 Kay Street.

6 Q. When you initially arrived, what time of day
7 was it?

8 A. It was daytime. Hold on a second.

9 Q. You can just ballpark for us.

10 A. It was day -- I remember it being lit outside,
11 no use of streetlights or anything.

12 Q. When you got to that location, where was
13 Mr. Frye located?

14 A. Mr. Frye was in the back of a Richland County
15 Sheriff's patrol vehicle.

16 Q. How did you proceed once you pulled up?

17 A. I proceeded -- I got out. Sergeant Jesse
18 Laintz with the Sheriff's Department was on scene.
19 I spoke to him briefly. He asked me to transport
20 him. I proceeded to get Mr. Frye out of the
21 vehicle. Switched handcuffs with the officer's
22 handcuffs that were on him, took him over to my
23 vehicle, conducted a search of his person, and then
24 placed him in the back of my vehicle.

25 Q. What was the purpose of that search?

1 A. Just to make sure there's no weapons,
2 contraband or anything on his person.

3 Q. Is it a superficial or a thorough search?

4 A. It's a thorough search, sir.

5 Q. Did you have an opportunity to examine his body
6 top to bottom?

7 A. Yes, sir.

8 Q. And I don't -- did you remove his clothing?

9 A. No, sir.

10 Q. Otherwise, could you see any of his exposed
11 skin?

12 A. Yes, sir.

13 Q. What length shirt did he have on?
14 Short-sleeve? Long-sleeve?

15 A. I don't remember.

16 Q. When you were conducting that search, did you
17 notate any injuries?

18 A. I did not.

19 Q. Was he complaining of being light-headed or
20 anything of that nature?

21 A. No, sir.

22 Q. Was he complaining that he was nauseated?

23 A. No, sir.

24 Q. Did he appear ill in any way?

25 A. No, sir.

1 Q. After switching over the cuffs and conducting
2 your search, what did you do with Mr. Frye next?

3 A. Actually, I was at the back of the vehicle. He
4 had some money on his person, a substantial amount
5 of money, counted that out in front of him. I put
6 all of his personal items inside a plastic bag, put
7 that in the front seat with me, placed him in the
8 rear of my vehicle, buckled him in and proceeded to
9 transport.

10 Q. Did you specifically question him about the
11 money that you found?

12 A. I know I would have asked him if he got the
13 same count as I did to make sure that my count was
14 accurate. Outside of questioning him about the
15 money, he made a comment that a portion of that was
16 his girlfriend's or his wife's. I don't remember
17 specifics.

18 Q. Do you recall what portion of the money he
19 attributed to being his girlfriend's?

20 A. I don't recall, but I have my supplement in
21 front of me that has that information.

22 Q. If that would refresh your recollection, please
23 review that for me.

24 A. He stated of the \$402 that he had in his
25 possession, 380 of it belonged to his girlfriend.

1 Q. And again, did you specifically ask him who
2 that money belonged to or is that simply a comment
3 he made?

4 A. That was a spontaneous comment that he made.

5 Q. Aside from the money, did you find anything
6 else of note during your search of Mr. Frye?

7 A. And amongst the money that I counted, there was
8 a pill that later was identified as acetaminophen
9 hydrocodone.

10 Q. Is that acetaminophen that you're trying to
11 say?

12 A. Yes, sir.

13 Q. And did he make any comments about that pill
14 when it fell out?

15 A. I asked him about that pill, at which time he
16 said that it belonged to his -- that it belonged to
17 him. But that's all that was commented in reference
18 to the pill.

19 Q. Did he immediately take ownership of that pill?
20 Review your report, if necessary.

21 A. Okay. Oh, he initially denied knowing anything
22 about it. He then stated that it was for his teeth
23 and that he had a prescription for it.

24 Q. After conducting your search, handcuffing him,
25 did you ultimately put him into your vehicle?

1 A. I did.

2 Q. Did you have a partner that was with you at the
3 time?

4 A. No.

5 Q. Back in 2015, would you have any camera system
6 equipped on the vehicle?

7 A. No, sir.

8 Q. Where did you place him in the vehicle?

9 A. The rear passenger's side.

10 Q. And, ultimately, did you get back into the
11 driver's seat?

12 A. Yes.

13 Q. Where were you going to head from that point
14 on?

15 A. I was leaving from there, heading straight to
16 the Sheriff's Department headquarters at 521 Gibson
17 Road.

18 Q. How far is that drive, from where you picked up
19 Mr. Frye to where you were intending to stop at the
20 detention center?

21 A. I'm not sure of exact mileage.

22 Q. Just ballpark?

23 A. 15, 20.

24 Q. And after you began driving, were you
25 questioning Mr. Frye?

1 A. No, sir.

2 Q. Did Mr. Frye say anything?

3 A. He did, sir.

4 Q. Walk us through what he said.

5 A. My notes -- he related three days ago, him and
6 his girlfriend were arguing. He left the house to
7 get away from her to keep from getting a CDV charge
8 because, and quote, it ain't nothing to get a CDV
9 charge nowadays. He left and went to stay at a
10 friend's for the night.

11 The next day when he woke up, he discovered he
12 was missing \$500 from his wallet. He then
13 confronted the guys at the house and asked who took
14 the money. One of the males admitted to taking the
15 money and asked what he was going to do about it.
16 The male then began to hit him. The other two males
17 then began to hit him repeatedly. He was blocked in
18 and could not get away, so he turned his back to
19 them. He then noticed a gun on the countertop,
20 which he picked up without aiming and discharged two
21 shots behind his back. Marion related on multiple
22 occasions he did not mean to kill him.

23 During Marion's statement, I didn't ask him any
24 questions or do anything to further the
25 conversation.

1 Q. So during this conversation or these statements
2 that you just mentioned, were you questioning him at
3 all about the things that he said?

4 A. No, sir, I was just driving down the road.

5 Q. Did you say anything at all to stimulate that
6 conversation from him?

7 A. No, sir.

8 Q. Is it protocol for you to question people while
9 you're transporting them?

10 A. No, sir.

11 Q. Where was he cuffed inside the vehicle?

12 A. With his hands behind his back.

13 Q. Was he complaining about being in pain or
14 anything of that nature?

15 A. Yes, sir. While we were en route, he said the
16 handcuffs were too tight.

17 Q. Did you ignore him or did you try to do
18 something about it?

19 A. Actually, once we got onto Augusta Road, I
20 pulled off at a, I believe it was a Dollar General.
21 Yes, sir, a Dollar General right there on Augusta
22 Road off of I-20, and checked his cuffs. The cuffs
23 were within tolerances we're taught at the academy.
24 And then I proceeded to the Sheriff's Department
25 from there.

1 Q. Aside from the cuffs which you mentioned that
2 you did check on, was he complaining of any other
3 discomfort?

4 A. No, sir.

5 Q. Were you blasting the heat in the car to make
6 him uncomfortable?

7 A. No, sir.

8 Q. Was he requesting to use the restroom?

9 A. I don't recall him requesting to use the
10 restroom.

11 Q. Was he asking for food or water?

12 A. No, sir.

13 Q. Were you using any sort of intimidation, such
14 as putting your hands on your taser or your firearm
15 while in the vehicle?

16 A. No, sir.

17 Q. Do you have any reason to believe that the
18 statements he gave you while in the car were
19 anything but completely voluntary?

20 A. No, sir.

21 Q. Again, did you do anything to elicit those
22 statements and emissions from him?

23 A. No, sir.

24 Q. Where did you ultimately take Mr. Frye?

25 A. Once we got to the Sheriff's Department, I then

1 took him into the Major Crimes area to the interview
2 room. We went into interview room 3.

3 Q. Who was with you?

4 A. Once I got there, I was met by Investigator
5 Booth and Sergeant Laintz. In the interview room, I
6 turned him over to the two of them.

7 Q. Did you hang out for any portion of that
8 interview that took place in interview room 3?

9 A. For a brief moment, I stood by. Sergeant
10 Laintz had to go and get something and return. Once
11 he returned, I left.

12 Q. During your time inside of that interview room,
13 did he ever request an attorney while you were
14 present?

15 A. No, sir.

16 Q. Did he ever request to cease questioning?

17 A. No, sir, not that I remember.

18 Q. Could you see that any methods of intimidation
19 were being used?

20 A. No, sir.

21 Q. Now, again, did you take any material part in
22 that interview?

23 A. No, sir.

24 Q. Who would be a better party to testify about
25 that particular interview?

1 A. That would be Investigator Booth and Sergeant
2 Laintz.

3 Q. But from the time that you were present and the
4 things that you saw, did you believe anything up
5 until you left was involuntary?

6 A. No, sir.

7 MR. BELL: Beg the Court's indulgence.

8 THE COURT: Yes, sir.

9 MR. BELL: Investigator, please answer any
10 questions the defense may have.

11 THE COURT: Thank you, Solicitor.

12 Mr. Mauldin.

13 MR. MAULDIN: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. MAULDIN:

16 Q. So your testimony was that the comments about
17 the pill was in response to a question that you
18 asked about it?

19 A. Yes, sir, I did ask about that.

20 Q. And you had not read him Miranda rights or
21 anything before then?

22 A. Correct.

23 Q. And when you talk about -- how long had you
24 been in the car before these statements or Frye
25 started talking?

1 A. We'd been in the car probably long enough for
2 us to get from Fernandina onto 20, so right there.
3 When I left, I departed off Fernandina and
4 St. Andrews, St. Andrews to 26, 26 to 20. And I was
5 on 20 when he started talking.

6 Q. And during your ride with him, you didn't
7 engage him in any small talk or chitchat or anything
8 like that?

9 A. No, sir. To be honest, I was trying to avoid
10 this.

11 Q. And you talked about part of the statement he
12 made. You said you put some of it in quotes; is
13 that right?

14 A. Yes, sir, one phrase.

15 Q. Okay. And the rest of it is, basically, you
16 paraphrasing?

17 A. Yes, sir.

18 Q. It's not the exact language he used?

19 A. Correct, sir.

20 Q. It was what you could do to the best of your
21 memory after the event?

22 A. Yes, sir.

23 Q. Sometime after the event. How long after that
24 event did you record that statement or your report?

25 A. I -- immediately leaving the Major Crime

1 suite, I went out and typed it into Word and then I
2 dropped it into my report later on that night.

3 Q. So you'd say 20 -- about 30 minutes later or an
4 hour later?

5 A. Yes, sir.

6 Q. Thirty minutes to an hour?

7 A. Within a short period of time, yes, sir.

8 Q. And it's your testimony that you did not
9 observe the interview in interview room 3, that you
10 left shortly thereafter?

11 A. I was standing by. I know Investigator Booth
12 had started speaking to him. I'll be honest with
13 you; I wasn't pay attention to the conversation. I
14 was there as security.

15 Q. And I think in response to the question, you
16 said that Mr. Frye didn't appear to be ill or out of
17 sorts or anything like that?

18 A. No, sir.

19 MR. MAULDIN: No further questions, Your Honor.

20 THE COURT: Thank you.

21 Redirect, Solicitor?

22 MR. BELL: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. BELL:

25 Q. Investigator, referring back to the pill, you

1 testified initially you asked him about the pill
2 that fell out. Is that accurate?

3 A. Right. I asked him what is this or something
4 to that effect or whose pill this is.

5 Q. And you testified that he initially denied
6 ownership or knowing what it was?

7 A. Yes, sir.

8 Q. Ultimately, did he begin talking about that
9 pill in further detail?

10 A. He must have given me more information and all
11 in order for me to put it in my report.

12 Q. Was the followup that he gave you about the
13 pill, was that in response to questioning?

14 A. I don't remember if I would have -- if I asked
15 him further on that line of questioning or not.

16 Q. That's fine.

17 Referring to your report, could you actually
18 tell us the date that you generated your report?

19 A. Looks like I did it on the 2nd of October.

20 Q. And what day did the transport and the
21 admissions by Mr. Frye in your vehicle take place?

22 A. The 2nd of October.

23 Q. When you, I believe, as Mr. Mauldin put it,
24 paraphrase what someone tells you, do you try to
25 keep the context of the statements as accurate as

1 possible?

2 A. Context, but not the verbiage.

3 MR. BELL: No further questions.

4 THE COURT: Recross?

5 MR. MAULDIN: No, Your Honor.

6 THE COURT: Thank you. You may step down.

7 MS. MAYES: The State calls Benjamin Booth.

8 BENJAMIN BOOTH

9 being first duly sworn, testified as follows:

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Have a seat, sir. Once you're
12 seated, state your full name, spelling your last,
13 please.

14 THE WITNESS: Benjamin Booth, B-O-O-T-H.

15 DIRECT EXAMINATION

16 BY MS. MAYES:

17 Q. And where were you working back in 2015?

18 A. Lexington County Sheriff's Department.

19 Q. And in what capacity?

20 A. As a Major Crimes detective.

21 Q. During the course of your employment as a
22 detective in the Major Crimes Unit, did you have the
23 opportunity to investigate a murder which occurred
24 at [REDACTED] Marty Lane on October 1st, 2015?

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

1 Q. And, ultimately, when was the suspect in that
2 case apprehended, Marion Wade Frye, Jr.?

3 A. It was not while on scene. It was, I believe,
4 the next day.

5 Q. All right. So that would be October 2nd, 2015?

6 A. Yes, ma'am.

7 Q. And did you already have arrest warrants for
8 the charge of murder prior to his apprehension?

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

10 Q. And I believe we've just heard the testimony of
11 Deputy Tom Smith, who picked him up from authorities
12 in Richland County?

13 A. Correct.

14 Q. Once he was brought to the Lexington County
15 Sheriff's Department, what role did you play in
16 having Mr. Frye participate in an interview?

17 A. I was the interviewing detective.

18 Q. Was he in custody at that point?

19 A. Yes, ma'am, he was.

20 Q. And given that he was in custody, what, if any,
21 efforts were made to advise him of his Miranda
22 rights or warnings?

23 A. They were read to him.

24 Q. At what stage from your initial conversation or
25 introduction to him?

1 A. As soon as we entered the interview room, I sat
2 down and read our statement sheets.

3 Q. I'm going to show you a document and ask you
4 whether or not you recognize it.

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

6 Q. And how so?

7 A. All the blue writing is my handwriting and the
8 black would be Mr. Frye's. That's our statement
9 form that we give to individuals with all their
10 information on it. It also provides Miranda, which
11 I read line for line. And after each -- I read the
12 whole thing in its entirety and then I went line by
13 line and had him initial at the end of each line.

14 Q. What is the date and time noted on this Miranda
15 form?

16 A. October 2nd, 2015, at 521 Gibson Road and the
17 time started was 6:28 p.m.

18 Q. And, of course, 521 Gibson Road is the
19 Sheriff's Department address?

20 A. Correct.

21 Q. And you said you recognize your own handwriting
22 on that form?

23 A. I do, yes, ma'am.

24 Q. Is that the original that you have with you
25 there?

1 A. It is, yes, ma'am. The only portion that is
2 mine in black is the refusal to sign.

3 Q. All right. And who filled that out?

4 A. I did.

5 Q. All right. And is that in regard to the actual
6 rights or to a statement?

7 A. Statement. He did not want -- he declined to
8 write a statement. He also did not want to sign it.

9 Q. All right. Did he agree to talk with you
10 verbally or participate in a verbal interview after
11 waiving and acknowledging his rights?

12 A. Yes, ma'am, he did.

13 MS. MAYES: At this time, I'm going to ask to
14 have this marked as Court's Exhibit 1.

15 THE COURT: All right. Court's 1.

16 (Court's Exhibit No. 1 marked for
17 identification.)

18 BY MS. MAYES:

19 Q. Now, do you have a copy of that original
20 Miranda form with you?

21 A. I believe I do, yes, ma'am. Yes, ma'am.

22 Q. Okay. I'm going to ask you to start at the top
23 and tell us exactly what Mr. Frye was advised of
24 regarding his Miranda rights?

25 A. Yes, ma'am. Beginning with the date, October

1 2nd, 2015, place, 521 Gibson Road, time started,
2 6:28 p.m. I, the undersigned, Marion Wade Frye,
3 am -- it appears to be an R9, which I believe to be
4 29 years of age, my date and place of birth being
5 [REDACTED], 1986 at Lexington, South Carolina. My
6 present address is [REDACTED] Kitty Drive, 29073. I
7 completed ten grades in school. I can read and
8 write. And then he provided his initials. There
9 was contact numbers, home, work and cell phone that
10 were not filled out. The alternate contact name and
11 phone number was also not filled out.

12 Before answering any questions or making any
13 statements, I wrote my name, Detective Booth, a
14 person who identified him or herself as a deputy
15 sheriff, duly warned and advised me that I have the
16 right to remain silent, and his initials. Anything
17 I say can and will be used against me in a court of
18 law, with his initials. I have the right to talk to
19 a lawyer for advice before asked any questions and
20 to have him or her present with me during
21 questioning, and his initials. If I have no money
22 for lawyers' fees, the Court will appoint one to
23 represent me without cost to me if I wish, with his
24 initials. If I decide to answer questions now
25 without a lawyer present, I will still have the

1 right to stop answering questions at any time. I
2 also have the right to stop answering questions at
3 any time until I speak with a lawyer or until I talk
4 with a lawyer, then his initials.

5 I have read this statement of my rights and I
6 understand what my rights are. Then I had him
7 initial.

8 And then the bottom, I make the following
9 statement: The linear portion, there's some eight
10 to ten lines blank, but as a witness, I signed at
11 the bottom left and I wrote refused to sign on the
12 bottom right.

13 Q. Now to clarify, was there a period of time
14 after being advised of his Miranda rights that he
15 agreed to participate in a verbal interview?

16 A. Yes, ma'am, he did.

17 Q. Did that include an exchange of questions and
18 answers between yourself and Mr. Frye?

19 A. Yes, ma'am.

20 Q. Do you recall whether or not Sergeant Laintz
21 was also present for portions of that interview?

22 A. Yes, ma'am, several portions.

23 Q. Ultimately, did you have discussions with Mr.
24 Frye about summarizing his statements into a written
25 form?

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

2 Q. Was he in agreement to doing that?

3 A. Him providing verbal and us taking notes?

4 Q. Him providing an actual written statement to
5 you.

6 A. No, ma'am.

7 Q. So he did not agree to provide a written
8 statement?

9 A. Correct.

10 Q. During the course of the advisement of rights,
11 did it appear that he understood those rights?

12 A. Yes, ma'am.

13 Q. Did it appear that he freely and voluntarily
14 waived those rights?

15 A. Yes, ma'am.

16 Q. Was he threatened in any way to participate in
17 a verbal interview?

18 A. Absolutely not.

19 Q. Was he promised anything in exchange for
20 participation in a verbal interview?

21 A. No, ma'am.

22 Q. Did you have knowledge that Mr. Frye was
23 involved in drug-related activities?

24 A. Yes, ma'am.

25 Q. And knowing that, did he appear at any point to

1 be so under the influence of drugs or substances
2 that he could not adequately communicate?

3 A. No, ma'am.

4 Q. Or that he could not adequately understand the
5 questions that were being posed to him?

6 A. No, ma'am.

7 Q. During the course of the verbal interview,
8 Detective Booth, did you make any notes?

9 A. I did, yes, ma'am.

10 Q. And do you have those notes with you today?

11 A. I believe so. Yes, ma'am.

12 Q. All right. What, if anything, did he state
13 occurred prior to the victim in this case, Joshua
14 Prine, being shot?

15 A. Repeat that, please.

16 Q. Yes. I want you to start at -- let's just
17 start at the top of your notes, and any notes that
18 may relate to the verbal interview being conducted
19 with the defendant, Marion Wade Frye, Jr.

20 A. He advised me -- he said, I'm worried about the
21 boy I killed. He named several people that were
22 there. Ray, Junior, Ryan Boulware, Katie, and
23 Maddie.

24 Q. Okay.

25 A. He also advised me that Ryan Boulware, his name

1 was Slip G. He advised me that Ryan Boulware has
2 the gun; the serial number was scratched off and it
3 was a black handgun.

4 Q. Did he indicate how many shots were fired?

5 A. Yes, ma'am, he said two. He shot twice.

6 Q. And do you have anything in direct quotes in
7 relation to that event?

8 A. I do. He told me, I confronted the dude I
9 shot.

10 Q. Okay. So is that statement in quotes or not in
11 quotes?

12 A. It is in quotation marks.

13 Q. So I confronted the dude I shot would have come
14 directly from whom?

15 A. Marion Frye.

16 Q. What else do you have?

17 A. He advised me that he had been at the house all
18 day, had court paperwork. He had gotten some
19 clothes. He went back to Ray's house. And
20 Wednesday, he slept till 2:00 a.m. He woke up and
21 \$500 were missing and he confronted people about it.

22 Q. All right. And do you have a note specifically
23 as to confronted in relation to the \$500 that were
24 missing?

25 A. That would be the same. I confronted the dude

1 I shot. He was confronting several individuals, and
2 the individual he shot is the one he confronted
3 about the money.

4 Q. So according to his statement, that was about
5 the missing \$500?

6 A. Yes, ma'am.

7 Q. What else?

8 A. Earlier in the day, he was at Randy's TV shop.
9 There were dogs chasing black boys. And he said to
10 the kids that he would take care of the dogs if they
11 came back.

12 Q. Were you questioning him about anything that
13 led to that statement?

14 A. I was asked -- Sergeant Laintz and I at the
15 time were trying to get to where you were at before,
16 leading up to and where have you been since.

17 Q. All right. And then, ultimately, what, if
18 anything, else did he state in relation to the
19 shooting?

20 A. He advised me that he bowed up, I turned
21 around, crouched --

22 Q. All right. Let me stop you there. When it
23 says he bowed up, he's referring to who?

24 A. To the victim, Josh Prine.

25 Q. And his next statement?

1 A. Grabbed gun, put on left side, and three jumped
2 him and he started shooting twice.

3 Q. All right. So according to your notes during
4 this portion of the statement, he indicates that he
5 grabbed the gun prior to three jumping him?

6 A. Yes, ma'am, and put it on his left side.

7 Q. Now, was anyone else present for portions of
8 this interview?

9 A. Yes, ma'am.

10 Q. Who was that?

11 A. CSI Investigator Smith as well as Sergeant
12 Laintz.

13 Q. And did Sergeant Laintz prepare a supplemental
14 report documenting or summarizing the statements
15 that were made by Marion Frye during the course of
16 this interview with you?

17 A. Yes, ma'am, he did.

18 Q. Have you had a chance to review that summary?

19 A. Yes, ma'am.

20 Q. Does it appear to be a fair and accurate
21 reflection of the statements that were made by
22 Marion Frye on October 2nd, 2015 following the
23 waiver of these Miranda rights at 6:28 p.m.?

24 A. Yes, ma'am, it does.

25 Q. Ultimately, was the interview terminated?

1 A. Yes, ma'am, it was.

2 Q. Why is that?

3 A. Because he made a statement that he didn't know
4 if he needed a lawyer or not. And coming to that
5 conclusion, when you make that statement, we need
6 clarity. I need to know if you're saying you want
7 to stop and have an attorney. So Laintz and I were
8 asking him individually, not both at the same exact
9 time, but asking him, and if he wasn't clear enough,
10 then that's the reason we terminated it because he
11 didn't know.

12 Q. All right. So there came a point in time where
13 he seemed unsure as to whether or not he wanted an
14 attorney?

15 A. Correct.

16 Q. And did the interview stop at that point?

17 A. Yes, ma'am.

18 Q. Is that also reflected in the report?

19 A. Yes, ma'am.

20 Q. The statements that you have noted from your
21 own personal notes, were those made before or after
22 he wavered about whether or not he wanted an
23 attorney?

24 A. All of them were before.

25 Q. Based upon your observations of your contact

1 with the defendant, Marion Wade Frye, on October 2nd
2 there in the interview room, did it appear that his
3 waiver of the Miranda rights to participate in the
4 verbal interview was freely and voluntarily given?

5 A. Yes, ma'am.

6 MS. MAYES: Nothing further at this time, Your
7 Honor.

8 THE COURT: Thank you, Solicitor.

9 Mr. Mauldin?

10 MR. MAULDIN: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. MAULDIN:

13 Q. So you're saying you filled out the top of the
14 form before conducting the verbal interview and that
15 after the verbal interview, he refused to write a
16 statement or declined?

17 A. He declined in the beginning to write a
18 statement. And then when asked later, prior to the
19 lawyer portion of it, he declined as well. So then
20 I said, Well, can you, at least, sign these forms?
21 It's not stating anything other than you're
22 unwilling to write a statement. That's when I wrote
23 refused to sign.

24 Q. And was that -- the refuse to sign and when you
25 wrote that, was that before or after the verbal

1 communication?

2 A. It would have been just after the verbal
3 communication.

4 Q. And there's no video in these interview rooms,
5 right?

6 A. No, sir.

7 Q. Did Mr. Frye seem out of sorts at all, not
8 clear-headed or --

9 A. He was a little unnerved, but...

10 Q. You didn't notice anything unusual about his
11 demeanor or anything like that?

12 A. I don't have any notes stating that. I don't
13 have anything -- he wasn't falling all over himself.
14 He seemed to have a conversation.

15 Q. Well, you testified on direct that you reviewed
16 Laintz's report and that report was accurate; is
17 that right?

18 A. Correct.

19 Q. Doesn't the report reflect that Mr. Frye's
20 speech was very slurred, his eyes looked heavy and
21 he appeared to have a hard time remaining focused?

22 A. As Lieutenant Laintz's observations, yes.

23 Q. But that wasn't your observations?

24 A. Mild, slurred speech, but I didn't know if that
25 was his normal talk or -- to me, he did not appear

1 super inebriated or --

2 Q. Do you not really remember, it being over two
3 years ago?

4 A. I remember some of it. I don't remember 100
5 percent. And I won't tell you what I don't
6 remember.

7 Q. Did you prepare a report regarding the
8 interview or just take notes?

9 A. I did prepare a report; however, it got deleted
10 on my end when I was trying to submit it.

11 Q. All right. Was that the only report you had
12 that was deleted or were there other reports?

13 A. No, sir. My supplemental was the only thing
14 that was deleted. I created it in Word and went to
15 save it.

16 Q. And that was a one-page supplemental?

17 A. No, sir, that was not one page. It was
18 multiple pages.

19 Q. Was it just regarding this interview or
20 regarding other --

21 A. No, it was regarding the case in itself.

22 Q. Did you try to go back and reconstruct those?

23 A. I did a second time and it did not save for me.

24 Q. Now, a lot of officers have a little Miranda
25 card; is that right?

1 A. Correct.

2 Q. Did you have one?

3 A. I did at the time, yes, sir.

4 Q. Seems to me that when you're filling out a
5 written statement, you're filling that out in
6 preparation of the written statement. You didn't
7 read to him off the Miranda card first and then go
8 to the written statement?

9 A. When I went in the interview room, I used the
10 statement form because it has Miranda on it as my
11 guideline.

12 MR. MAULDIN: No further questions, Your Honor.

13 THE COURT: Redirect, Solicitor?

14 MS. MAYES: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. MAYES:

17 Q. Detective Booth, is it routine following a
18 verbal statement to request that it be put in
19 writing?

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

21 Q. And do people always agree to provide that?

22 A. No, ma'am, they don't.

23 Q. If they don't agree to put the context of their
24 statement in writing, do you honor that request?

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

1 MS. MAYES: Nothing further.

2 THE COURT: Recross?

3 MR. MAULDIN: No, Your Honor.

4 THE COURT: Thank you very much, Detective.

5 You may step down.

6 THE WITNESS: Thank you, Judge.

7 THE COURT: All right.

8 MS. MAYES: The State calls Lieutenant Jesse
9 Laintz.

10 JESSE LAINTZ

11 being first duly sworn, testified as follows:

12 THE WITNESS: Yes, ma'am.

13 THE CLERK: Have a seat, please. Once you're
14 seated, state your full name, spelling your last,
15 please.

16 THE WITNESS: Jesse Laintz. Last name is
17 L-A-I-N-T-Z.

18 DIRECT EXAMINATION

19 BY MS. MAYES:

20 Q. Lieutenant Laintz, what was your job and
21 responsibility -- what was your actual assigned role
22 in the major crimes unit back in 2015?

23 A. I was sergeant over investigators of a
24 four-person team and also looked after the VAs,
25 supervised the VAs.

1 Q. And specifically as to the criminal
2 investigation regarding the homicide at [REDACTED] Marty
3 Lane, what sergeant was involved in that?

4 A. That was me.

5 Q. And did that include going to the crime scene?

6 A. Yes, ma'am.

7 Q. How long had you been in Major Crimes up to
8 that point?

9 A. I've been -- five years. I was a sergeant for
10 four of those.

11 Q. All right. And after working the scene on the
12 night of October 1st, 2015, was the defendant
13 apprehended?

14 A. That night, no.

15 Q. All right. And were there efforts made by your
16 agency as well as other agencies to, ultimately,
17 locate him?

18 A. Yes, ma'am.

19 Q. Had warrants been obtained for him and placed
20 into NCIC?

21 A. Yes, ma'am.

22 Q. And those warrants were based on information
23 obtained during the course of that first night's
24 investigation?

25 A. Yes, ma'am.

1 Q. Once he was placed into NCIC and apprehended in
2 Richland County, were you present at the Sheriff's
3 Department when he was brought there?

4 A. When he was brought there, no. I actually
5 responded to the scene where he was at and then came
6 back to the Sheriff's Department.

7 Q. The scene where he was at in Richland County?

8 A. Yes, ma'am.

9 Q. Prior to being turned over to Lexington County
10 authorities?

11 A. Yes, ma'am.

12 Q. I'm going to ask you whether or not you have a
13 supplemental report, Lieutenant Laintz, that
14 documents those events following his transfer to the
15 Sheriff's Department.

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

17 Q. I'm going to ask you to refer directly to your
18 report and slowly, for the sake of the court
19 reporter, read into the record what you noted
20 regarding any contact you had with Mr. Frye once he
21 was brought to the Sheriff's Department. I think
22 that would be the bottom of Page 18?

23 MR. MAULDIN: Your Honor, I would object to the
24 form of that question. He can use the report to
25 refresh his memory, but I think testimony is

1 supposed to be testimony and not reading from a
2 report.

3 THE COURT: You may rephrase your question,
4 Solicitor.

5 MS. MAYES: Yes, sir, Your Honor.

6 BY MS. MAYES:

7 Q. Do you see the portion of the report,
8 Lieutenant Laintz, where you're referencing having
9 contact with Mr. Frye?

10 A. Yes, ma'am.

11 Q. And who was present in the interview room?

12 A. Detective Booth.

13 Q. And was anything provided to Mr. Frye during
14 the course of the interview?

15 A. We gave him coffee.

16 Q. And during the interview process, were you able
17 to make observations concerning verbal statements
18 being made by Mr. Frye?

19 A. Yes, ma'am.

20 Q. Did it appear to you that he was making those
21 statements freely and voluntarily?

22 A. Yes, ma'am.

23 Q. That he was participating in the interview?

24 A. Yes, ma'am.

25 Q. Freely and voluntarily?

1 A. Yes, ma'am.

2 Q. Did you see any indications that he was being
3 coerced or any type of coercion was being used to
4 have him participate in the interview?

5 A. No, ma'am.

6 Q. Did you witness or hear any promises being made
7 to him?

8 A. I did not.

9 Q. Or any threats being made to him?

10 A. No, ma'am.

11 Q. Did you witness Detective Booth with the
12 Miranda form?

13 A. I did. I saw the form itself, yes.

14 Q. What observations did you make about Mr. Frye
15 personally?

16 A. He looked -- he had slurred speech. He looked
17 like he was tired. He was bloodshot. And at times,
18 it appeared he was having a hard time remaining
19 focused.

20 Q. All right. Now, at any point in time, did it
21 appear that he was unable to comprehend questions
22 that were being posed to him?

23 A. No, ma'am.

24 Q. Did it appear he was unable or having
25 difficulty providing answers to questions that were

1 posed to him?

2 A. No, ma'am.

3 Q. And for purposes of this hearing, I want to ask
4 you, have you had an opportunity to have contact
5 with people who are users of methamphetamine?

6 A. I have.

7 Q. Did you see any indications of that in Mr.
8 Frye?

9 A. Yes, ma'am.

10 Q. How so?

11 A. His reaction, the way his body positioning was,
12 the way he was talking, the way he looked, marks
13 that are common on his body for methamphetamine
14 users. It looked as if he was coming -- well, what
15 I would call coming down from a high. In other
16 words, the drug is starting to wear off and he is
17 exhausted from the extent of what the drugs has done
18 to him for a long period of time.

19 Q. Your understanding is that he was apprehended
20 approximately 24 hours after the crime?

21 A. Yes, ma'am.

22 Q. And again, despite those observations, did it
23 appear that he was having any difficulty in actually
24 communicating an answer?

25 A. No. There was logical communication taking

1 place.

2 Q. What specifically, Lieutenant Laintz, did you
3 note about your conversation with Mr. Frye and any
4 questions that you had for him?

5 A. I asked him who was in the house, and he
6 answered that question. And then when I tried to
7 set a time line -- one of the things we want to do
8 is set way before and after everything that happens.
9 And every time we would try to talk about what
10 happened the day before or what happened before that
11 day, it was straight to the incident, what happened
12 and the -- I'll call it the pulling of the trigger,
13 straight to that incident. We tried to go back and
14 it would go straight to that incident. When he was
15 talking about that incident itself, that short
16 period of time, it was two stories, that when he
17 would tell it, it would be just a little bit
18 different each time.

19 Q. And what were those two stories?

20 A. One of the stories was he was jumped and I
21 think it was three people he said he was jumped by,
22 and he grabbed a gun that was on the counter and
23 shot it twice. And the other one was he grabbed the
24 gun that was on the counter and then he was jumped.
25 So the sequence of events was different between the

1 two.

2 Q. So one of the stories is that he grabbed the
3 gun and it was after he grabbed the gun that he was
4 jumped?

5 A. Yes, ma'am.

6 Q. What else did you note regarding his
7 description of these events?

8 A. He stated he didn't have the gun with him, that
9 it was on the counter in the kitchen. And after the
10 shooting took place, he jumped in the car with
11 Katelyn, who was his girlfriend, and they left.

12 Q. So he admitted to the shooting?

13 A. Yes, ma'am.

14 Q. And to fleeing the scene?

15 A. Yes, ma'am.

16 Q. And his statement was that he did not bring the
17 gun with him, but picked it up from a counter in the
18 kitchen?

19 A. Yes, ma'am.

20 Q. And Lieutenant Laintz, the notes that you have,
21 can you tell us whether they are, to the best of
22 your recollection, a fair summation of the
23 statements being made by Mr. Frye during the course
24 of this interview?

25 A. Yes, ma'am.

1 Q. Did you also speak with him in regards to
2 potentially providing a written statement?

3 A. Yes, ma'am.

4 Q. What was his response to that?

5 A. He said he did not want to provide a written
6 statement without a lawyer being present.

7 Q. So once he made that statement that he didn't
8 want to put it in writing without a lawyer, what
9 action did you take?

10 A. We wanted to get some clarification. Detective
11 Booth and I were both asking him, because we wanted
12 to get clarification, if he was, indeed, asking for
13 a lawyer at this time or if he was asking for a
14 lawyer when he put it in writing. There was just a
15 little bit of confusion there.

16 Q. So when you observed that and there seems to be
17 any type of confusion or lack of clarification as to
18 whether or not someone wants an attorney, what's
19 your course of action?

20 A. To immediately stop the interview and request
21 the attorney to be there or stop and try to
22 interview at a later point in time when an attorney
23 is present.

24 Q. And is that what you did?

25 A. Yes, ma'am, we stopped at that point.

1 Q. Now, you mentioned the two stories that were
2 told in terms of the sequence of events changing as
3 to whether he was jumped and got the gun or whether
4 he got the gun and then was jumped. Can you tell us
5 whether that story flip-flopped one time or more
6 than one time?

7 A. It was more than one time. We repeatedly tried
8 to go back and start this time line, the sequence of
9 events that would happen, and every time we started
10 he would jump right back to the incident itself that
11 happened inside the house and he would tell one of
12 the two sequence of stories. And I would say okay,
13 let's go back, and what happened at 2:00 that
14 afternoon? He would jump straight to it. So it was
15 several different times that that went back and
16 forth. It was not just twice.

17 Q. All right. And then, Lieutenant Laintz, in
18 regards to the total appearance of Mr. Frye from
19 beginning to end as well as the indications you had
20 had that there may have been some type of substance
21 that he had used, at any point in time, did he
22 appear to be illogical in relating events to you?

23 A. No, not at all.

24 Q. Did it appear at any time that he was incapable
25 of understanding questions posed to him?

1 A. No, ma'am.

2 Q. So despite any type of substance used or
3 intoxication or not even knowing the level of
4 intoxication, but any observations made there, did
5 it appear that he freely understood the questions
6 that were posed to him and freely waived his rights
7 and agreed to participate in this interview?

8 A. Yes, ma'am.

9 MS. MAYES: Nothing further.

10 THE COURT: Thank you, Solicitor.

11 Mr. Mauldin.

12 CROSS-EXAMINATION

13 BY MR. MAULDIN:

14 Q. The supplemental report you prepared, that was
15 done four days after the interview?

16 A. It appears so. It looks like it was added on
17 10/6/2015 at 1136 hours.

18 Q. Was Mr. Booth the lead detective on this case
19 at the time?

20 A. He was.

21 MR. MAULDIN: No further questions, Your Honor.

22 THE COURT: Recross, Solicitor?

23 MS. MAYES: Nothing at this time, Your Honor.

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

1 All right. Solicitor, you may call your next
2 witness.

3 MS. MAYES: We have no further witnesses on
4 this matter, Your Honor.

5 THE COURT: Thank you, Solicitor.

6 Mr. Mauldin, does the defense intend to present
7 witnesses or testimony during this in-camera
8 hearing?

9 MR. MAULDIN: No, Your Honor.

10 THE COURT: Thank you.

11 Solicitor, I'll be glad to hear from you.

12 MS. MAYES: Your Honor, in the -- under the
13 totality of circumstances in this case, it certainly
14 appears that he acknowledged his Miranda rights; he
15 acknowledged each individual right. Two officers
16 have testified that they observed the statements
17 made during the course of his interview and that he
18 freely and voluntarily participated in the verbal
19 portion of the interview. It was only once he was
20 requested to put it in writing that he declined to
21 do so, in fact, refused to do so and started
22 wavering as to whether or not he may want an
23 attorney. At the point he began wavering about
24 wanting an attorney, that interview was stopped; no
25 further questioning took place. So we certainly

1 don't intend to offer anything regarding that
2 request for an attorney, only that he declined to
3 put it in writing and that the interview was
4 terminated.

5 In terms of the summary of that statement, it
6 is a verbal statement, so it's always going to be a
7 situation where officers are left to take notes and
8 then convert those notes into some form of
9 documentation or rely on the original notes therein
10 as both Detective Booth and Lieutenant Laintz have
11 done.

12 As for the statements made to Deputy Smith en
13 route to the Sheriff's Department, his indications
14 and his testimony account for a completely
15 spontaneous voluntary statement that is given
16 without any action by the deputy or by the officer
17 to even question him. He stated that throughout
18 that transportation, he is repeatedly making those
19 statements of a voluntary nature that were not the
20 subject of any type of questioning.

21 I think the only exception was about the pill.
22 After the pill was found, that he was unsure whether
23 or not he may have asked a follow-up question
24 regarding his statements that he made about the
25 pill. I believe his statement about the pill was

1 that it belonged to his girlfriend or something of
2 that nature.

3 But in terms of all the statements made in that
4 vehicle en route, all indications are that they were
5 freely, spontaneously and voluntarily made. Under
6 the totality of the circumstances, that would
7 certainly be in compliance with case law, Your
8 Honor.

9 THE COURT: Thank you, Solicitor.

10 Mr. Mauldin.

11 MR. MAULDIN: Thank you, Your Honor. As far as
12 the interview in the interview room, I would object
13 to the State commenting on him declining to put a
14 statement in writing. I think he has a right not to
15 do that. They can talk about how he made a verbal
16 statement, but I think the fact that he declined or
17 refused to provide a written statement would be a
18 violation of his Fifth Amendment rights.

19 In addition, refusing to sign on the form, that
20 is -- I would ask that to be redacted from the
21 Miranda form if it's to be shown to the jury.
22 Again, that's him exercising his right not to sign
23 it.

24 MS. MAYES: I have no objection to that.

25 THE COURT: Either one of those? Both the

1 refusal to sign?

2 MS. MAYES: No objection.

3 THE COURT: And the asking for a written
4 statement and the refusal to provide a written
5 statement?

6 MS. MAYES: As long, Your Honor, as it doesn't
7 evolve into an implication by the defense that they
8 could have gotten it in writing and didn't. So as
9 long as that door isn't opened, we certainly have no
10 issue limiting the testimony in that regard.

11 THE COURT: Mr. Mauldin.

12 MR. MAULDIN: I believe that would be correct,
13 Your Honor.

14 THE COURT: All right.

15 MR. MAULDIN: As far as the statements made to
16 Smith, Your Honor -- the statements about the pill,
17 number one, I don't think that they're relevant to
18 this crime or the pill at all. I think the State
19 elected to seek an indictment on that, but they're
20 not proceeding with the indictment at this trial on
21 it. The statement about the pill, number one, he
22 said he didn't provide him with Miranda and was
23 asking him questions about the pill, couldn't
24 remember if he asked him further questions about the
25 pill. At first, he said it wasn't his pill. And

1 then he said it was for his tooth. I think that's
2 what the two different statements were.

3 I would move those be excluded under Miranda
4 and also because they're not relevant and the
5 prejudice outweighs the probative value of those
6 statements, or the fact that the pill be mentioned
7 at all.

8 THE COURT: Solicitor?

9 MS. MAYES: Your Honor, the reason we did not
10 pursue that indictment, although we were originally
11 looking at that, is because it isn't clear -- or it
12 certainly isn't clear if he was in Lexington County
13 when that search took place. The indications are
14 that he was in Richland County, although it's not
15 documented so we're going off the officer's memory.
16 So it would be a jurisdiction issue there in terms
17 of the indictment.

18 It, ultimately, could become a factor that he
19 was using both pills and methamphetamine; there's
20 certainly going to be witness testimony about that,
21 the day before. So at this time, Your Honor, I
22 would ask that we keep any ruling in that nature in
23 abeyance until it may potentially become relevant at
24 a later stage. But in terms of the actual
25 statements that were made in that regard, we're not

1 offering that in relation to the pill. Just the
2 fact that he was searched and had a pill or pills on
3 him may potentially become relevant. It's hard to
4 say at this point whether or not that may occur.

5 Again, when these statements -- we're talking
6 about these statements, we're going through all of
7 the appropriate procedures to potentially use these
8 statements, but at this point in time, they do
9 certainly have self-serving elements to them, so we
10 haven't made a complete decision at this phase
11 whether or not the statements will even be offered
12 during the course of this trial. We want to make
13 sure that if any statements are used that this
14 matter has been heard and addressed by the Court.

15 THE COURT: I didn't hear this testimony, maybe
16 because it doesn't exist, which is fine: Did
17 Sergeant Laintz or Detective Booth ask Mr. Frye
18 about the pill?

19 MS. MAYES: They did not, Your Honor. That was
20 not part of their interview with him. That was
21 limited solely to the search that was conducted in
22 Richland County on his person and it was inside --
23 money inside a wallet that was on his person. And
24 once it was found, there was some communication
25 between Deputy Smith and Mr. Frye about that.

1 So the communications about the pill are not
2 something we're seeking to offer, Your Honor, but
3 the fact a pill was found could potentially become
4 relevant, depending on what the defendant -- if the
5 defendant chooses to testify how that may go.

6 THE COURT: Make sure I was tracking just then,
7 Solicitor. You said the communications about the
8 pill is not going to be offered?

9 MS. MAYES: That's correct, Your Honor, the
10 communications.

11 THE COURT: Well then, I guess that's
12 circumstantial evidence if the defendant had the
13 pill on him, just in his possession and the
14 testimony comes in about within a time frame, he may
15 have used meth or the pill or pills, not that pill,
16 obviously, it may be relevant, may be admissible
17 independent of Detective Smith's conversation,
18 questioning of Mr. Frye regarding that specific
19 item?

20 MS. MAYES: That is the State's position, Your
21 Honor.

22 THE COURT: And did I understand you to say --
23 or did I misunderstand you to say that other parts
24 of the conversation by Mr. Frye with Detective Smith
25 you're offering?

1 MS. MAYES: We may, Your Honor. We wanted to
2 have this hearing, obviously, to comply with all
3 required standards for the ultimate admissibility of
4 those statements and a finding of the voluntariness,
5 ultimately, of those statements, but all are
6 self-serving in nature. So at this point in the
7 State's case, we do not know yet whether or not,
8 ultimately, we'll offer those in our case in chief.
9 They also may be used at some point for impeachment
10 purposes if the defendant testifies.

11 THE COURT: Mr. Mauldin.

12 MR. MAULDIN: Moving on, I guess.

13 THE COURT: Moving on.

14 MR. MAULDIN: I believe there's testimony that
15 he had left the house -- he had been arguing with
16 his girlfriend and he left the house and the part --

17 THE COURT: I'm not ruling on the substantive
18 admissibility right now unless you're asking me to
19 redact --

20 MR. MAULDIN: I don't have any issues as to the
21 Jackson vs. Denno part of it.

22 THE COURT: Well, let me rule on the Jackson
23 vs. Denno --

24 MR. MAULDIN: Well, except for the pill
25 conversation.

1 THE COURT: All right. I think the statement
2 to Detective Smith does not require Miranda because
3 there was no custodial interrogation over the
4 majority of the statements made by Mr. Frye in the
5 presence of a patrol officer that Detective Smith
6 says, I wasn't even making small talk; I was just
7 listening. So the pill itself, as I understand from
8 the solicitor, she is not going to use the statement
9 that was made by Mr. Frye about the pill.

10 I think those statements were voluntary. Even
11 I think the statement about the pill was voluntary,
12 but it would have required Miranda because that
13 segment of that time when Detective Smith was
14 listening -- he was just a listening post, that's
15 all he was, or he was a transport officer and was in
16 earshot of Mr. Frye. All that statement is
17 voluntary, but the questioning itself would require
18 Miranda. So that's to that statement. I think I
19 covered it.

20 And you know, Solicitor, any time you think it
21 were to become admissible, you just ask me to take
22 the matter up outside the presence of the jury.

23 As to the conversations at the Lexington County
24 Sheriff's Department on 2-October-15 with Sergeant
25 Laintz and Detective Booth, the process of

1 determining whether a statement is voluntary and
2 thus admissible is bifurcated. It involves
3 determinations by both the judge and the jury.
4 First, the trial judge must conduct an evidentiary
5 hearing outside the presence of the jury where the
6 State must show the statement was voluntarily made
7 by a preponderance of the evidence, citing Jackson
8 vs. Denno, 378 U.S. 368, 1964. If the statement is
9 found to have been given voluntarily, it is then
10 submitted to the jury for voluntariness, must be
11 established beyond a reasonable doubt, citing State
12 vs. Washington 370 S.E.2d 611, 1988.

13 On the question of the voluntariness of the
14 defendant's statement, there are four questions I
15 think I have to answer: The first is, did the
16 defendant make the verbal statements to Sergeant
17 Laintz and Detective Booth? I find the State has
18 proved by the preponderance of the evidence that Mr.
19 Frye did make the statements.

20 The second question is whether or not he was
21 administered his Miranda warnings before he was
22 questioned by those law enforcement officers, Laintz
23 and Booth. And I find the State has proven by a
24 preponderance of the evidence that he was so
25 advised.

1 Third, did he knowingly and intelligently waive
2 his constitutional rights? And the answer to that
3 question is the State has proven by the
4 preponderance of the evidence that he did. When
5 looking at Court's Exhibit No. 1, I observed that he
6 was advised of his Miranda rights. Not only that,
7 he was 29 years of age, has a tenth grade education
8 and can read and write. He signed in the first
9 space, second line on the document his name, Marion
10 Wade Frye, placed his age on that line. He
11 initialed he could read and write and what grade he
12 had completed or went to. Each and every one of the
13 Miranda rights listed correctly he has initialed.
14 So he has initialed -- he wrote his name once and
15 has one, two, three, four, five, six, seven initials
16 on that page.

17 The officers' testimony and opinion was that
18 he -- his statements were given freely and
19 voluntarily, that he was not threatened, coerced or
20 promised in any manner whatsoever, and given --
21 although I would not allow this, y'all have agreed
22 before the jury at this point in time that he
23 refused to sign. That shows a comprehensive
24 understanding of what may have been the events
25 surrounding his particular circumstance.

1 Further, whether or not that was a strict
2 implication of his right to counsel. He appeared to
3 understand that, and the officers meticulously
4 honored that equivocal type of request for counsel.

5 Based on the totality of the circumstances, I
6 will find, again, by the preponderance of the
7 evidence, those statements were admissible.

8 Now, the meth, as I understand it, with the
9 testimony from Sergeant Laintz concerning his
10 observations of Mr. Frye and observations he has
11 made of others in the past, based on his experience
12 that might be coming down off of meth, not focused,
13 his body positioning or body language, the method of
14 his talking, appeared to be exhausted and such that
15 like, I take that into account, but -- the slurred
16 speech, I take that into account. You're not going
17 to offer that part, though, as far as
18 characteristics of Mr. Frye being similar with the
19 officers' opinion of characteristics of individuals
20 coming down off of meth?

21 MS. MAYES: No, sir, Your Honor, but the
22 observation by Lieutenant Laintz as well as multiple
23 other people that the markings on his body are -- or
24 appear to be meth sores, and they were photographed
25 by the officers as well, is certainly relevant

1 because we have been apprised that at some stage,
2 the defendant may intend to offer those markings on
3 his body as some type of injury that he may have
4 sustained that in the course of this self-defense
5 claim. So, certainly, the State would offer an
6 alternative explanation, which we believe is the
7 accurate explanation for where those markings came
8 from.

9 THE COURT: I didn't mean to demote Lieutenant
10 Laintz. I got a track in my mind. I get focused.
11 Once I get on sergeant, I may not ever get off of
12 it. Same thing with mispronouncing last names.
13 Once I mispronounce them, I never go back. That's
14 my pronunciation.

15 MS. MAYES: He was sergeant at the time and is
16 now lieutenant.

17 THE COURT: Thank you.

18 Mr. Mauldin.

19 MR. MAULDIN: Your Honor, I think if they're
20 going to have somebody testify about these sores
21 that they should have the medical expertise to do
22 so.

23 MS. MAYES: Again, Your Honor, that is all
24 testimony that we anticipate coming later and we'll
25 have to see what type of defense may be offered.

1 But certainly, there are people who know him and
2 have dealt with him and saw those sores on his body
3 prior to the incident in question. And then there
4 are also, certainly, officers who saw him following
5 this incident that frequently see sores of a similar
6 nature. So again, I think it's premature to try to
7 limit that type of testimony.

8 MR. MAULDIN: Well, if people saw him
9 beforehand, I guess they could testify that they saw
10 sores beforehand. To characterize them as a
11 specific type of sore, I think would require some
12 sort of expertise in the medical field.

13 MS. MAYES: I don't think it would take a
14 medical expert. Your Honor, these officers deal
15 with methamphetamine users every single day.
16 Lieutenant Laintz is assigned to that region over
17 Red Bank and Gaston and, certainly, is familiar with
18 methamphetamine users.

19 THE COURT: The argument I'm hearing right now
20 is whether or not you think it would have to be not
21 only an expert, but a medical expert.

22 MR. MAULDIN: Yes, sir, Your Honor, to testify
23 about the nature of those injuries.

24 THE COURT: Well, even before I decide that, I
25 would have to hear the qualifications of an

1 individual as to whether or not one could testify to
2 those observations and connect the dot to an
3 individual that was a user of meth. I guess what
4 I'm saying I'd either have to rule or not rule on
5 that right now.

6 MR. MAULDIN: Well, not at this point in time.
7 We'll see how they propose to present it.

8 THE COURT: Yes, sir.

9 MR. MAULDIN: I could make my objection at that
10 time.

11 THE COURT: Well, your objection is noted for
12 the record and I know you well enough, Mr. Mauldin,
13 that you won't forget it. I know that. And that's
14 not what I expect you to do nor would I ever say
15 that you ever have.

16 Okay. Anything further on this, Mr. Mauldin?

17 MR. MAULDIN: Just again in the context of one
18 of the statements made to Detective Smith, and I
19 think I was going into that before Your Honor made
20 his formal ruling on the Jackson vs. Denno --

21 THE COURT: Yes, sir.

22 MR. MAULDIN: That he testified that when Mr.
23 Frye started talking in the back of the police car
24 in the ride on the way to the Sheriff's Department
25 that he said that he and his girlfriend had been

1 arguing, that he left the house to get away from her
2 and to keep from getting a CDV charge because it
3 ain't nothing to get a CDV charge now these days.

4 THE COURT: Well, if it ain't nothing, he
5 wouldn't have left. But go right ahead.

6 MR. MAULDIN: But the mention of a criminal
7 charge, I think the fact that he had an argument and
8 that he left is sufficient. I think mentioning the
9 potential of getting a criminal charge is
10 prejudicial and that outweighs the probative value
11 of that statement.

12 THE COURT: Solicitor.

13 MS. MAYES: I beg the Court's indulgence.

14 We can limit the officer in that regard as to
15 that portion.

16 THE COURT: Is that an adequate response?

17 MR. MAULDIN: Yes, Your Honor. They're
18 agreeing with me, yes, sir.

19 THE COURT: Well, I think it shows good
20 judgment that he left. Sure.

21 MS. MAYES: At the bench, Your Honor,
22 Mr. Mauldin had indicated that he would be raising
23 an issue of potentially dealing with res gestae
24 testimony. This is evidence that was offered during
25 discovery and was noted by officers during their

1 initial investigation of this case. And that is the
2 defendant --

3 MR. MAULDIN: I hate to interrupt, but I just
4 need to take like a short two-minute break for
5 personal reasons and I can concentrate better after
6 that break.

7 MS. MAYES: With that said, Your Honor, I'm
8 going to go ahead and pass up the State's motion in
9 this regard as well as the case of State vs. Frankie
10 McGee, 2014 case --

11 THE COURT: Versus who?

12 MS. MAYES: McGee, the 2014 case out of
13 Richland.

14 THE COURT: We'll take about a 10-minute
15 recess. Get me State vs. Adams, too, a Richland
16 County case.

17 (Short break.)

18 THE COURT: All right. Mr. Mauldin.

19 MS. MAYES: You had requested Adams, Your
20 Honor. I'll pass that up. I have a copy for
21 Mr. Mauldin as well.

22 THE COURT: And tell me, Mr. Mauldin, what
23 testimony it is you're objecting to.

24 MR. MAULDIN: Well, Your Honor, I'm going to
25 try to place some things in context here. The

1 allegations of the murder charge, they stem from the
2 incident of October 1st that occurred sometime after
3 7:00 in the p.m., 1900 hours, shortly thereafter on
4 that. There is an -- and this is a -- and I'm just
5 going to go forward with the State's allegations
6 here that Mr. Frye was in this house with Ray Boyer,
7 Anthony Ryan Boulware, Katie Vinson, A.J. Gwilliam
8 and Mr. Prine and that there was a fight or
9 altercation about Mr. Frye accusing people of
10 stealing \$500 from him, one of those people had,
11 because he had slept there overnight and when he
12 woke up, his money was missing earlier that morning
13 when he woke up.

14 In the police's investigation and in putting
15 things together, they established that there was an
16 incident near the house, but not involving the
17 people that were in the house at the time of the
18 shooting in this case where I believe Mr. Frye's
19 girlfriend, Katelyn Turner, had called the police
20 and reported that a black man had been threatening
21 them with guns. And there were some of the
22 witnesses in the case that -- I don't know if they
23 have firsthand knowledge, but some of the statements
24 may indicate that Mr. Frye had a gun during this,
25 but these are people that are not involved in the

1 altercation or incident at 7:00 p.m., later in the
2 day, seven hours or so later during this incident.

3 We would say that that incident involving
4 Mr. Frye and other people with guns is not relevant
5 at all to this crime. Those people had nothing to
6 do with the people in this house and his accusations
7 of those of people stealing from him. It's a prior
8 bad act and it's not relevant and the prejudice
9 outweighs the probative value. And I don't think it
10 can be proved by clear and convincing evidence.

11 MS. MAYES: We're not offering anything to do
12 with that, Your Honor. I believe that's in
13 reference to two people that have been identified as
14 Dreke and Red. And they lived next door and there
15 was some type of ongoing beef between Mr. Frye and
16 Dreke and Red that was all drug related. We are not
17 offering anything in relation to that event.

18 The res gestae that is necessary for the
19 State's case has to do with the murder weapon. We
20 have witnesses that saw the defendant with the
21 murder weapon, which has never been recovered, but
22 in his waistband three hours before the murder. One
23 of his statements to law enforcement was he came to
24 the house and he picked up the gun off of a counter.
25 The State's witnesses will certainly maintain that

1 he came armed, which is necessary and probative for
2 the charge of murder as well as overcoming the claim
3 of self-defense. So again, that's the res gestae
4 testimony that the State is concerned with, those
5 witnesses who saw him with the gun in his waistband
6 three hours earlier.

7 THE COURT: Mr. Mauldin.

8 MR. MAULDIN: Your Honor, I believe she's
9 referring to -- and I was going to get to that one.
10 There's an incident --

11 THE COURT: The first one, as I understand from
12 both you and the solicitor, she's not offering it.

13 MR. MAULDIN: Yes, sir.

14 THE COURT: All right.

15 MR. MAULDIN: This incident involves, I
16 believe, a Ms. Slusher and some other individuals
17 who, again, are not related to the people that were
18 in the house at 7:00 p.m. There's a -- I think it
19 was called in around 4:30 --

20 THE COURT: 4:30, two and a half hours,
21 whatever it is prior to the homicide?

22 MR. MAULDIN: That's when it was reported, Your
23 Honor, to the 911 center, as far as I can tell. And
24 the incident report is dated 8:00, I believe. I
25 could be mistaken. But it involves, I think, these

1 people that are near the barn or the TV store that
2 was mentioned in one of the investigators' notes.
3 And there was an altercation there and Mr. Frye
4 insinuated himself in the altercation and may have
5 displayed a handgun.

6 Again, we think that the initial -- and the
7 prejudice outweighs the probative value,
8 particularly because other witnesses who were in the
9 house that day had seen Mr. Frye earlier that day.
10 Katie Vinson and, most recently, Ryan Boulware, in
11 one of his statements all describe seeing Mr. Frye
12 with the gun earlier in the day. And that the State
13 has alternate means of proving that evidence without
14 going into this incident that is unrelated. They've
15 got people that say they saw him with the gun
16 earlier that day. They don't need --

17 THE COURT: Those are people associated with
18 the house where the homicide occurred?

19 MR. MAULDIN: And were in the house when the
20 homicide occurred. They had seen him earlier that
21 day and then later on.

22 THE COURT: And then you've got people who were
23 not in the house that saw him earlier in the day
24 with a gun?

25 MR. MAULDIN: Yes, sir.

1 THE COURT: Solicitor?

2 Anything further, Mr. Mauldin? I apologize. I
3 didn't mean to cut you off.

4 MR. MAULDIN: No, Your Honor. It's just the
5 fact that they can establish that through less
6 prejudicial means, and these people are on their
7 witness list. They were in the house at the time of
8 the homicide and can be asked about seeing Mr. Frye
9 prior in the day. If the State had no alternative
10 means of demonstrating this, I would somewhat see
11 the probative value increasing. But the fact that
12 they do have these alternate means, I think the
13 probative value is much less than mentioning this
14 incident at all.

15 THE COURT: Thank you, Mr. Mauldin.

16 MS. MAYES: Yes, sir, Your Honor. That's
17 exactly the predicament that the State is in. The
18 witnesses who saw him earlier that morning obtain a
19 gun from a witness named Ryan Boulware are all
20 people who were in the house, who are certainly
21 going to be impeached throughout this trial by Mr.
22 Mauldin in maintaining or attempting to maintain
23 this self-defense claim.

24 So those witnesses are going to be completely
25 independent of the witnesses who saw him in the

1 middle of the day at 4:23 p.m. when a mother, who is
2 with her son and several of her son's friends in an
3 area just off Old Barnwell Road see Mr. Frye, and
4 they don't know him, but they see him. There's an
5 altercation. He displays that gun and it's in his
6 waistband. And what's critical about that is he is
7 described by witnesses as pulling the gun from his
8 waistband when the homicide occurs. They see him
9 with a gun in his waistband. Ms. Slusher describes
10 it as a black gun that looked like a nine
11 millimeter. We never recovered the murder weapon in
12 this case. Mr. Frye fled the scene. But,
13 ultimately, it's been determined by ballistics that
14 it was, in fact, a nine millimeter. So, certainly,
15 that is far more probative than anything that would
16 be testified to regarding events earlier in the day.

17 And the other aspect of this is, Your Honor,
18 the defendant has always maintained that he went to
19 the house; he then saw a gun on the counter and
20 after he's jumped, he spontaneously picks up a gun
21 that just happens to be on the kitchen counter and
22 then uses it in self-defense.

23 So it can't be more probative to the State than
24 to establish that he actually was already armed and
25 came to that house for the purpose of a

1 confrontation with the victim, Joshua Prine, and the
2 victim's girlfriend because he believed that they
3 had stolen money from him. He had accused a series
4 of people throughout the day of stealing money. And
5 at this point in time, he came for the purpose of
6 confronting both Mr. Prine and Ms. Vinson. And
7 witnesses described him then as pulling a small
8 black gun from his waistband and firing the two
9 shots and then fleeing the scene.

10 So from the State's perspective, Your Honor,
11 it's relative and probative not only to the charge
12 of murder and not only to the element of malice
13 aforethought, because we do believe that he came
14 armed, but also to his state of mind: The fact that
15 he was in the state of mind that he was displaying
16 this weapon and in possession of that weapon in his
17 waistband just three hours earlier.

18 The case that we submitted, Your Honor, State
19 vs. McGee, it's almost directly on point. That
20 prior event occurred a day beforehand, but in that
21 case, it's also a murder case, McGee had stolen a
22 tractor-trailer and, ultimately, used that
23 tractor-trailer when he went to the scene of the
24 murder a day later and then abandoned it and left it
25 behind. But it was relevant as part of the nexus to

1 link him to the crime of murder. That was a tool,
2 so to speak, that he used in the commission of that
3 murder and the State was able to establish that
4 nexus because that had occurred just 24 hours
5 beforehand.

6 Here, we're talking about three hours
7 beforehand and the nexus is very clear and that this
8 is, the State alleges, the murder weapon. Because
9 it wasn't recovered, we have to rely on this
10 circumstantial evidence. And, certainly, the
11 probative value of independent witnesses who see him
12 with that weapon far outweighs, unfortunately for
13 us, the testimony of the people in the house, which
14 is constantly going to be subject to impeachment and
15 going to be attacked by the defense, no doubt.

16 And the testimony from Ms. Slusher as well as
17 the juveniles is going to be they saw the individual
18 with the gun in his waistband. Ms. Slusher actually
19 calls and reports it immediately. And when she
20 calls it in and makes that report to 911, she's able
21 to provide a tag number. That tag number is, in
22 fact, the same vehicle that he was arrested in. She
23 was also able to identify him after she saw him on a
24 news report the following day as the same individual
25 that she had previously observed with the gun in his

1 waistband just three hours before the murder.

2 THE COURT: McGee cites Adams under res gestae.

3 Mr. Mauldin.

4 MR. MAULDIN: Thank you, Your Honor. In my
5 reading of McGee, it involves a truck that was found
6 about a mile from where the deceased was located.
7 And the proof of the theft of the truck was to
8 establish that Mr. McGee would have been in the area
9 at the time or close in proximity of the victim and,
10 also, that the truck contained some sort of tool or
11 wrench that could have been used to assault the
12 victim.

13 THE COURT: Well, they never found the winch
14 and he testified he didn't know what a winch rod
15 was.

16 MR. MAULDIN: Yes, sir. But then again, it
17 doesn't discuss the fact that the State had
18 alternate means that weren't prejudicial. From
19 reading the case, that would have been the only
20 means to establish that he was in the location.

21 Here again, Your Honor, they have other
22 witnesses that they've admitted can testify to this
23 without bringing in this prejudicial information of
24 pointing and presenting type of incident. I think
25 the prejudice far outweighs the probative value and

1 would violate his Sixth Amendment right to a fair
2 trial. I don't think that it fits the immediate
3 context of the accusations in this case as far as
4 the murder. And I don't think those incidents are
5 so linked together that the crime charged can't be
6 shown without proving the incident with Ms. Slusher.
7 It can be shown without proving it because they have
8 other witnesses that can testify to it.

9 MS. MAYES: In that regard, I would ask does
10 the defense stipulate that he came to the home armed
11 with a nine millimeter gun in his waistband? Is
12 there a stipulation to that?

13 MR. MAULDIN: I'm not going to stipulate to
14 that. They have witnesses that can testify to that.
15 That's not --

16 THE COURT: Well, as you all know, if the case
17 goes to the jury, I charge the jury that they can
18 believe all of what a witness says, part of what a
19 witness says or none of what a witness says. So
20 although you may have -- you've got -- these
21 witnesses have different statuses.

22 You've got a witness at the homicide scene, or
23 witnesses at the homicide scene that purportedly are
24 going to testify seeing him with a weapon. And then
25 you have witnesses remote, and remote is a relative

1 term I'm using; they're not at the homicide scene,
2 they're at some other location within three hours of
3 when the homicide occurred. That in and of itself
4 is relevant testimony. If you see an individual
5 that is accused at 7:00 p.m. of committing a
6 homicide -- and when I use homicide, that's a
7 generic term. I'm not saying murder; I'm just
8 saying a homicide. Another human being has lost his
9 life. People that observe that can testify to it.
10 And then if several hours before you saw other
11 individuals that were not involved at the location
12 of the homicide that see the accused with a handgun
13 that circumstantially fits the description
14 ballistically of a handgun that was used that was
15 thought recovered, that's clearly relevant. It's
16 clearly relevant. And it's prejudicial. All
17 evidence should be prejudicial or it ain't relevant.
18 It shouldn't even be offered. It's a waste of the
19 Court's time or the system's time.

20 Now, with that being said, I think you have to
21 slice thin, Solicitor, under a case like State vs.
22 Gillian that Judge Westbrook tried. You have to
23 slice it pretty thin. You cannot go into details.
24 It's got to be very limited of the details of the
25 prior bad act in this case, because the prior bad

1 act in McGee with the theft of the truck puts McGee
2 at the location of the crime scene. And, quite
3 frankly, that's more like circumstantial evidence to
4 me than necessarily res gestae. It's kind of a
5 blend of both, or a mix of both, I would say.

6 MS. MAYES: I believe we can do that, Your
7 Honor.

8 THE COURT: I think that would have to be
9 limited. But, I mean, if you see somebody on his
10 own property that has a lawful right to have a gun
11 and a neighbor sees him with a gun three hours
12 before a homicide and then later, he commits a
13 homicide and the gun is used, I think that's
14 admissible.

15 Now, under the 403 analysis, also, both in
16 McGee and State vs. Collins and the like, unfair
17 prejudice does not mean damage to a defendant's case
18 that results from the legitimate probative force of
19 the evidence. Rather, it refers to evidence which
20 tends to suggest a decision on an improper basis.
21 Evidence is unfairly prejudicial if it has an undue
22 tendency to suggest a decision on an improper basis,
23 such as an emotional. All evidence is meant to be
24 prejudicial; it is only unfair evidence.

25 And I would charge the Court -- I mean, the

1 jury, if it goes to the jury on prior bad act
2 anyway, that you don't -- just because someone
3 commits a prior bad act, that doesn't mean he
4 commits this act specifically.

5 So I would deny that motion. Of course, I'm
6 assuming that in the future, the testimony is going
7 to unfurl, as y'all have told me. That's not a
8 comment on y'all's credibility, but I haven't heard
9 the evidence yet.

10 All right. Anything further, Mr. Mauldin?

11 MR. MAULDIN: Well, just to get it clear in my
12 head, Your Honor, and I apologize if I didn't.
13 Because 404 and res gestae are two separate --

14 THE COURT: I agree they're two different
15 standards.

16 MR. MAULDIN: Two separate standards. And I
17 just want to make sure I understood your ruling.
18 Your ruling is that it would have to be determined
19 under a 404 analysis later should they present a
20 witness?

21 THE COURT: No, sir, that's not my ruling. My
22 ruling is these witnesses have to say what y'all
23 told me. If these get up here -- this is a motion
24 in limine under State vs. Taylor, so it's not a
25 final ruling of the Court. We all know that.

1 MR. MAULDIN: Yes, sir.

2 THE COURT: You know, neither you nor I can --

3 MR. MAULDIN: Well, you had mentioned something
4 about shaving down and the solicitor seemed to agree
5 with you.

6 THE COURT: Well, if you read State vs.
7 Gillian, you'll see what I'm talking about. If I
8 put up too much evidence in prior bad acts and they
9 found it shouldn't have been put up, but it was
10 harmless error. There were too many details in it.
11 Too many details and the 404(b) testimony. As I
12 say, it was analyzed on harmless error in that
13 particular appeal. That's all I was referring to
14 there.

15 But the -- give me just one more minute. 404
16 has to hit one of the exceptions listed in 404(b),
17 y'all are familiar with those, by clear and
18 convincing evidence.

19 Solicitor, if you think it hits one of those
20 prongs, you can elucidate me on that by offering
21 in-camera testimony, which I do not want to hear
22 today, but at the same time, there's a difference
23 between 404(b) and circumstantial evidence. Having
24 a gun is not a prior bad act. What you're doing
25 with the gun may be.

1 MS. MAYES: Right. Your Honor, what we
2 anticipate is testimony that he displayed the gun in
3 his waistband. They could see it; they could
4 visualize it. They will describe the gun. And
5 then, certainly, Ms. Slusher will indicate that she
6 did get the tag number and we'll be able to match
7 that up, so there's no question about identity. In
8 terms of him actually threatening them with the gun,
9 that's not something we're offering.

10 THE COURT: That's what I'm talking about.

11 MR. MAULDIN: That's what I wanted to
12 understand.

13 THE COURT: That's what I'm trying to say. And
14 y'all can -- it's not unlawful to have a gun in
15 South Carolina and you know there are many
16 exceptions to when you can that are lawful. The
17 mere fact that a person has a weapon doesn't
18 foreclose or reach the conclusion that it's unlawful
19 for that person to have a weapon.

20 MR. MAULDIN: Yes, sir.

21 THE COURT: What are there, 19, 20, 22
22 exceptions? And I think -- what is that, 16?
23 That's talking about --

24 MR. MAULDIN: Unlawful carrying of a pistol?

25 THE COURT: Yes, sir. I mean, there's all kind

1 of exceptions in there, going back and forth hunting
2 and fishing, buying it, antique weapon, National
3 Guard going back and forth, such like that. There
4 are all kinds of exceptions. Having a concealed
5 weapon permit. 16-23-460 is just entitled Carrying
6 Concealed Weapons. I don't know if I have the right
7 supplement. I don't think I do. But there's all
8 kinds of exceptions to that versus an unconcealed
9 weapon, I guess.

10 Be that as it may, if you're not going into
11 that, Solicitor, as to pointing and presenting,
12 that's no more than circumstantial evidence. I
13 mean, it doesn't violate 403.

14 All right. Anything further, Mr. Mauldin,
15 Solicitor?

16 MS. MAYES: Nothing from the State at this
17 time, Your Honor.

18 MR. MAULDIN: One more thing, Your Honor.

19 THE COURT: Yes, sir, of course.

20 MR. MAULDIN: Again, with the paring down, I
21 think we mentioned that the incident revolved around
22 the missing \$500 of money. I received information
23 from the State in the past week, I believe, that
24 they intend to allege that this money was drug
25 money. I don't think anyone is alleging that actual

1 drugs were taken, that it was money. And I think
2 the characterization of it as drug money or proceeds
3 from drug sales -- again, you're talking about
4 paring it down. Having money is not a prior bad
5 act, but to characterize it as drug money or drug
6 sale money, I believe, would be going into that
7 realm, Your Honor, of 404(b).

8 THE COURT: All right. Solicitor.

9 MR. BELL: Your Honor, at this time, I'd prefer
10 to reserve my reply on that until morning. We think
11 it may even be premature to address that until we
12 know what the testimony is going to be at this
13 point.

14 MR. MAULDIN: I'm just relying on the discovery
15 I've been provided, Your Honor, as the basis for
16 these.

17 MS. MAYES: Some witnesses describe it, Your
18 Honor, as missing money. Some describe it as
19 missing ice and money, ice being a form of
20 methamphetamine. And in this particular occasion,
21 everyone in the house is using methamphetamine, Your
22 Honor. That's going to come out.

23 In addition to that, Mr. Frye is also involved
24 in not only the use of methamphetamine, but the
25 distribution of methamphetamine. This was,

1 according to all witnesses, money that he kept in a
2 Crown Royal bag that he used to distribute drugs.
3 And he also has a drug dealer that he owes the money
4 to; his name is Matthew Bowers. He heard from him
5 how desperate he was to recover that \$500 just
6 before the murder.

7 So, so many of these things go to state of mind
8 that at some point tomorrow, Your Honor, we're going
9 to be putting up witnesses from the house. And at
10 that point, I think we'll be able to determine where
11 testimony is going and we certainly feel that we can
12 make that relevant. But to imply that he just
13 happens to be missing \$500 and just goes to check on
14 his money, that's not the equivalent of his state of
15 mind. The testimony from State's witnesses will be
16 that he was irate and in a rage because he's missing
17 this money and it's money that he owes to a club, to
18 his drug dealer, who he had actually communicated
19 with about the missing money.

20 So again, Your Honor, I just think it's too
21 early, too premature to make any determinations
22 about the relevance of something like this knowing
23 that, in some way or another, we foresee that the
24 defense will open the door.

25 It also goes to the issue of bringing on the

1 difficulty, which is a critical element in
2 overcoming self-defense. And he certainly, from the
3 State's perspective, did bring on the difficulty.
4 He didn't just go to check on money. He went to
5 collect his missing money from the people in that
6 meth house that he thought had taken his drug money
7 and his ice.

8 MR. MAULDIN: Your Honor, money is money
9 whether it comes from drugs or lottery tickets or
10 work or anything like that --

11 THE COURT: No, it's not. The behavior behind
12 it has consequences.

13 State vs. Adams, which was upheld, Adams goes
14 to commit an armed robbery in Richland County
15 because he wants more cocaine. He's committing
16 these robberies because he wants more cocaine;
17 that's admissible. But I think I have to hear the
18 testimony and how it unfolds.

19 It's just like a homicide that occurs in
20 prison. You can't turn around and say well, it
21 occurred out there at the sanctuary at whatever
22 church you want to fill in the blanks with. You
23 can't -- you've heard me say this before,
24 Mr. Mauldin. You can't -- it's like the birthmark.
25 You can't reach in there and extract this out of the

1 case. I mean, I'm not saying you're doing that
2 personally. I don't mean it like that. But
3 sometimes, those things can't be separated to where
4 it misleads a jury.

5 And I'm not saying that it's admissible or
6 inadmissible at this time. If any time you think a
7 witness is getting -- or the solicitor is asking a
8 question you think is objectionable, you've tried
9 enough cases in front of me you know when to object.

10 MR. MAULDIN: Yes, sir, Your Honor.

11 THE COURT: And I'll be glad to hear it outside
12 the presence of the jury. I'm not ruling one way or
13 the other now until I start hearing the testimony
14 develop. All right?

15 MR. MAULDIN: All right.

16 THE COURT: Anything further?

17 MR. MAULDIN: No, Your Honor.

18 THE COURT: All right. Madam Solicitor,
19 Mr. Solicitor?

20 MS. MAYES: Nothing further from the State at
21 this time, Your Honor.

22 THE COURT: Thank you. 9:30 in the morning.

23 (Court was adjourned for the day at 4:34 PM.)

24 (The following proceedings were held February
25 6, 2018.)

1 THE COURT: Anything for the State before we
2 bring in our jury?

3 MS. MAYES: Nothing at this time, Your Honor.

4 THE COURT: The defense, Mr. Mauldin?

5 MR. MAULDIN: Your Honor, I would move to
6 sequester the witnesses. There were a number of
7 witnesses in the house and we don't think they
8 should be able to hear each other's testimony.

9 THE COURT: And when you say sequester the
10 witnesses, are you referring to the factual
11 witnesses?

12 MR. MAULDIN: Yes, sir.

13 THE COURT: Not experts or chain of custody and
14 such like that?

15 MR. MAULDIN: No, sir.

16 THE COURT: Have these witnesses that you're
17 referring to that were at the house, have they given
18 sworn statements?

19 MR. MAULDIN: Most of them have, Your Honor.

20 THE COURT: Solicitor, what's your position?

21 MS. MAYES: Yes, sir, Your Honor, in compliance
22 with Carmack, I believe they would be exempt from
23 sequestration.

24 THE COURT: I typically follow Carmack. If
25 they've given sworn statements and their testimony

1 is different from their sworn statement, they're
2 subject to use for impeachment.

3 Further, there's an older case out of Horry
4 County, I think; I'm going to take a shot at the
5 name of it. I think it's Cabbagestalk, which is a
6 last name I haven't heard a lot. And I think it
7 says that the fact that they may be able to hear
8 each other is not necessarily grounds for
9 sequestration.

10 And under the rule, which I think is 615, it's
11 in my discretion. But if they've given sworn
12 statements, they're exempt. If they have not, I
13 will sequester them.

14 MS. MAYES: If you can give us a moment, Your
15 Honor, we'll take care of that.

16 THE COURT: Now, that doesn't include any of
17 the nonfactual witnesses. I'm talking about the
18 individuals that were at the house, medical
19 witnesses, expert witnesses and the like, chain of
20 custody. They don't have to be sequestered.

21 MS. MAYES: Yes, Your Honor. And Your Honor, I
22 was going to say, Ms. Kaiser is present in the
23 courtroom and she has evidence in this case.

24 THE COURT: She may remain. Thank you.

25 Anything further, Mr. Mauldin?

1 MR. MAULDIN: No, Your Honor.

2 THE COURT: Are you ready, Solicitor?

3 MS. MAYES: Yes, Your Honor.

4 (The jury enters the courtroom at 9:52 AM.)

5 THE COURT: Good morning. Welcome back, I
6 apologize for the delay. I assure you it was not
7 the fault of any of the parties. They were not on
8 time, they were early, present and working very
9 diligently to begin the trial of the case.

10 Madam Clerk, will you swear our jury, please?

11 THE CLERK: Yes, sir.

12 Please stand and raise your right hand.

13 THE JURY: I do.

14 (Jury sworn.)

15 THE CLERK: Be seated, please.

16 THE COURT: Thank you, Mr. Brock, for
17 volunteering to take that very important position as
18 foreperson of our jury. Of course, we had an
19 election. The vote came in and it was a unanimous
20 decision. It was not a recount or anything of that
21 nature. Of course, any member of the jury panel
22 would, of course, make a fine jury foreperson.

23 Ladies and gentlemen of the jury, the case
24 we're about to try is the case of the State vs.
25 Marion Wade Frye, Jr., the defendant to my front

1 left. What I will now say is intended to serve as
2 an introduction to the trial of this case. These
3 remarks are not an instruction on the law in the
4 case. I will instruct you fully and completely on
5 the law applicable to the case during the trial and
6 at the end of the trial before you retire to
7 consider your verdict. This is merely an
8 explanation of the procedure that we will follow in
9 the trial of this case so that you may better
10 understand what may be happening.

11 You may take notes during the trial. I give
12 you certain cautions concerning that. Procedurally,
13 you will not be able to take your notes, if anyone
14 chooses to take notes, to the jury room during any
15 breaks, to luncheon recess or home with you. They
16 will be secured by the clerk's office and then
17 redistributed upon your return to the courtroom.

18 One person's notes -- one juror's notes is no
19 better than another juror's recollection. Some
20 people are note-takers; some people are not. And
21 you cannot give any weight and value to the written
22 word more than the non-written memory of another
23 juror. I am a note-taker and the longer I sit out
24 here, the more notes I take, I realize many times I
25 can't read my notes. But, please, keep that in

1 mind: One's recollection is as valuable as the
2 notes of the other.

3 At some point, I would also instruct you that
4 there's many factors you can take into account in
5 weighing the credibility of the witnesses. And one
6 of those is, of course, one that we use in everyday
7 common sense, the demeanor, the appearance of a
8 witness while on the witness stand. And in taking
9 notes, sometimes it does divert your attention to a
10 certain degree not being able to, perhaps, pick up
11 the nuances of a witness's demeanor. But, please,
12 just keep that in mind.

13 The defendant is charged by indictments filed
14 in this court with the crimes of murder and
15 possession of a weapon during the commission of a
16 violent crime, the elements of which will be
17 explained to you later. Again, ladies and
18 gentlemen, these indictments are the formal charging
19 documents by which the case is brought before this
20 Court and they are not in any sense evidence of any
21 of the allegations they contain.

22 The defendant has pled not guilty to these
23 indictments. The State, the party to my front
24 right, closest to the jury box, therefore has the
25 burden of proving each of the elements of the

1 indictment beyond a reasonable doubt. And it will
2 be your duty, ladies and gentlemen, to decide
3 whether or not the State has met that burden.

4 Your purpose as jurors is to find and determine
5 the facts. You, ladies and gentlemen, are the sole
6 judges of the facts. If, at any time, I make any
7 comment regarding the facts, you must disregard it.
8 You are to determine the facts from the testimony
9 you hear and any other evidence introduced in the
10 court. It is up to you to determine the inferences
11 which you feel may be properly drawn from the
12 evidence. It is especially important that you
13 perform your duty of determining the facts
14 diligently and conscientiously because ordinarily
15 there is no way to correct an erroneous
16 determination of the facts by a jury.

17 On the other hand and with equal emphasis, the
18 same law that makes with you the judges of the facts
19 make me the judge of the law. The law as given by
20 the Court is the only law you may consider. You
21 must accept it and follow it even though you may
22 disagree with it. I cannot tell you what the facts
23 are and you cannot disagree with me about what the
24 law is or what the law should be. Your job is to
25 take the law as I give it to you, apply it to the

1 facts as you find them from the testimony of the
2 witnesses and any other evidence that is introduced.
3 After doing that, you will render your verdicts,
4 fair and just verdicts under the solemn oath that
5 you have just taken as jurors.

6 It is important that you keep an open mind and
7 not decide any issue in the case until all of the
8 evidence has been presented, the parties have made
9 their closing arguments and I have instructed you on
10 the law in this case. It is your solemn
11 responsibility to determine the guilt or innocence
12 of the defendant and your verdicts must be based
13 solely on the evidence presented to you in this
14 trial and on the law that I instruct you during and
15 at the close of the trial.

16 In just a moment, the solicitor will make what
17 is called an opening statement in which the
18 solicitor will explain to you the issues in the case
19 or, at least, what the solicitor thinks the issues
20 are in the case. Mr. Mauldin, the attorney for Mr.
21 Frye, may also make an opening statement, although
22 he is not required to do so. A criminal defendant
23 in South Carolina is always presumed to be innocent
24 of the crime or crimes charged, regardless of the
25 seriousness of those crimes. A criminal defendant

1 has no burden whatsoever to prove himself or herself
2 innocent.

3 What the attorneys tell you during their
4 opening arguments are not evidence in the case. It
5 is only their contention as to what the issues are.
6 What the attorneys tell you during their closing
7 arguments is not evidence in the case. It's their
8 arguments as to the facts and the law which they may
9 argue in the closing arguments. The questions of
10 the attorneys is not evidence in the case. It's the
11 responses from the witnesses testifying before you
12 under oath that is the evidence in the case, along
13 with any physical items of evidence that may be
14 allowed into evidence. That is how it will be
15 presented from this witness stand by testimony
16 and/or exhibits introduced.

17 From time to time during the trial, you may
18 hear one of the lawyers say something like Your
19 Honor, I believe we have a question of law or a
20 matter of law to discuss with you or Your Honor, may
21 we approach the bench, or sometimes, I, myself,
22 might find it necessary to excuse you from the
23 courtroom for a short while so the attorneys and I
24 can discuss the matter of law. This is not to hide
25 anything from you. The reason for this is because

1 you are the judges of the facts in the case and
2 sometimes when I'm discussing matters of law with
3 the attorneys, it may be necessary for me to make
4 some comment as to the facts in connection with
5 ruling whether or not a particular law applies.

6 I'm not supposed to tell you what I think the
7 facts are. I'm not supposed to have and will not
8 have an opinion as to the facts of the case. So
9 during those times, I will excuse you from the
10 courtroom while these discussions take place so that
11 in no way will you be influenced by anything I might
12 say or do in connection with the facts.

13 In determining what the true facts are in this
14 case, you must decide whether or not the testimony
15 of the witnesses is believable. It will be my
16 responsibility to rule as a matter of law as to
17 whether certain testimony is admissible at all or
18 not. Admissible, whether or not you hear it or not,
19 but once the testimony is admitted, whether or not
20 you believe it, it is solely for you, the jury, to
21 determine and decide.

22 In deciding whether to believe a witness, in
23 using the backdrop of your individual and collective
24 good judgment and common sense, you have the right
25 to consider the interest of any witness, the bias of

1 any witness, the prejudice of any witness, the
2 opportunity for the witness to have seen the matters
3 and things about which the witness may testify,
4 whether or not a witness' testimony is corroborated
5 by another witness' testimony, made stronger or
6 impeached by other witness' testimony or physical
7 items of evidence or what have you, stronger or
8 weaker. Or whether it is consistent within itself,
9 the witness' testimony itself are consistent with
10 other witnesses or inconsistent. You have the right
11 to consider anything in the record that will help
12 you, the jury, to determine the credibility, the
13 believability of the witnesses who testified in this
14 case. And also, you may evaluate a witness'
15 testimony by the witness' demeanor, the way the
16 witness acts on the witness stand. You have the
17 right to consider anything in the record that will
18 help you evaluate the testimony of the witnesses.

19 What that means is that it is your duty to pay
20 close attention to the witnesses, to observe them,
21 to listen to the witnesses, to pay close attention
22 to the attorneys and to the Court. Don't let your
23 thoughts wander, but give strict attention to the
24 testimony in this case so that at the end of all the
25 testimony, after the closing arguments by the

1 attorneys, and the instruction on the law by the
2 Court, you will then be in that position to
3 determine what the facts are and to apply the law to
4 those facts as you have found them to be and thus
5 render fair and impartial and just verdicts.

6 It will be your added responsibility,
7 Mr. Foreman, to preside in the jury room and be the
8 jury's spokesperson here in court. It will also be
9 your duty to write the verdicts, but I will give you
10 further instructions about that at the conclusion of
11 the case.

12 Just a few brief administrative matters,
13 Mr. Foreman, ladies and gentlemen. There, of
14 course, is a sound system in this courtroom;
15 however, if during the testimony of a witness, you
16 cannot hear the witness well or see the witness
17 properly, please get my attention, the attention of
18 the clerk or one of our fine bailiffs and we will
19 certainly -- or I will certainly try to have that
20 witness sit up and speak up.

21 Also, from time to time, items of evidence,
22 maybe physical items of evidence, photographs and
23 the like, I don't know, may be introduced. At
24 times, photographs could be handed to our foreperson
25 and passed among the jury while you're here in the

1 courtroom in your jury box. Other times, they may
2 be displayed on the screen. Either way, if they're
3 passed, on the screen, if I allow an item into
4 evidence, photograph, physical item, what have you,
5 you will also have that item, those photographs with
6 you in your jury room at the time of your
7 deliberations. I tell you this not to limit the
8 time -- whatever time you want to look at it in the
9 courtroom in the jury box, but to let you know that
10 you will also have those items with you. This will
11 not be the only time in the courtroom you will get
12 to see those items.

13 Also, from time to time, you may see me on my
14 computer or, perhaps, my law clerk, and the like. I
15 don't peat, repeat, don't know what hash rag is and
16 tweet goes with a bird. I don't know any of that.
17 I focus on the case. These are very good trial
18 attorneys that have appeared before me -- I've had
19 the privilege of having them appear before me
20 before. I try to track. I try to stay focused on
21 the case. So I look down that dusty bumpy trail
22 and, perhaps, see what I think may be a legal issue
23 lurking in the distance and I do do research. I
24 stay focused.

25 I tell y'all that because, imagine this,

1 someone complained that it was distracting. I don't
2 want to do anything that is distracting from your
3 attention and focus on the case. If I do, just
4 write me a note, tell me. You know, I -- y'all are
5 vitally important, if not the most vital component
6 in a jury trial, in a jury trial, which Mr. Frye has
7 the constitutional right to a jury trial by a fair
8 and impartial jury and the State has the right to
9 expect a fair and impartial jury.

10 I have also found -- I need to keep up with
11 12 -- I got 15, 15 folks. I have our three
12 alternates, our foreperson.

13 I will ask y'all, our three alternates, to
14 please maintain those seats.

15 Mr. Foreman, maintain your seat as the
16 foreperson.

17 I have found just after observing jurors over
18 the course of sitting on the bench that jurors can
19 be very territorial, that they want to sit in the
20 same seat each and every time. And I understand
21 that. I like it. I sit in the same seat each and
22 every time. The 11 of you may sit wherever you'd
23 like in the jury box or in the same seat each and
24 every time. Same view of the courtroom, same view
25 of the witnesses. But you may sit wherever you'd

1 like in the jury box, except for our foreperson and
2 our alternates' assigned seat.

3 So finally, what am I really in charge of? I'm
4 in charge of taking breaks, is what I'm in charge
5 of. And I have a real simple rule about breaks: If
6 I want to take a break, we take a break. Everybody
7 is happy.

8 Ladies and gentlemen, this is an important
9 case. It's important to Mr. Frye. It's important
10 to the State of South Carolina. This is not some
11 type of judicial marathon. I give the parties the
12 time needed and required to present their case fully
13 and completely. And I have learned from experience,
14 people say well, your job, you just sit down and you
15 don't do this, that and the other. Sometimes it's
16 harder to work with your ears than your hands. It's
17 hard to stay focused and attentive. And if any time
18 any of you, your thoughts start to wander, and I put
19 this on myself, too, my thoughts start to wander,
20 raise your hand. I guarantee you're not the only
21 one; I guarantee that. If you're not focused and
22 attentive, you won't -- you may miss a nuance that
23 will assist you in determining what the facts are.
24 So if at any time, any of you need a break, raise
25 your hand. Y'all will take your break; we will take

1 our break.

2 Any objections from the State to anything I
3 have said to the jury, Solicitor?

4 MS. MAYES: Not from the State, Your Honor.

5 THE COURT: Mr. Mauldin?

6 MR. MAULDIN: No, Your Honor.

7 THE COURT: Thank you both very much.

8 Solicitor, you may address the jury.

9 MR. BELL: Thank you, Your Honor. May it
10 please the Court?

11 THE COURT: Yes, sir.

12 MR. BELL: What's the value of a man's life?

13 The facts of this case will show that on October 1st
14 of 2015, Joshua Prine's life was reduced to a measly
15 \$500. Reduced to a measly \$500 when this man,
16 Marion Wade Frye, shot him in the back over money
17 missing from a Crown Royal bag. A \$500 gunshot that
18 would send a bullet spiraling into Joshua Prine,
19 severing his spinal cord before tearing through his
20 lung and exiting his chest. The doctor will tell
21 you he collapsed where he stands and bleeds out in
22 minutes, over \$500.

23 In this case, you're going to hear from a
24 variety of witnesses, both civilian and law
25 enforcement. You're going to hear from people who

1 knew Wade leading up to this incident and knew that
2 he was missing \$500. You'll hear from people who
3 knew Wade leading up to this incident was armed with
4 a pistol. You'll hear from witnesses who were
5 accused by Wade of stealing his money. You'll hear
6 that after the victim's girlfriend was accused by
7 Wade and berated by Wade that Joshua Prine had had
8 enough and stood up and engaged in a verbal argument
9 with Mr. Frye. You'll hear from witnesses who were
10 there leading up to, during and after Wade Frye
11 gunned down Joshua Prine at [REDACTED] Marty Lane here in
12 Lexington. You'll hear from witnesses who will say
13 when Wade Frye pulled out a gun on an unarmed,
14 shirtless Joshua Prine, they tried to secure and
15 disarm him, that they had reached over and tried to
16 pin his arm down so that he couldn't fire that gun,
17 but those same witnesses, they'll tell you they
18 failed and that Wade Frye shot not once, but twice.
19 Those same witnesses will tell you that Wade Frye
20 came to the scene of that murder the same way that
21 he left it, armed and unharmed, that no one laid a
22 finger on Mr. Frye until he pulled out a weapon.

23 You're going to hear from first responders.
24 You'll hear from a 911 dispatcher who took calls
25 from people that were at the scene as well as people

1 who lived around the scene. You'll hear the chaos
2 in the background. You'll hear from EMS who
3 responds shortly after the calls came in. He'll
4 testify the victim was found in the kitchen of [REDACTED]
5 Marty Lane, that he was shirtless. There were no
6 weapons in sight. That his skin was already cool to
7 the touch and pale to the eye.

8 You'll hear from the detectives who worked the
9 case. They'll tell you about their observations
10 about the scene. They'll tell you that they
11 recovered two casings from the scene, nine
12 millimeter, that they recovered two projectiles from
13 the scene, nine millimeter. You're going to hear
14 from a firearms expert from SLED that will tell you
15 that those two casings matched those two
16 projectiles, that they were nine millimeter. That
17 same expert will tell you that they were fired by
18 the same gun, one gun, but that she didn't have an
19 opportunity to test those projectiles against a
20 weapon. You'll hear from witnesses that the reason
21 she couldn't test against the weapon is because Wade
22 Frye left with the murder weapon, a firearm that to
23 this day has not been recovered.

24 You're going to see photographs, photographs
25 that will make you uncomfortable, not by design, but

1 by their nature. But this is not a time for weak
2 stomachs. This is not a time to shy away or close
3 your eyes. This is a time to open them as widely as
4 possible because the pictures you see, they'll
5 testify as loudly as the witnesses who take that
6 stand. They'll show you Joshua Prine shirtless,
7 unarmed, dead in a pool of his own blood several
8 feet from where witnesses will testify that Wade was
9 standing pointing that gun. All over \$500.

10 You're going to see photographs of the victim's
11 hands. And the doctor will confirm what your eyes
12 will see that his hands, Joshua Prine's hands, his
13 knuckles had no abrasions, no bruises, no signs of
14 injury. She'll say there's no indication that the
15 victim had engaged in physical combat prior to his
16 death.

17 Just as importantly as that, you'll see
18 pictures from Mr. Frye's arrest nearly 24 hours
19 after he'd been on the run. Those pictures, they'll
20 show you no black eyes, no busted nose, no fat lips.
21 Those photo s will show you what officers will tell
22 you, which is he had no signs of having been beaten
23 or been in physical combat.

24 The photographs will show you a murder and
25 nothing short of that. You're going to hear more

1 about the law at the end of this case than you ever
2 would have hoped for. I won't harp on it now. I do
3 want to point out a few things, though. Murder in
4 the State of South Carolina is the killing of
5 another with malice aforethought. Malice is a fancy
6 word that we define as the intentional killing of
7 another or the intentional killing of another
8 without justification or excuse. For instance, a
9 wrongful doing, such as going to someone's house
10 with a firearm and accusing them of stealing money
11 and without justification or excuse, such as
12 self-defense.

13 Now, self-defense in South Carolina, there are
14 several factors. But the one I want to point out to
15 you is that to qualify for self-defense in South
16 Carolina, you cannot have taken part in bringing on
17 the difficulty or having provoked the difficulty;
18 again, such as going to someone's house with a
19 firearm and accusing them of stealing money.

20 At the end of this case, your job will not be
21 to answer the question that I initially posed to
22 you. Your job is not to determine the value of a
23 life. Your job is to return a verdict that speaks
24 the truth, a truth that we, the State, will prove to
25 you beyond a reasonable doubt. The law in South

1 Carolina of reasonable doubt doesn't mean beyond all
2 doubt. There's very few things in this world we can
3 be 100 percent certain of. That's not what's
4 required. All that's required is after looking at
5 the evidence with your eyes wide open, you're firmly
6 convinced of the defendant's guilt. And I believe
7 that after you've looked at that evidence, you will
8 return a verdict that speaks the truth, that this
9 was not self-defense, that Marion Wade Frye murdered
10 Joshua Prine over \$500. Thank you.

11 THE COURT: Thank you, Solicitor.

12 Mr. Mauldin.

13 MR. MAULDIN: Ladies and gentlemen, the
14 evidence will show that Mr. Prine did not die
15 because of \$500. The evidence will show that he
16 died because several individuals in this house
17 jumped on Wade Frye and tussled with him and the gun
18 went off during the tussle. This isn't -- this
19 house is not Norman Rockwell Thanksgiving. It's not
20 the usual house with everyday people. And you're
21 going to find from the witnesses that there's going
22 to be inconsistencies in their testimony, that they
23 may have some things to hide.

24 Really, what happened is Wade had actually
25 moved his stuff to that house the night before in

1 the wee hours of September 29th, going into October
2 1st. Moved a bunch of his clothes, TVs, appliances.
3 He had some issues with his girlfriend. He was
4 moving out of his place and moving into that place.
5 And in the wee morning hours, they were making
6 several trips, him and Ryan Boulware, his sister,
7 Melinda, and a couple other people in the house.
8 And after the moving and moving all that stuff and
9 several trips, he's tired, falls asleep on the
10 couch, and wakes up sometime later that morning.

11 He's going through his things before he's going
12 to go out that morning and he discovers that \$500 is
13 missing. There are a couple people in the house.
14 Katie Vinson, he asked her about it. She tells him,
15 well, Josh said that Ryan left; he looked like a
16 ghost. He doesn't know what's going on. Doesn't
17 know where the money is.

18 He ends up going out that day and getting back
19 with his girlfriend, Katelyn Turner. And they go
20 out with their kids to the Village Store, get
21 something to eat and they stop back by because he
22 wants to get some clothes and whatever. He had been
23 in the same clothes as he was the day before, moving
24 all that stuff last night. He hadn't showered. And
25 Katelyn wanted one of her TVs.

1 And there's a padlock on the door, the room
2 where Wade's stuff is. He doesn't know what's going
3 on. He asks around how do we get this lock off, can
4 I cut this lock off? No, no, we're going to get the
5 key. I don't have the key. So they end up leaving
6 at some time and then they come back later because
7 Wade, Marion Frye, middle name Wade, he goes by
8 Wade, wants to pick up some of his stuff. And he
9 goes in the house.

10 Now, this is a trailer. It has two entrances,
11 a front entrance and a back entrance. And often
12 people go into both entrances. He went through the
13 back entrance and that goes into where the
14 kitchenette is. The kitchenette has a counter going
15 this way and a counter going this way.

16 He walks in. He was going to ask about his
17 stuff, but he sees that practically everybody is
18 there that was there the night before when he went
19 to sleep: Mr. Boulware, Mr. Boyer, Ms. Vinson,
20 Mr. Prine. And he notices the gun on the counter.
21 And this not being Norman Rockwell, he decides that
22 he's going to take the gun and get it out of the
23 equation before he starts asking these people about
24 his missing money.

25 So he take s the gun and he puts it in his

1 waist and he starts asking. Some denial is going
2 on. You said this and you said this, and you said
3 this guy looked like a ghost. And eventually Mr.
4 Prine takes issue with it and attacks Wade, hits
5 him. In the middle of this, Wade starts grabbing
6 for the gun because it's just loose in his waist.
7 He didn't want it to fall out; he didn't want Mr.
8 Prine to grab the gun. And as soon as he reaches
9 for it and tries to pull it out, Ray Boyer and Ryan
10 Boulware get on top of him. He's got one guy on his
11 back, one guy on his side, one to his left, one to
12 his right, one on his back and he crouches down.

13 Josh is coming to confront him in the
14 kitchenette, hits him. There's a guy here, a guy
15 here. He turns around and tries to puddle up while
16 these guys are over him and he's got this gun. Guy
17 over the top of him, guy on his side. They're
18 struggling over the gun. Other people reaching and
19 holding the gun, touching the gun, jerking it and
20 the gun goes off one time. Some people end up
21 running from the residence. The struggle is still
22 going on and the gun goes off again and Mr. Prine
23 falls to the ground. And that's when everybody else
24 runs out of the residence.

25 Sometime during the beginning of the fight, his

1 girlfriend and his sister are outside and they are
2 alerted of the fact that there's a tussle going on
3 in the trailer, and they run in. And then they see
4 parts of this struggle going on, all these people
5 around and on top of Mr. Frye.

6 From all the witnesses that the State has,
7 they're not going to leave you firmly convinced of
8 exactly what happened in that trailer. And what
9 happened is that Mr. Frye didn't point a gun and
10 intentionally shoot. He was hunched over; people
11 were all around; his girlfriend is running to the
12 back; people are turning around to see who's
13 running. And Mr. Prine gets shot in the back, not
14 because he pointed the gun and pulled that trigger,
15 but because it went off during this struggle.
16 That's why the State will not be able to prove its
17 case. They have to prove it beyond a reasonable
18 doubt. It's the highest burden and it's made --
19 that burden is designed for cases like this. It
20 applies to murder; it applies to shoplifting. It
21 doesn't go down because the case is more serious.

22 I ask that you hold the State to that burden.
23 That's what you swore to do as a juror. It's the
24 patriotic thing to do. They're not going to be able
25 to prove that Mr. Frye maliciously with aforethought

1 killed Joshua Prine.

2 THE COURT: Thank you, Mr. Mauldin.

3 Ladies and gentlemen, those of you who want to
4 take notes, do you have pads and pens?

5 Okay. Thank you very much.

6 Solicitor, you may call your first witness.

7 MS. MAYES: The State calls Nikki Rodgers.

8 NIKKI RODGERS

9 being first duly sworn, testified as follows:

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Have a seat, please. Once you're
12 seated, state your full name, spell your last.

13 THE WITNESS: Nikki Rodgers, R-O-D-G-E-R-S.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 Q. Good morning, Ms. Rodgers.

17 A. Good morning.

18 Q. Can you tell us a little bit about yourself?
19 Where are you employed?

20 A. I am the chief communications officer at
21 Lexington County 911 and I am the custodian of
22 records.

23 Q. And how long have you been with the Lexington
24 County 911 Center?

25 A. Twenty-four years.

1 Q. All right. Tell us a little bit about what you
2 do there.

3 A. I am in charge of the 911 department for
4 approximately 51 employees and the budget and the
5 equipment, making sure that all calls are answered
6 in a timely manner and processed according to our
7 policies and procedures.

8 Q. Now, when calls come in to the 911 center, how
9 are they documented or preserved?

10 A. When calls come into the 911 center, they are
11 processed through our CAD, which is computer-aided
12 dispatch system, which is basically a records
13 management of calls that come in. And it documents
14 what time they come in, who the caller is and the
15 information that we get or process from the caller,
16 and it's all documented in the call sheets. And
17 then we also use that to dispatch the appropriate
18 response, whether it's law enforcement, EMS, so
19 forth.

20 Q. All right. And is it the regular practice of
21 the Lexington County Communications Center to
22 preserve these recordings?

23 A. Yes, ma'am. We keep the recordings for 90
24 days. After that, the system overwrites them and
25 they're no longer there unless someone requests them

1 prior to that 90 days.

2 Q. And who is the custodian of records for the 911
3 center?

4 A. I am.

5 Q. You are as director?

6 A. Yes, ma'am.

7 Q. Now, specifically regarding this case, can you
8 tell us whether law enforcement, being the Lexington
9 County Sheriff's Department, put in a request to
10 preserve calls for a shooting incident which
11 occurred on or about October 1st, 2015 at the Marty
12 Lane area of Lexington County?

13 A. Yes, ma'am, they did.

14 Q. Have you had an opportunity to listen to the
15 audio recording dealing with that incident?

16 A. Yes, ma'am.

17 Q. I'm going to show you something and ask you
18 whether or not you recognize it.

19 A. Yes.

20 Q. How so?

21 A. That is my initials on the CD.

22 Q. All right. And when there is a shooting
23 incident in a suburban area -- and what area of
24 Lexington County is this?

25 A. This is the -- what we call the Lexington

1 County, the rural area. It's not in one of the
2 municipalities.

3 Q. All right. When there is a shooting incident
4 in a suburban areas which contains neighborhoods,
5 can you tell us whether it's common or uncommon to
6 receive more than one call?

7 A. It's very common to receive multiple calls.

8 Q. And in this particular case, how many calls are
9 contained on the CD that you listened to?

10 A. Four.

11 Q. Can you tell us whether or not this CD contains
12 an accurate reflection of each of those four calls?

13 A. It does.

14 Q. And whether each of those four calls pertain to
15 this incident at [REDACTED] Marty Lane?

16 A. They do.

17 Q. And you see your initials on that CD?

18 A. Yes.

19 MS. MAYES: Your Honor, at this time, the State
20 would offer the audio recordings pursuant to the
21 business records.

22 THE COURT: Mr. Mauldin?

23 MR. MAULDIN: We need to approach, Your Honor.

24 THE COURT: Yes, sir.

25 (Sidebar conference.)

1 THE COURT: Mr. Mauldin, any objections?

2 MR. MAULDIN: No, Your Honor.

3 THE COURT: All right. State's 1?

4 MS. MAYES: It is State's 1, Your Honor.

5 THE COURT: State's 1 is in evidence without
6 objection.

7 (State's Exhibit No. 1 admitted into evidence.)

8 MS. MAYES: The State would request permission
9 to publish.

10 THE COURT: Yes, ma'am, you may publish.

11 BY MS. MAYES:

12 Q. Now, as these calls are coming in, is it always
13 the same dispatcher or can you have multiple
14 dispatchers working the call?

15 A. We have multiple dispatchers answering calls.

16 Q. And are they entering any type of information
17 as they are speaking with the caller?

18 A. It is live time. As they're receiving the
19 information, they're entering it into the
20 computer-aided dispatch system and they're all
21 entering information at the same time for the same
22 location.

23 Q. And can they, ultimately, communicate with one
24 another, being the dispatchers?

25 A. Yes, ma'am.

1 Q. For the purpose of sharing information?

2 A. Yes.

3 Q. And then in addition to that, I believe you
4 have testified already that you take calls there at
5 the 911 center. Who actually dispatches law
6 enforcement to go to a scene?

7 A. We have call takers and dispatchers in the
8 dispatch center. At times, they do both of the same
9 things. When we have -- in our higher-call-volume
10 times, we have the ability to do separate call
11 takers and dispatchers. So at times, you'll have
12 separate call takers and dispatchers, but sometimes
13 you have the same. In this instance, we had
14 separate call takers and dispatchers.

15 Q. And just to clarify, there at the 911 center,
16 not only do you take calls in for law enforcement,
17 what about EMS?

18 A. EMS, fire service, animal control, coroner's
19 office. Anything that's needed on an emergency
20 scene in Lexington County is coordinated through our
21 office.

22 Q. All right. So once an emergency call comes in,
23 if I understand correctly, you're also the same
24 center that then dispatches law enforcement or EMS
25 to go to that scene?

1 A. Yes, ma'am.

2 Q. And is all that information being entered into
3 your system as well?

4 A. It is.

5 Q. All right.

6 MS. MAYES: May we approach?

7 THE COURT: Yes, ma'am.

8 (Sidebar conference.)

9 THE COURT: We're going to take a technical
10 break. See if we can get one of our grandsons up
11 here. They had tested it beforehand. So if y'all
12 would step to your jury room. Please leave your
13 notes. Do not discuss the case while we have this
14 brief recess. Thank you very much.

15 (The jury exits the courtroom at 10:43 AM.)

16 THE COURT: Are y'all ready?

17 MS. MAYES: Yes, Your Honor.

18 THE COURT: Okay.

19 (The jury enters the courtroom at 10:53 AM.)

20 THE COURT: Our jury is back.

21 Solicitor, you may continue.

22 (State's Exhibit 1 published to the jury and
23 his Honor.)

24 BY MS. MAYES:

25 Q. Now, are there sometimes an occasion where you

1 have multiple calls coming in at the same time and
2 it's impossible to determine which comes first?

3 A. Yes, ma'am. Calls come in within seconds of
4 each other and there's multiple calls coming in at
5 the same time, there's different call takers
6 answering those calls.

7 Q. And Ms. Rodgers, what time did you record -- or
8 what times do your records reflect that the male
9 caller, Mr. Trent Finkley, that his call was taken
10 there at your 911 center?

11 A. 1929, and that's 7:29 p.m.

12 Q. 7:29 p.m., that would be the time the call
13 first arrives into the center?

14 A. Yes, ma'am.

15 Q. All right.

16 We can listen now to the next call.

17 (State's Exhibit No. 1 continued to be
18 published to the jury and his Honor.)

19 BY MS. MAYES:

20 Q. Now, Ms. Rodgers, what time did this female
21 caller, Hannah Montgomery, neighbor, what time was
22 her call entered into your 911 call center?

23 A. At 1929, also.

24 Q. And that translates to 7:29 p.m.?

25 A. I'm sorry, yes, 7:29 p.m.

1 Q. And so, are law enforcement units already en
2 route having received these calls?

3 A. Yes. They are actually dispatched at 1931.

4 Q. And what about EMS?

5 A. I'm sorry. Law enforcement was dispatched at
6 1930.

7 Q. All right. So one minute after the call coming
8 in?

9 A. Uh-huh. What was your next question? I'm
10 sorry.

11 Q. EMS, what time were they dispatched out? Is it
12 safe to say they are dispatched out within the same
13 general time frame of the law enforcement units?

14 A. Yes, ma'am. But I should have that number
15 right here. Hold on one second. And I don't have
16 it, but it should have been dispatched immediately
17 with that call.

18 Q. When there is a gunshot call and indications
19 that someone is injured or, in this situation,
20 killed, would it be routine to have EMS dispatched
21 contemporaneously with law enforcement?

22 A. Yes, ma'am.

23 Q. Now, regarding this next call, Ms. Rodgers,
24 what happens if a caller is disconnected at any
25 point after making that original call to 911?

1 A. We immediately call that phone number back.
2 Whether it's a cell phone or landline phone, our
3 technology will automatically, with a one-button
4 push, call that number back so we can try to make
5 contact with that caller that hung up.

6 Q. So that's the capability that you have to trace
7 that call as it comes in?

8 A. Yes.

9 Q. All right. On this next caller with there
10 being a disconnect, do your records indicate whether
11 a dispatcher immediately returned that call?

12 A. Yes, we did.

13 Q. And then also regarding this next caller, is it
14 possible to get all information from a subject when
15 they call in?

16 A. Is it possible? We try to get all the
17 information from the subject, yes.

18 Q. Is there any way to verify who they are other
19 than getting a phone number?

20 A. We can look at their phone number and try to do
21 the pinging, if you want to call it, tracing of the
22 number, but we have their information when it comes
23 in who the phone is registered to on the ANI/ALI
24 screen, which is the automatic number location and
25 automatic locator information.

1 Q. Then you also rely on how they identify
2 themselves when they call in?

3 A. Yes, absolutely.

4 (State's Exhibit No. 1 continued to be
5 published to the jury and his Honor.)

6 BY MS. MAYES:

7 Q. So this person identified himself as Anthony?

8 A. Yes, ma'am.

9 Q. Do you have a phone number associated with that
10 call?

11 A. [REDACTED]-8445.

12 Q. All right. And what was the time that that
13 call came in from the person who identified
14 theirself as Anthony?

15 A. 1930, which is 7:30 p.m.

16 (State's Exhibit No. 1 was continued to be
17 published to the jury and his Honor.)

18 BY MS. MAYES:

19 Q. Ms. Rodgers, at the end of that call, was there
20 an indication that law enforcement had arrived there
21 at the scene?

22 A. Yes, ma'am.

23 Q. Can you tell us whether or not it's routine for
24 the dispatcher to stay on the line until it's
25 indicated that law enforcement has arrived?

1 A. It is, if it's an active call.

2 Q. Do your records indicate who the first
3 responding unit was there at the scene?

4 A. For law enforcement, it's going to be unit 951
5 at the time, which was Caleb Black.

6 Q. 951, that's Sergeant Caleb Black?

7 A. Yes.

8 Q. Now, what time does it indicate this call was
9 received?

10 A. This call was 1938, which is 7:38 p.m.

11 Q. 7:38 p.m. Then as it proceeds there for
12 several minutes, the indication is that Sergeant
13 Black has arrived at the scene. And at that point,
14 is it safe for the dispatcher to discontinue the
15 call?

16 A. Yes.

17 Q. Now, in this call, the name of a suspect was
18 actually provided, Wade Frye?

19 A. Yes, ma'am.

20 Q. How is that information communicated out to law
21 enforcement?

22 A. It is relayed to law enforcement. Some of the
23 officers have mobile data terminals; some of them do
24 not. So that information would have been put out on
25 the air, also.

1 Q. When you say put out on the air, you mean it's
2 dispatched out to every officer working for the
3 county?

4 A. Correct. It's BOLO'd, which is be on the
5 lookout for and they would give out the suspect's
6 information so that anybody that possibly comes in
7 contact with him would be able to know and be aware.

8 Q. So that BOLO actually includes the name of the
9 suspect?

10 A. Yes, ma'am.

11 Q. And then what about the information that he was
12 in a white Cadillac Escalade?

13 A. That would have also been included.

14 Q. That's part of the BOLO?

15 A. Correct.

16 Q. The be on the lookout for, that goes out to law
17 enforcement?

18 A. And it was BOLO'd at 1943, which is 7:43 p.m.

19 Q. So as of 7:43 p.m., the Lexington County
20 Sheriff's Department and responding agencies, I
21 guess other agencies, not just limited to Lexington
22 County Sheriff's Department, would receive this
23 BOLO?

24 A. Correct. We dispatch not only for Lexington
25 County Sheriff's Department, but the municipalities

1 within the county, except for Cayce, West Columbia
2 and Batesburg. But anyone that we dispatch for,
3 South Congaree, Chapin, any of the smaller towns,
4 the Town of Lexington, Irmo, they would all get the
5 same BOLO.

6 Q. Now, when you have a name such as this Wade
7 Frye and there's a BOLO, if there is any type of
8 history available for a possible phone number for
9 that subject, being Wade Frye, does the 911 center
10 have the ability to start looking into that and
11 start trying to trace that phone wherever it may be?

12 A. We can trace or cross-reference phone numbers
13 from previous calls that we've had in our call
14 history in the computer-aided dispatch system.

15 Q. And in this particular case, did your unit
16 there at the 911 Communication Center make an
17 attempt to trace a phone for Wade Frye to figure out
18 where he was once that BOLO went out at 7:43?

19 A. We did. We also have the ability to ping cell
20 phones to see the location of that phone in current
21 time. We did do that with this phone, but we were
22 unsuccessful because the phone was turned off.

23 Q. All right. Once that phone is turned off, are
24 you able to then trace it or ping it or recall any
25 type of GPS data from it?

1 A. No.

2 Q. But the attempt was made once that BOLO went
3 out?

4 A. Yes.

5 MS. MAYES: Nothing further at this time, Your
6 Honor.

7 THE COURT: Thank you, Solicitor.
8 Mr. Mauldin?

9 MR. MAULDIN: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. MAULDIN:

12 Q. In preparation for this case, did the State
13 have you pull the call to 911 made by Katie
14 Campbell?

15 A. They had me pull all the calls related to this
16 incident, so I'm sure there were -- I do remember
17 the name.

18 Q. Yes, ma'am. So there was a call made by Katie
19 Campbell?

20 A. Yes, I believe so.

21 MR. MAULDIN: No further questions, Your Honor.

22 THE COURT: Redirect?

23 MS. MAYES: Nothing further, Your Honor.

24 THE COURT: Thank you, Solicitor.

25 Thank you, Ms. Rodgers. You may step down and

1 you're excused.

2 MS. MAYES: The State calls Caleb Black.

3 CALEB BLACK

4 being first duly sworn, testified as follows:

5 THE WITNESS: Yes, ma'am, I do.

6 THE CLERK: Have a seat. Once you're seated,
7 state your full name and spell your last, please.

8 THE WITNESS: My name is Caleb James Black,
9 B-L-A-C-K.

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Sergeant Black, tell us a little bit about
13 yourself. Where are you employed and in what
14 capacity?

15 A. I am from Lexington County. I'm employed at
16 the Lexington County Sheriff's Department. I've
17 worked there since April of 2000.

18 Q. All right. And during that 17 and a half years
19 of your law enforcement career with the Lexington
20 County Sheriff's Department, tell us a little bit
21 about your responsibilities as a sergeant of the
22 patrol division.

23 A. I've been a sergeant at the Sheriff's
24 Department since May-ish of 2005. My
25 responsibilities is a front line supervisor of the

1 patrol officers and anybody else that may be working
2 the street at that time. I ensure they comply with
3 the department law state policy and we handle the
4 initial response to any type call in the appropriate
5 manner.

6 Q. Now, can you give us just an overview of the
7 type of calls that you might be sent out on at any
8 given time?

9 A. Yes, ma'am. It's running a gamut: Vandalisms,
10 larcenies, shootings, rapes, parents with difficult
11 children. Pretty much anything you can imagine, the
12 Sheriff's Department responds to.

13 Q. So you and your officers would actually respond
14 to personal residences as well as any locations in
15 the public?

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

17 Q. What, if anything, do your records note about
18 your response to a call at [REDACTED] Marty lane on or
19 about October 1st, 2015?

20 A. Myself and multiple other units were dispatched
21 to [REDACTED] Marty Lane, Lot [REDACTED] which is in the Red Bank
22 area of Lexington County on October 1st of this
23 year. And myself and everybody else available in my
24 region, the county's broke up into regions, region
25 responded.

1 Q. Let me stop you right there. I know you said
2 this year, but you're referring to your report,
3 correct?

4 A. Yeah, I'm sorry. I misstated. October 1st of
5 2015.

6 Q. And you made that report contemporaneous with
7 this event?

8 A. I did, yes, ma'am.

9 Q. This is [REDACTED] Marty Lane?

10 A. Yes, ma'am.

11 Q. Now, working patrol in this area, what is the
12 name of the area that you would call this in
13 Lexington County?

14 A. Red Bank.

15 Q. In the Red Bank area?

16 A. Yes, ma'am.

17 Q. And this particular location, are there
18 neighbors around?

19 A. Yes, ma'am, it's more of a residential area
20 than anything.

21 Q. All right. Sergeant Black, we heard in the
22 previous -- well, we heard a 911 call where a unit
23 arrived at the scene. Who would have been the first
24 arriving unit?

25 A. I was the first unit on scene.

1 Q. What time was your arrival?

2 A. Crime scene log indicates 7:40 p.m. is when I
3 got there.

4 Q. Take us through, Sergeant Black, what you
5 recall and the normal steps and procedure when you
6 arrive at a scene like this where you know or have
7 heard from dispatch that a shooting has occurred.

8 A. Well, first thing when I got there, I was
9 flagged down by a male on the front porch of the
10 house, who was identified later as Jeffrey Behymer.
11 He directed me inside the house, which is a
12 single-wide mobile home, front door to the right of
13 the front with a small porch. I entered the house
14 where he directed me to go. And to the left, I
15 observed a white male shirtless laying on the
16 kitchen floor.

17 Q. So you've indicated that the victim was not
18 wearing a shirt. Other than that, was he wearing
19 clothing?

20 A. He was wearing pants, yes, ma'am.

21 Q. All right. What actions are taken by law
22 enforcement to secure a scene such as this?

23 A. Well, first and foremost, is treatment of the
24 person. So one of the first things I would do is
25 make sure that I felt safe for EMS to respond, to

1 come in, that the scene is secure. While doing
2 that, I also observe my surroundings, make sure
3 there's nothing of danger to myself or anybody else
4 that would be there.

5 Q. Such as weapons?

6 A. Yes, ma'am.

7 Q. Did you see any indications of weapons in that
8 home?

9 A. I did not.

10 Q. Did you see any indication of weapons on any of
11 the persons or parties that were inside that
12 residence?

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

14 Q. How do you go about making sure that each room
15 in the house is secure?

16 A. We do a search of the room. When I say search,
17 we go in looking for people that could harm somebody
18 or hurt somebody else, not necessarily objects or
19 anything like that. But while we're there, if
20 something is in plain view, we'd note it as well.

21 Q. Did you, ultimately, along with other units
22 clear the home?

23 A. Yes, ma'am.

24 Q. Now, you indicated that the victim was located
25 in what area of the home?

1 A. Kitchen area.

2 Q. Was anyone around him when you arrived?

3 A. There were several people around him trying to
4 tend to him to the best of their abilities when we
5 got there, yes, ma'am.

6 Q. And when you say trying to tend to him, can you
7 describe exactly what you observed them doing?

8 A. As you can imagine, it was complete chaos at
9 that point, but they were around the body trying to
10 help to the best of their abilities, kind of like
11 the dispatcher told them as far as holding pressure
12 and whatnot.

13 Q. So at this point, has the EMS unit actually
14 been allowed into the residence?

15 A. They weren't in the residence at that time, but
16 as soon as I entered the house, almost
17 instantaneously, I recall telling them the scene was
18 secure for them to come in.

19 Q. So I want to go back to the individuals that
20 you recall being around the victim, Mr. Prine, Josh
21 Prine. Do you recall their gender?

22 A. Yes, ma'am. And everybody was identified by
23 name at a later point by me. But there was a female
24 that was completely hysterical that was next to his
25 body.

1 Q. All right. And any other subject?

2 A. There were other males that were around the
3 area of the body, also, yes, ma'am.

4 Q. Did that expose them to blood from the victim?

5 A. Yes, ma'am.

6 Q. So I'll ask a little bit more about that. What
7 can you describe generally about the blood pattern
8 or blood pool that you observed being the first
9 officer there at the scene?

10 A. When I went in the house, you could see him
11 from the front door. He was laying on his back
12 motionless and there was a very large puddle of
13 blood around him and on him. It had been smeared
14 somewhat in the very close vicinity of his body from
15 where the other people were around him.

16 Q. I'm going to show you a photograph and ask you
17 whether or not you recognize it. Two photographs.

18 A. Yes, ma'am. That fairly and accurately depicts
19 what I saw when I entered the house.

20 Q. And the blood pool or pattern around Mr. Prine
21 that you described, can you tell us whether or not
22 that's a fair and accurate representation of what
23 you observed when you first arrived at the scene at
24 approximately 7:40 p.m.?

25 A. Yes, ma'am, it's what I saw that night.

1 MS. MAYES: Your Honor, at this time, this
2 would be State's Exhibits 2 and 3 for evidence.

3 THE COURT: Mr. Mauldin?

4 MR. MAULDIN: No objection, Your Honor.

5 THE COURT: May I see them, please, Solicitor?

6 MS. MAYES: Yes, sir, Your Honor.

7 THE COURT: All right. State's 2 and State's 3
8 in evidence without objection.

9 (State's Exhibit Nos. 2 and 3 admitted into
10 evidence.)

11 BY MS. MAYES:

12 Q. Now, Sergeant Black, I'm going to take a look
13 here, State's Exhibit 2. Going to look here at this
14 area around the kitchen and specifically around the
15 victim, Mr. Prine. Can you tell us whether or not
16 that would be the general area in which you observed
17 the female?

18 A. Yes, ma'am.

19 Q. And you said later, she was identified?

20 A. Yes. She was identified as Katie Vinson.

21 Q. Katie Vinson?

22 A. Yes, ma'am.

23 Q. And based upon your observations and
24 intelligence at the scene, what did you determine
25 her to be, what relationship to the victim?

1 A. Girlfriend or significant other.

2 Q. So Katie Vinson is here around Mr. Prine, and
3 then you indicated that there was also, at least,
4 one other male around the victim?

5 A. Yes, ma'am.

6 Q. Now, at any point in time, Sergeant Black, did
7 you observe any type of weapon around the floor area
8 or around any of the cabinet areas anywhere in that
9 kitchen?

10 A. No, ma'am.

11 Q. If you had noted such, would that be something
12 you would have brought to the attention of other
13 officers?

14 A. Absolutely.

15 Q. As well as secured as evidence?

16 A. Yes, ma'am.

17 Q. Looking here at State's Exhibit 3. What area
18 of the home is this right here that we're looking
19 at?

20 A. From the pictures, it looks like the hallway
21 leading to the -- I'm going to be quite honest,
22 ma'am; looking at just that little picture, I'm not
23 certain.

24 MS. MAYES: Begging the Court's indulgence.

25 THE COURT: Yes, ma'am.

1 BY MS. MAYES:

2 Q. I'm going to show you this item and ask you
3 whether or not you've had a chance to previously
4 review it?

5 A. That's the hallway leading to the back door.

6 Q. Have you had an opportunity to look at this?

7 A. Yes, ma'am.

8 Q. Can you tell us whether or not that's a fair
9 and accurate representation of the scene as you
10 recall it?

11 A. It is.

12 MS. MAYES: Your Honor, at this time, this
13 would be State's Exhibit 4 for evidence.

14 MR. MAULDIN: No objection, Your Honor.

15 THE COURT: State's 4 is in evidence without
16 objection.

17 (State's Exhibit No. 4 admitted into evidence.)

18 BY MS. MAYES:

19 Q. So looking here, Sergeant Black, the victim,
20 Mr. Prine, is located in the kitchen area. Is that
21 accurate?

22 A. That's correct, yes, ma'am.

23 Q. All right. Now, is there also -- how many
24 entrances do you recall to this residence?

25 A. Front and back door, pretty typical for a

1 single-wide mobile home.

2 Q. Did you have any opportunity to inspect those
3 entrances?

4 A. I did.

5 Q. And how so? What did you document your actions
6 to be?

7 A. Well, the back door was left open; it was
8 standing ajar. And I actually shut it and locked it
9 because part of our initial response is securing the
10 crime scene as well. And there were rooms in the
11 house that had padlocks on them as well, also.

12 Q. Where on the diagram is the back door? If I
13 need to move that around --

14 A. It's fine. It's the grayed-out area with the
15 black. Right here.

16 Q. So that's the back door. I'm going to show you
17 some photographs and ask you whether or not you
18 recognize them.

19 A. I do.

20 Q. Can you tell us whether or not that's a fair
21 and accurate representation of that portion of the
22 residence as you recall it?

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

24 MS. MAYES: And this would be State's 5, 6 and
25 7 for evidence.

1 MR. MAULDIN: No objection, Your Honor.

2 THE COURT: State's 5, 6, and 7 in evidence
3 without objection.

4 (State's Exhibit Nos. 5, 6, and 7 admitted into
5 evidence.)

6 BY MS. MAYES:

7 Q. Now, where State's 5 and 7 are concerned, you
8 mentioned that the door was actually ajar when you
9 found it?

10 A. Yes, ma'am.

11 Q. And having found the back door ajar, what did
12 you do?

13 A. I locked it because, like I said, part of our
14 initial response is securing the crime scene. By
15 locking it, I can ensure nobody came in the back
16 door and I can leave one officer at the front door
17 when the time became appropriate.

18 Q. Now, you had indicated previously that the
19 blood pattern that you observed was primarily around
20 Mr. Prine?

21 A. Yes, ma'am.

22 Q. Having observed that area of the back door and,
23 ultimately, taking the action to lock the door, did
24 you ever observe any type of blood trail leading out
25 of the back door?

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

2 Q. With that door being open and the door that you
3 ultimately closed, did you ever notice any droplets
4 of blood around the door itself?

5 A. I did not see any, no, ma'am.

6 Q. Was there any indication that an active bleeder
7 had left the scene?

8 A. No, ma'am.

9 Q. In addition to that area there around the
10 hallway leading to the back door and the back door
11 itself, was there ever any indication of any other
12 active bleeder out of any entrance of the home?

13 A. No, ma'am. The only blood that I saw was
14 surrounding his body.

15 Q. And then in addition to the blood on his body,
16 do you recall whether or not the female that you
17 mentioned had contact with him as well as the other
18 male there also had blood on them?

19 A. They did. She had a lot of blood on her, yes,
20 ma'am.

21 Q. And you indicated several males had been around
22 the body?

23 A. Yes, ma'am.

24 Q. Now, we talked about the interior of the home
25 and how you go through the efforts to clear the

1 scene, secure the scene. What efforts are taken on
2 the exterior of the residence?

3 A. Anything that we see coming up. That one was
4 obvious that the crime scene was inside the house.
5 As far as exterior residence, as soon as I had
6 everybody exit the house, one of the most important
7 things I had somebody do outside is I had a deputy
8 stay with all the witnesses outside to make sure
9 they couldn't discuss what had happened. And as far
10 as the front porch, we actually roped it off with
11 crime scene tape to secure the interior of the
12 house.

13 Q. Now, you mentioned that deputies were on the
14 outside with potential witnesses. Is that accurate?

15 A. That's correct, yes, ma'am.

16 Q. And why is that precaution taken?

17 A. I've done that over the years at every scene
18 like this, and it's to ensure that they don't
19 discuss what happens to come up with a common story
20 and what we hear from them is, in fact, what they
21 saw or observed and not what somebody else told
22 them.

23 Q. So going back to the interior of the home, once
24 the victim is observed by you in the kitchen, you
25 also observed the female and several males around

1 the victim, what instructions are given to them to
2 clear the kitchen?

3 A. Yeah. I told them as soon as EMS gets there
4 that they would have to leave. The actions they
5 were taking were to try to help him and that they
6 would have to leave as soon as EMS got there. And I
7 told them not to discuss what happened and that an
8 officer would stand by with them outside the house.

9 Q. Was the girlfriend, Katie Vinson, willing to
10 leave him?

11 A. Somebody had to physically pick her up and took
12 her out of the house.

13 Q. How many EMS providers were allowed in?

14 A. I only allowed one because, at that point, he
15 appeared to be lifeless to me, and the less people
16 to enter a crime scene, the more secure it is and
17 the better off we are.

18 Q. So the fact that one paramedic or EMS provider
19 was allowed in was a measure to secure the scene?

20 A. Correct.

21 Q. And, ultimately, based on your observations,
22 was there -- was it necessary to have Mr. Prine
23 transported to a hospital?

24 A. No, ma'am.

25 Q. And on the outside of the residence -- you

1 indicated that's the back door. What would your
2 description of this area be?

3 A. That's a front door with a small porch.

4 Q. Which side of the residence were your units
5 arriving at?

6 A. That mobile home -- Marty Lane is a dead-end
7 road, so that mobile home sits like this. Marty
8 Lane, passing it this way, you go to a dead end, so
9 we were actually in that direction and there's a
10 cut-through to Lawrence Drive, also. So there was
11 units -- they were all on that end of the house, the
12 other end of the house.

13 Q. Let me show you this document and see if it may
14 aid you. I'm going to show you this photograph and
15 ask you whether or not you recognize it.

16 A. I do. And if you can actually see a point --

17 Q. Before you describe it, just let me ask you:
18 Is that a fair and accurate representation from an
19 aerial perspective of the Marty Lane location?

20 A. It is.

21 Q. And you're familiar with this area of Red Bank?

22 A. I've worked that area over a decade, yes,
23 ma'am.

24 Q. And while I'm at it, I'll show you State's 8
25 and 9 and ask you whether or not you recognize those

1 items.

2 A. Yep. That fairly depicts the front of the
3 porch where the crime scene tape was put up to
4 secure the scene.

5 MS. MAYES: This would be State's 8, 9, and 10
6 for evidence, Your Honor.

7 MR. MAULDIN: No objection, Your Honor.

8 THE COURT: State's 8, 9 and 10 in evidence
9 without objection. And 8 is the aerial; is that
10 correct?

11 MS. MAYES: 10 is, Your Honor.

12 THE COURT: 8 and 9 are photos?

13 MS. MAYES: Exterior of residence.

14 (State's Exhibit Nos. 8, 9, and 10 admitted
15 into evidence.)

16 MS. MAYES: Your Honor, if I may ask the
17 witness to step down.

18 THE COURT: Yes, Sergeant, you may step down,
19 but keep your voice up.

20 THE WITNESS: Yes, sir.

21 MS. MAYES: I ask you to step around here to
22 make it easier for the court reporter to hear you.

23 THE WITNESS: Yes, ma'am.

24 BY MS. MAYES:

25 Q. And then, Sergeant Black, if you could tell us

1 what we're looking at here, specifically, this area
2 of Red Bank and --

3 THE COURT: Give me just a minute, Solicitor.

4 BY MS. MAYES:

5 Q. This area of Red Bank and the crime scene.

6 A. You ready? For those that are not familiar,
7 Platt Springs Road actually is going to run parallel
8 with the bottom of this. There's several other
9 roads between Platt Springs and this road. But
10 Marty Lane is a dead-end road. It runs back that
11 way. That is the residence where this incident
12 happened at. When I got there, familiar with the
13 road, I pulled in. My patrol car was in this area.
14 That's where the majority of the marked units come.
15 There were actually units, though, that came down
16 the drive, this cut-through between two roads that
17 were there. But all the police officers for the
18 most part were in this area.

19 Q. All right. Now, previously, a 911 call was
20 published where it indicated that a white Escalade
21 had left the scene heading down Marty Lane. Where
22 would Marty Lane be?

23 A. Marty Lane would be going that way. It would
24 be heading towards Platt Springs Road, so going
25 down.

1 Q. Thank you. You may return.

2 A. Yes, ma'am.

3 Q. Now, finally, you have identified the two
4 photographs in evidence, 8 and 9, as the exterior of
5 the residence. You mentioned previously a crime
6 scene log. When does a crime scene log begin?

7 A. Well, first and foremost is the welfare of the
8 person, but as soon as we have the actual crime
9 scene secured and have a chance to do so. It's not
10 instantaneously as soon as we get there, but it's as
11 soon as possible.

12 Q. And from that point on, does that log record
13 every person who enters that scene?

14 A. It does.

15 Q. And that includes law enforcement?

16 A. Includes anybody that goes in, yes, ma'am.

17 Q. Coroner's office?

18 A. Coroner's office, EMS, anybody.

19 Q. So you have a record of everyone going in and
20 out of this residence from the time that scene was
21 secured?

22 A. That is correct. And we actually -- me and the
23 other officer that went in before the crime scene
24 was put up, we put our name on there, too.

25 Q. All right. And again the crime scene tape was

1 put up at whose direction?

2 A. Mine.

3 Q. Did you ever observe anyone attempt to tamper
4 with the scene or enter that scene without the
5 permission or authority of law enforcement?

6 A. Nobody did.

7 Q. Now, throughout your involvement here at the
8 scene and your interaction with witnesses and, of
9 course, your communication with dispatch, were you
10 aware of a suspect by the name of Wade Frye?

11 A. Yes, ma'am.

12 Q. Was he ever at the scene from the point of your
13 arrival on?

14 A. No, ma'am, he was not.

15 Q. And you were made aware that the subject was in
16 a white Escalade?

17 A. I was.

18 Q. Were you made aware of that BOLO for the white
19 Escalade?

20 A. I was, yes, ma'am.

21 Q. What attempts did you make to, ultimately,
22 locate Mr. Frye after he left the scene in that
23 white Escalade?

24 A. I know that I went to, at least, one address
25 that was listed for him and I believe that concluded

1 my looking for him, besides the general broadcast.
2 Once Major Crimes gets there and the detectives get
3 there, things kind of get handed off to them because
4 we have to respond to all the other calls for
5 service.

6 Q. And so just to follow up on that a little bit
7 more, your job is to secure the scene. Whose job is
8 it to actually then enter that residence, process it
9 for evidence and collect potential evidence?

10 A. Crime scene officer.

11 Q. CSI officers?

12 A. CSI, yes, ma'am.

13 Q. And in this case, were those CSI officers
14 affiliated with the Lexington County Sheriff's
15 Department?

16 A. They were. We have our own Crime Scene Unit
17 and they process all our scenes.

18 Q. And you also mentioned the major crimes unit.
19 How quickly did they respond out there to the scene
20 after your arrival?

21 A. That was one of the fastest responses from
22 Major Crimes probably in my career. The reason
23 being is, as I was told later, that they responded
24 from the Sheriff's Department as soon as they heard
25 the call come out.

1 Q. And the major crimes unit is composed of what
2 type of officers within the Sheriff's Department?

3 A. They're the detectives who handle crimes
4 against persons.

5 Q. How many detectives would you estimate were out
6 there at that scene?

7 A. I'm not sure. There was multiple. It would be
8 a guess, but there was multiple.

9 Q. And, ultimately, who was the scene turned over
10 to within the major crimes unit?

11 A. At the time Sergeant, but now Lieutenant
12 Laintz.

13 Q. Sergeant Jesse Laintz seated here at the
14 State's table?

15 A. Yes, ma'am.

16 Q. And did those detectives with the major crimes
17 unit remain there at the scene even after you left?

18 A. They did. And any time there's a crime scene
19 like this, one uniformed officer stays as well. So
20 there would have been a patrol officer with a marked
21 car there.

22 Q. Now, you mentioned that you went to an address
23 searching for the defendant Wade Frye in that white
24 Escalade. Do you know if other addresses were
25 searched as well?

1 A. I believe they were, yes, ma'am.

2 Q. Whose authority or provision would that fall
3 under?

4 A. That, again, would go back to the detectives.
5 Everybody at the Sheriff's Department after the BOLO
6 is put out is doing their best to find him.
7 However, after the initial crime scene is contained,
8 everybody that's dealt with is turned over to Major
9 Crimes, so that would be under their purview.

10 Q. Throughout your involvement at the scene that
11 night and your attempts to locate Mr. Frye, were you
12 ever able to locate him?

13 A. No, ma'am.

14 MS. MAYES: Nothing further.

15 THE COURT: Thank you, Solicitor.

16 Mr. Mauldin.

17 MR. MAULDIN: I don't have any questions for
18 this witness, Your Honor.

19 THE COURT: Thank you very much, Sergeant.

20 Thank you for being with us today.

21 THE WITNESS: Yes, sir. Thank you.

22 THE COURT: How long is your next witness,
23 Solicitor?

24 MS. MAYES: May we approach?

25 THE COURT: Yes, ma'am.

1 (Sidebar conference.)

2 THE COURT: Call your next witness.

3 MR. BELL: Thank you, Your Honor. The State
4 calls Sergeant Kyle Williams to the stand.

5 KYLE WILLIAMS

6 being first duly sworn, testified as follows:

7 THE WITNESS: I do.

8 THE CLERK: Have a seat, sir. Once you're
9 seated, state your full name, spelling your last.

10 THE WITNESS: Kyle Edwin Williams,
11 W-I-L-L-I-A-M-S.

12 DIRECT EXAMINATION

13 BY MR. BELL:

14 Q. Sir, who are you employed by?

15 A. Lexington County EMS.

16 Q. And how long have you been with Lexington
17 County EMS?

18 A. Four years in July.

19 Q. What were you doing prior to Lexington County
20 EMS?

21 A. Paramedic for Orangeburg County.

22 Q. How many years in total do you have with EMS?

23 A. Ten.

24 Q. What's your current rank with the Lexington
25 County EMS?

1 A. Sergeant.

2 Q. Now, EMS, what sort of job duties go into that
3 job?

4 A. We provide transport of the sick and injured to
5 hospitals.

6 Q. Do you ever respond to the scene of a crime?

7 A. Yes, sir.

8 Q. What are your duties in that scenario?

9 A. Assessing the patient and make sure we don't
10 contaminate a crime scene.

11 Q. Have you ever worked a homicide before?

12 A. Yes, sir.

13 Q. Ballpark, how many have you worked?

14 A. 20 plus.

15 Q. Did you have reason to respond to [REDACTED] Marty
16 Lane on October 1st of 2015?

17 A. Yes, sir.

18 Q. And what was that response in reference to?

19 A. Gunshot wound.

20 Q. Do you recall what time you were initially
21 dispatched?

22 A. Maybe 7:29.

23 Q. What time did you actually arrive at the
24 patient?

25 A. 7:45.

1 Q. Now, upon arrival, were there any other
2 officials already on scene?

3 A. Sergeant Black.

4 Q. Where did you meet Sergeant Black?

5 A. At the front of the residence.

6 Q. Sergeant, I'm going to try to turn State's 10.
7 Are you able to see that?

8 A. Yes, sir.

9 MR. BELL: Permission to approach the witness,
10 Your Honor?

11 THE COURT: Yes, sir, of course.

12 BY MR. BELL:

13 Q. I'm handing you a laser pointer. If you would,
14 indicate on that aerial map where you responded to.

15 A. That house.

16 Q. Do you recall roughly where you pulled up your
17 EMS vehicle?

18 A. Somewhere in here, I believe.

19 Q. Okay. When you made contact with Sergeant
20 Black, where did he meet you at?

21 A. In the front of the residence, the front yard
22 of the residence.

23 Q. What indication did you have about the
24 condition of the scene?

25 A. As far as what?

1 Q. Do you know if it had been secured?

2 A. Yes, the scene was secured. He said the scene
3 was secured as far as like any immediate threats.

4 Q. If the scene wasn't secure, would you be
5 allowed to go in?

6 A. No, sir. It's our policy not to.

7 Q. Did you, ultimately, go inside the residence?

8 A. Yes, sir.

9 Q. And when you went inside the residence, did you
10 see any other people walking around?

11 A. No.

12 Q. Okay. Tell us how you walked through the
13 house. Where did you go?

14 A. We entered through the front door, up through
15 the living area to the kitchen where the victim was.

16 Q. Sergeant, I'm showing you what's been entered
17 as State's 4. Are you able to see that okay,
18 Sergeant?

19 A. Yes, sir.

20 Q. Using that laser pointer, would you mind
21 indicating the path that you took into the house?

22 A. (Complies.)

23 Q. And you're starting on the -- what porch is
24 that?

25 A. The front porch.

1 Q. And then you went through the living room?

2 A. Yes, sir.

3 Q. And is that roughly where you found the
4 deceased?

5 A. Yes, sir.

6 Q. When you initially approached the victim, were
7 there any signs of life?

8 A. No, sir.

9 Q. When you come into a scenario like that, how do
10 you proceed?

11 A. You want to be able to assess your patient,
12 make sure, you know, that they are not breathing and
13 do or do not have a pulse, but you want to make sure
14 you do not disturb the crime scene.

15 Q. Sergeant, I'm showing you what's been entered
16 as State's 2. Sergeant, are you able to see that
17 okay?

18 A. Yes, sir.

19 Q. Is that where you located the victim?

20 A. Yes, sir.

21 Q. And the position that he's shown in this
22 picture, is that the same position you found him?

23 A. Yes, sir.

24 Q. Did you manipulate his body at all?

25 A. No.

1 Q. Showing you what's been entered as State's 3.
2 One thing that I'd like to clear up, what are those
3 white pads that we see on the victim's torso?

4 A. Those are electrodes for our EKG, our cardiac
5 monitor that we apply to see if they have a
6 heartbeat or not.

7 Q. Aside from placing those patches, was there any
8 other manipulation?

9 A. No, sir.

10 Q. Did you have an opportunity to determine
11 whether or not his skin felt warm or cool?

12 A. It was cool.

13 Q. Is that something you document in your report?

14 A. Yes, sir.

15 Q. Were you able to determine where a wound was
16 located?

17 A. No, sir.

18 Q. And why not?

19 A. Because I didn't want to disturb the crime
20 scene.

21 Q. Was there any exterior bleeding?

22 A. Yes, sir.

23 Q. Did it appear that it was a minor trauma or
24 major trauma based on your experience?

25 A. Major.

1 Q. As you walked that path from the front porch to
2 the other side of the house in the kitchen, did you
3 notice any weapons in plain view?

4 A. No, sir.

5 Q. When you were examining the victim's body, did
6 you see any weapons in the area around him or on
7 him?

8 A. No, sir.

9 Q. And he's shown in this picture shirtless. Is
10 that how you found him?

11 A. Yes, sir.

12 Q. Did you cut his shirt off?

13 A. No, sir.

14 Q. Sergeant, I'm showing you what's been marked
15 for identification as State's 11. Based on the
16 position of the body in that picture, does that
17 fairly and accurately reflect how you found the
18 victim that night?

19 A. Yes, sir.

20 MR. MAULDIN: No objection.

21 THE COURT: State's 11 in evidence without
22 objection.

23 (State's Exhibit No. 11 admitted into
24 evidence.)

25 MR. BELL: Permission to publish?

1 THE COURT: Yes, sir, you may publish.

2 BY MR. BELL:

3 Q. The image that I just questioned you on,
4 State's 11, what angle is this picture being taken
5 from?

6 A. I believe it should be the back door area.

7 Q. Can you indicate using your laser pointer on
8 State's 4 what position that would be?

9 A. Right there.

10 Q. And again, is that the position of the body
11 that had not been manipulated?

12 A. Yes, sir, that's the position we found him.

13 Q. Referring back to State's 3. You indicated you
14 believed it was a major trauma event. Did you
15 estimate in your report how much blood you believed
16 he had lost?

17 A. I said 3,000 to 4,000 CCs, which it should be
18 even more than half of his circulating blood volume.

19 MR. BELL: Thank you, Sergeant.

20 THE COURT: Mr. Mauldin?

21 MR. MAULDIN: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. MAULDIN:

24 Q. That was the position of the body as you found
25 it; is that correct?

1 A. Yes, sir.

2 Q. You have no idea where it might have been
3 before?

4 A. Not prior to me getting there, no, sir.

5 MR. MAULDIN: No further questions.

6 THE COURT: Redirect?

7 MR. BELL: No, Your Honor.

8 THE COURT: Thank you, Solicitor.

9 Thank you, Sergeant Williams. Thank you for
10 being with us today. You may step down.

11 All right. Well, we had our brief technical
12 morning recess. Why don't we take another about
13 15-minute recess? Please do not discuss the case
14 during this brief recess. Please leave your notes.

15 (The jury exits the courtroom at 11:57 AM.)

16 THE COURT: Thank you very much. We'll take
17 about 15 minutes.

18 (Short break.)

19 THE COURT: Anything before we bring in the
20 jury from the State, Solicitor?

21 MS. MAYES: Your Honor, only that after the
22 next witness -- I know you had indicated you wanted
23 to break by 1:00. After the next witness, we would
24 probably be best suited to take up the matter of law
25 that we discussed yesterday that deals with drug use

1 by multiple parties in the home because the
2 afternoon witnesses, we anticipate, will be
3 addressing that.

4 THE COURT: Anything, Mr. Mauldin?

5 MR. MAULDIN: Nothing at this time, Your Honor.

6 (The jury enters the courtroom at 12:13 PM.)

7 THE COURT: All right. Our jury has returned.
8 Solicitor, you may call your next witness.

9 MR. BELL: Thank you, Judge. The State calls
10 Jeff Behymer to the stand.

11 JEFFREY BEHYMER

12 being first duly sworn, testified as follows:

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: Have a seat, sir. Once you're
15 seated, state your full name, spelling your last,
16 please.

17 THE WITNESS: Jeffrey Clinton Behymer,
18 B-E-H-Y-M-E-R.

19 DIRECT EXAMINATION

20 BY MR. BELL:

21 Q. Do you go by a nickname?

22 A. Yes, sir, J.C.

23 Q. Do you mind if I call you that?

24 A. Yes, sir.

25 Q. J.C., where do you live?

1 A. [REDACTED] Ben Kyzer.

2 Q. How old are you?

3 A. Twenty-five.

4 Q. Did you know a Joshua Prine?

5 A. Yes, sir, I do.

6 Q. Before his death, how long had you known him?

7 A. Two or three years.

8 Q. Did you know a Marion Wade Frye?

9 A. No, sir.

10 Q. Were you present the night that Josh was
11 killed?

12 A. Yes, sir, I was.

13 Q. And whose house were you at leading up to that
14 shooting?

15 A. Ray.

16 Q. Who is Roy?

17 A. Ray Alveshire.

18 Q. You said Ray?

19 A. Yes, sir.

20 Q. And what were you doing over at Ray's house?

21 A. I was going over there to purchase a new engine
22 for my car.

23 Q. How long were you hanging out at Ray's that
24 day?

25 A. Few hours that very afternoon waiting on him to

1 return home.

2 Q. Who else do you remember being there?

3 A. Josh Prine.

4 Q. What other people do you remember?

5 A. At the time that afternoon, I was there with
6 Josh the majority of the afternoon until Ray got
7 back.

8 Q. Leading up to the incident, tell us about
9 Josh's demeanor that day.

10 A. He was calm, collective, sat on the couch and
11 hung out for a few hours.

12 Q. Did anything seem out of the ordinary with him?

13 A. No, sir.

14 Q. Was he acting abnormal?

15 A. No, sir.

16 Q. Did Ray get home later that day?

17 A. Yes, sir.

18 Q. And leading up to the incident, can you tell us
19 who else ended up being at the house that evening?

20 A. That evening, no. Amanda was coming later that
21 evening, and Katie.

22 Q. Now, you mentioned an Amanda. Do you know how
23 she relates to these people that were at the house?

24 A. Friend.

25 Q. Do you know who she was closest with?

- 1 A. Yes, sir.
- 2 Q. Who was that?
- 3 A. Ray.
- 4 Q. Was that Ray's girlfriend?
- 5 A. Yes, sir, I believe it was at the time.
- 6 Q. Do you know Katie's last name?
- 7 A. No, sir.
- 8 Q. Do you know who she was closest with out of
- 9 that crowd?
- 10 A. Out of that crowd, Josh.
- 11 Q. How would you describe their relationship?
- 12 A. Boyfriend and girlfriend.
- 13 Q. Anybody else show up that evening?
- 14 A. Steven.
- 15 Q. You said Steven?
- 16 A. Yes, sir.
- 17 Q. Steven who?
- 18 A. Wade Frye.
- 19 Q. Are you referring to the person that got into
- 20 an argument with --
- 21 A. With Josh, yes, sir.
- 22 Q. And again, did you know him at the time?
- 23 A. No, sir.
- 24 Q. Did you even know his name as that night went
- 25 on?

1 A. No, sir.

2 Q. Referring you to State's 10, are you able to
3 see that from where you're seated?

4 A. Yes, sir.

5 Q. Where there's this little red orb, is that the
6 location you were at that night?

7 A. Yes, sir, it is.

8 Q. And again, whose house is that?

9 A. That is Roy's house.

10 Q. To be clear, is it Roy or Ray?

11 A. Excuse me. Ray.

12 Q. Did you stay inside the entire time you were at
13 that house?

14 A. Yes, sir.

15 Q. At any point in time, did you go outside?

16 A. Yes, sir. I stepped out on the front porch to
17 make a call to my mother.

18 MR. BELL: Permission to approach the witness,
19 Judge?

20 THE COURT: Yes, sir.

21 BY MR. BELL:

22 Q. I'm handing you a laser pointer, a little
23 button on the front end. I'm going to refer you to
24 what's been entered as State's 4. Does the layout
25 of this interior match up with Ray's house?

1 A. Yes, sir, it does.

2 Q. And could you indicate the front porch?

3 A. (Indicating.)

4 Q. And is that where you stepped out to make that
5 phone call?

6 A. Yes, sir, it is.

7 Q. While you were outside, did anything begin to
8 occur that was out of the ordinary?

9 A. Yes, sir, strong uses of language, like a
10 dispute.

11 Q. Where was that coming from?

12 A. Sounded from the kitchen area.

13 Q. And were you able to make out the voices?

14 A. Josh, I knew his voice, and the voice that I
15 wasn't familiar with.

16 Q. Were you able to make out what the argument was
17 over?

18 A. All I heard was money.

19 Q. Was it Josh's voice or the voice that you
20 didn't know that was talking about money?

21 A. The voice that I did not recognize.

22 Q. Did you eventually poke your head back inside
23 of the house?

24 A. Yes, sir, I did.

25 Q. What did you see when you went back in the

1 house?

2 A. A man standing there with a gun about arm's
3 length away from everybody. And as soon as I walked
4 in the door, it got turned my way, so I hit the
5 floor to slide right here to the bar. And that's
6 when I heard the two gunshots.

7 Q. Why did you slide to the bar?

8 A. Because I had the gun pointed straight at me
9 when I first poked my head into the front door.

10 Q. Now, I want to slow you down and back up for a
11 minute. When you were hanging out with Josh that
12 day at the house, did you see a weapon on him?

13 A. No, sir.

14 Q. Would you use your laser pointer again to
15 indicate where you saw the man that was holding the
16 gun?

17 A. Right in this general area.

18 Q. And that's the -- what area of the home?

19 A. Kitchen.

20 Q. Was there anybody in his immediate vicinity?

21 A. Josh was standing within arm's reach away, so
22 was Ray, and there's another fellow standing in
23 there that was -- there was three of them and it was
24 all within arm's distance away.

25 Q. Was anybody attacking Mr. Frye?

1 A. No, sir.

2 Q. And did you see any strikes thrown at the
3 person with the gun?

4 A. No, sir.

5 Q. Was the person with the gun able to extend the
6 gun out from their body?

7 A. Yes, sir.

8 Q. Was the person with the gun curled up into a
9 ball?

10 A. Not that I seen, no, sir.

11 Q. Was anybody else armed with a weapon that you
12 saw?

13 A. No, sir.

14 Q. Sir, I'm going to show you what's been marked
15 for ID as State's 13 through 16. If you'd look
16 through those pictures for me.

17 A. (Complies.)

18 Q. Do you recognize what's being displayed in
19 those photographs?

20 A. Yes, sir.

21 Q. Do those photographs fairly and accurately
22 reflect the area that they portray?

23 A. Yes, sir.

24 Q. And what area are they showing?

25 A. Right here in front of the kitchen bar, that

1 was in the living room area.

2 Q. Is that where you said you ducked behind when
3 you saw the gun?

4 A. Yes, sir.

5 MR. BELL: Your Honor, at this time, the State
6 would seek to enter State's 13 through 16.

7 MR. MAULDIN: No objection.

8 THE COURT: State's 13 through 16 in evidence
9 without objection.

10 (State's Exhibit Nos. 13 through 16 admitted
11 into evidence.)

12 MR. BELL: Permission to publish, Your Honor?

13 THE COURT: You may publish.

14 BY MR. BELL:

15 Q. Sir, I'm showing you what's been entered as 13.
16 Using your -- are you able to see that picture okay,
17 sir?

18 A. Yes, sir.

19 Q. Using your laser pointer, will you indicate
20 where it was that you hid behind?

21 A. On the screen or on your --

22 Q. On the screen. And you mentioned a bar or
23 shelf. What are you referring to there?

24 A. The bar that is in between the living room and
25 kitchen.

1 Q. And again, if you would just quickly refer to
2 State's 4, which is that diagram, and show us again
3 what you're talking about.

4 A. This bar right here.

5 Q. State's 14, what are we looking at?

6 A. Same thing, the bar between the kitchen and the
7 living area.

8 Q. And State's 15?

9 A. Same thing.

10 Q. And finally, in State's 16, what are we looking
11 at?

12 A. Facing towards the front door, standing right
13 beside the bar that's in between the kitchen and the
14 living area.

15 Q. Now, when you were in the home prior to this
16 incident taking place and you were hanging out with
17 Josh, was that shelf in the same condition as it's
18 in in these pictures?

19 A. No, sir.

20 Q. What condition was it in prior to the incident
21 taking place?

22 A. Straightened up, clean house.

23 Q. So what does it appear to be in this picture?

24 A. Wrecked.

25 Q. Another word for broken?

1 A. Yes, sir.

2 Q. Okay. Did you do that damage?

3 A. No, sir.

4 Q. Do you know who did it?

5 A. No, sir.

6 Q. But it was done after you went onto the front
7 porch to make your call?

8 A. Yes, sir.

9 Q. Now, you mentioned that you saw the unknown
10 person holding a gun. Were you able to make out a
11 make and model of it?

12 A. No, sir.

13 Q. What were you more concerned with at the time?

14 A. A handgun and getting out of the way.

15 Q. Since you didn't know the name of the person
16 that was wielding the gun, did you ever have an
17 opportunity to describe him to police?

18 A. Yes, sir.

19 Q. Do you recall how you described him?

20 A. I believe it was a fellow between 150 pounds of
21 weight with zits on his cheek.

22 Q. Showing you what's been marked for ID purposes
23 as State's 12. Do you recognize the individual?

24 A. Yes, sir.

25 Q. And is that the individual -- who is that

1 individual?

2 A. The fellow that was wielding the weapon.

3 Q. And do you see the marks that you're referring
4 to?

5 A. Yes, sir.

6 Q. How many do there appear to be?

7 A. Four, five, six.

8 Q. What cheek do you see the major ones on?

9 A. The left -- would be the right.

10 Q. His right?

11 A. His right.

12 Q. You described them as zits. Did he have those
13 markings prior to the incident that day?

14 A. Yes, sir.

15 Q. After the shots were fired, did you see where
16 the shooter ran off to?

17 A. Right out the back door.

18 Q. Referring to State's 4, would you indicate
19 where that is?

20 A. (Indicating.)

21 Q. Do you recall whether or not he had the weapon
22 at that point?

23 A. No, sir.

24 Q. Did you see it dropped on the floor?

25 THE COURT: You said no, sir, you don't recall?

1 THE WITNESS: No, sir, I do not recall seeing
2 any weapon.

3 BY MR. BELL:

4 Q. Did you see it dropped on the floor or anything
5 of that nature?

6 A. No, sir.

7 Q. After seeing him wave the gun around, did you
8 see the gun again?

9 A. No, sir.

10 Q. Leading up to this incident, did anybody make
11 physical contact with the guy with the gun?

12 A. Not that I seen, no, sir.

13 Q. Did you make an effort to call 911 or speak to
14 911 at any point?

15 A. Yes, sir.

16 Q. I'm going to publish a portion of State's
17 Exhibit 1, which is in evidence, and see if you can
18 recognize this voice for me. If at any point you
19 hear your voice, I want you to let us know. Okay?

20 (State's Exhibit No. 1 was published for the
21 jury and his Honor.)

22 BY MR. BELL:

23 Q. I see you just held your arm up. Are you
24 trying to signal something?

25 A. Yes, sir, that's me. Because I'm the one they

1 asked to grab the towel to apply pressure.

2 (State's Exhibit No. 1 continued to be
3 published.)

4 BY MR. BELL:

5 Q. Was that you that just answered the question
6 about where he was shot?

7 A. Yes, sir.

8 Q. Did you have an opportunity to look at Josh
9 yourself?

10 A. Yes, sir, I was the one with the towel.

11 Q. Why did you believe he was shot in the chest?

12 A. Because there was a puncture.

13 (State's Exhibit No. 1 continued to be
14 published.)

15 BY MR. BELL:

16 Q. Were you done with the call at that point?

17 A. I do believe so.

18 Q. Did you meet with law enforcement when they
19 arrived that night?

20 A. Yes, sir.

21 Q. Did you show them where everything occurred?

22 A. Yes, sir.

23 Q. J.C., who was the last person that you saw
24 holding a gun?

25 A. Wade Frye.

1 Q. And when you say Wade Frye, are you referring
2 to the person that you didn't know prior to that
3 day?

4 A. Yes, sir, the fellow with the zits.

5 MR. BELL: Thank you, sir.

6 THE COURT: Mr. Mauldin?

7 MR. MAULDIN: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. MAULDIN:

10 Q. Now, when the State was showing pictures of the
11 bar area, you're saying that that was straight out
12 earlier in the day?

13 A. Earlier in the day, yes, sir.

14 Q. Perpendicular with this wall here. But you
15 didn't cause it to go down like that?

16 A. No, sir.

17 Q. And you didn't see how it got --

18 A. No, sir.

19 Q. Now, is it Ray or Roy? You keep mixing it up.

20 A. It's Ray.

21 Q. You're not familiar with these people at all?

22 A. Yes, sir, it's just been a long time.

23 Q. Because you just played that 911 call and
24 you're asking somebody who got shot?

25 A. No, that wasn't me at the beginning of that

1 phone call who asked who got shot.

2 Q. That wasn't you? You said it was you on the
3 911 call.

4 A. That's two different people on that call.

5 Q. Who else was on that call?

6 A. I'm not sure of the person who initially was on
7 the beginning of the phone call, but I was handed
8 the phone and that's when I was talking to the
9 responders and they told me to go grab a towel. And
10 that's when I handed the phone back to the same
11 person.

12 Q. And who was that?

13 A. I'm not too sure.

14 Q. So that wasn't you at the end of that 911 call
15 that said there were guns in the house, but nobody
16 had them in hand?

17 A. No, sir, I was the one that was on the phone
18 that was explaining to them that Josh was not
19 breathing.

20 Q. And you didn't know the name of the guy that
21 had the phone at the beginning or the end?

22 A. No, sir. It was handed to me out of all the
23 chaos.

24 Q. Now, the -- when you went out to the front
25 porch to make that phone call, who was in the house

1 when you went out there?

2 A. Ray, Wayne, Josh, and I believe one other
3 fellow.

4 Q. Who was that?

5 A. I'm not too sure his name.

6 Q. All right. What about Katie, was she there?

7 A. Yes, sir, I do believe so.

8 Q. And that's Katie Vinson?

9 A. I don't know her by last name.

10 Q. Just Josh's girlfriend?

11 A. Yes, sir.

12 Q. And you say that when you went in the house,
13 you saw the shooter point a gun at you?

14 A. As soon as I walked through the door, it was
15 pointed in my direction.

16 Q. Was he drawing the gun out or was it already
17 out?

18 A. It was already out.

19 Q. That's when you ducked to the ground?

20 A. Yes, sir.

21 Q. But you didn't cause any damage to that bar
22 area?

23 A. No, sir, not that I believe.

24 Q. You talked with police that night?

25 A. Yes, sir.

1 Q. And you wrote a statement that night over two
2 years ago; is that right?

3 A. Yes, sir.

4 Q. And in that statement, didn't you say that you
5 didn't see the shooter?

6 A. Sir?

7 Q. In that statement -- when they asked you did
8 you see the shooter when you entered the house, did
9 you respond no, I was worried about my friend?

10 A. No, sir.

11 Q. Okay. Would looking at the statement refresh
12 your memory?

13 A. Got it right here in front of me.

14 Q. I'm referring to the second page of the
15 statement about a third of the way down. They
16 asked, did you see the shooter when you entered the
17 house?

18 A. Uh-huh.

19 Q. What was your written response?

20 A. No, worried about friend.

21 Q. So you did respond that you did not see the
22 shooter. You were worried about your friend; is
23 that correct?

24 A. Yes, sir.

25 Q. That's what you wrote?

1 A. That's what I wrote.

2 Q. The night of the incident?

3 A. Night of the incident.

4 Q. That you didn't see the shooter.

5 In the beginning of the statement, you wrote

6 you ducked when you heard shots --

7 A. Yes, sir.

8 Q. -- not when a gun was pointed at you?

9 A. Same page.

10 Q. First page.

11 A. Yes, sir, that is correct.

12 Q. And on the second page, you don't mention this

13 unknown person that was in the house with these

14 other people, do you?

15 A. No, sir.

16 Q. But now you do; is that correct?

17 A. Yes, sir.

18 Q. What kind of engine were you buying?

19 A. Honda engine.

20 Q. What kind of car?

21 A. Sir?

22 Q. For what kind of car?

23 A. For a Honda, it was V18 block with a V16 head

24 twin cam.

25 Q. Were there a bunch of car engines in the yard

1 or something like that?

2 A. No, sir, there was just one in particular.

3 Q. In the yard or in a car?

4 A. In his parents' yard.

5 Q. That would have been down the street?

6 A. Right, yes, sir, right next door.

7 Q. Okay. And that's Ray's parents, right?

8 A. Yes, sir.

9 Q. Okay.

10 MR. MAULDIN: I beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 MR. MAULDIN: No further questions, Your Honor.

13 THE COURT: Redirect?

14 MR. BELL: Thank you, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. BELL:

17 Q. Do you recall roughly how long it took law
18 enforcement to respond that night?

19 A. To the call or to be on scene?

20 Q. To be on the scene.

21 A. 15, 20 minutes.

22 Q. And in that time -- again, is that an
23 estimation?

24 A. Yes, sir.

25 Q. And in that time, did you see any guns?

1 A. No, sir.

2 Q. Do you have any idea what that statement
3 defense counsel questioned you on meant when someone
4 said yeah, there's guns here?

5 A. That was confusing, yes, sir.

6 Q. And the person that made that comment, is that
7 the person you said you didn't know who it was?

8 A. Yes, sir.

9 Q. Did they come after the incident or before the
10 incident?

11 A. I'm not too sure.

12 Q. The statement about not seeing the shooter, how
13 many pages into your written statement was that?

14 A. First page.

15 Q. If you take a look at your statement and look
16 for that specific line. Let me know when you locate
17 it.

18 A. All right. I believe I found it.

19 Q. What page was that on?

20 A. First one.

21 Q. And tell me what line you think it's on.

22 A. Right there towards the bottom of my statement
23 before there are questions.

24 Q. Show me where you're looking.

25 A. (Complies.)

1 Q. Right. Do you recall being questioned
2 specifically about -- any question about did you see
3 the shooter?

4 A. No, sir.

5 Q. Refer to Page 2 out of 3 on your statement.
6 And then if you'll look about five questions down,
7 do you see a question about seeing the shooter when
8 you entered the house?

9 A. No, sir.

10 Q. In your statement, did you describe the
11 clothing that the shooter had on?

12 A. Yes, sir.

13 Q. Did you describe that he had zits?

14 A. Yes, sir.

15 Q. How many total pages was your statement?

16 A. Three.

17 Q. And is the question that you were asked by
18 defense counsel, is that just one question out of a
19 long statement that you gave?

20 A. Yes, sir.

21 Q. Do you recall the context of that question,
22 meaning what you were trying to describe at that
23 time?

24 A. Yes, sir.

25 Q. Can you tell us about it? Do you understand my

1 question?

2 A. No, sir. Could you please repeat that?

3 Q. Absolutely. When you gave the statement back
4 in 2015, you were asked a lot questions; is that
5 right?

6 A. Yes, sir.

7 Q. And one particular question out of all of them
8 you were asked about mentions did you see the
9 shooter when you entered the house; is that right?

10 A. Yes, sir.

11 Q. Did you answer that question?

12 A. Yes, sir, I believe I did.

13 Q. And can you explain why you wrote the answer
14 you did back then?

15 A. Because that's what I seen.

16 MR. BELL: Beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 BY MR. BELL:

19 Q. What did you mean when you said you were
20 worried about your friend in your statement?

21 A. Because after I heard the gunshots and I looked
22 around the bar, my friend was laying in a puddle of
23 blood.

24 Q. And who was the person that was pointing a gun
25 at your friend?

1 A. The fellow that had zits on his cheek.

2 Q. I apologize, J.C., we're trying to understand
3 some context here. The answer that you gave about
4 no, I was worried about my friend, I didn't see the
5 shooter, was that question before the incident or
6 after the incident?

7 MR. MAULDIN: Objection to leading, Your Honor.

8 THE COURT: Wait just a minute.

9 THE WITNESS: I can't completely remember.

10 THE COURT: Overruled. You may answer the
11 question.

12 THE WITNESS: Not too sure.

13 BY MR. BELL:

14 Q. The events that you described via your
15 testimony here today, is that what you saw?

16 A. Yes, sir.

17 MR. BELL: Thank you, sir.

18 THE COURT: Recross, Mr. Mauldin?

19 MR. MAULDIN: Thank you.

20 RE CROSS-EXAMINATION

21 BY MR. MAULDIN:

22 Q. You were telling the solicitor about the
23 unknown person that was in the kitchen when you say
24 you saw him pointing a gun with Josh and Ray and an
25 unknown person; is that right?

1 A. Yes, sir.

2 Q. Is that the same person that was on the phone?

3 A. I'm not too sure.

4 Q. It might have been another person entirely?

5 A. It possibly could have been one of the -- I'm
6 not too sure.

7 Q. Are you sure about how many people might have
8 been in the house?

9 A. Yes, sir.

10 Q. You are sure?

11 A. Yes, sir.

12 Q. How many were there?

13 A. Five.

14 Q. Who were they?

15 A. The three that was in the kitchen, Josh, Ray,
16 unknown person, me and the shooter.

17 Q. And what about the unknown person that was on
18 the phone, was he at the house?

19 A. Yes, sir, after the fact, after the shooting.

20 Q. After the shooting. Okay.

21 MR. MAULDIN: No further questions.

22 THE COURT: Thank you very much, Mr. Behymer.

23 You may step down.

24 How long is your next witness, Solicitor?

25 MS. MAYES: We would go past 1:00, Your Honor.

1 THE COURT: All right.

2 All right. Ladies and gentlemen, perhaps, now
3 would be a good time to take our luncheon recess. I
4 remind you during this recess, do not discuss the
5 case with others, including your fellow jurors,
6 lunchmates, family, friends, anyone else. Do not
7 read, watch or listen to any news reports, new
8 accounts, should there be any. Do not do any
9 independent research or any research on the
10 internet.

11 With that being said, I do have one matter to
12 take up outside of your presence, so I'm going to
13 give you somewhat of an extended lunch and ask you
14 to be back at 2:30. If you'll please be back at
15 2:30. Enjoy the Lexington downtown lunch traffic.
16 Hope y'all have a pleasant lunch. If you'll leave
17 your notes, the clerk will secure them. Thank you
18 very much.

19 (The jury exits the courtroom at 12:48 p.m.)

20 THE COURT: All right. Solicitor, you have a
21 matter for me to take up outside the presence of the
22 jury?

23 MS. MAYES: Yes, sir, Your Honor. The
24 afternoon witnesses being persons who resided in the
25 home. They are Ray Boyer, Jr., he is actually the

1 homeowner. Katie Vinson, she also was residing at
2 the residence with her boyfriend, who is the
3 deceased victim in this case, Josh Prine. So that's
4 Ray Boyer and Katie Vinson, residents of the house.
5 They are familiar with the defendant in this case,
6 Wade Frye.

7 Their testimony would be that he has come to
8 the home on multiple occasions. Their connection to
9 him was a drug-related connection. Katie was a user
10 of methamphetamine. Her boyfriend, Joshua Prine,
11 was a user of methamphetamine. Ray Boyer, Jr., the
12 homeowner, is a user of methamphetamine, but also
13 distributes methamphetamine out of the house with
14 the defendant in this case, Wade Frye, Jr. Both of
15 them used that location to distribute
16 methamphetamine or ice to others. The plug that
17 they have both received ice from in the past is a
18 person by the name of Matthew Bowers. But I'm
19 advising the Court of that as a means of providing
20 some history on the case.

21 What we anticipate both Katie Vinson and Ray
22 Boyer, Jr., to testify to is that they knew that
23 Wade Frye had a Crown Royal bag. They had agreed to
24 allow him stay the previous night at that residence
25 and store some items at that residence because he

1 had had a fight or an argument with his girlfriend,
2 Katelyn Turner. He and Ms. Turner reside at another
3 residence over on Kitty Drive also in the Red Bank
4 area.

5 During that time period where he had stayed
6 over at the house, he alleged that money was missing
7 from the Crown Royal bag. They know that Crown
8 Royal bag to contain his ice and his drug-resulted
9 proceeds. He became convinced that Ms. Vinson had
10 taken the money, that Joshua Prine had taken the
11 money and also accosted another person or guest at
12 the house earlier that day that Ms. Vinson
13 witnessed, and his name is Arian Boulware, but also
14 accosted him or accused him of taking the missing
15 Crown Royal bag. And they will describe that he was
16 irate. He would not let it go, according to Ray
17 Boyer, Jr., and he wanted to recover this lost
18 money.

19 And again, Your Honor, we're dealing with a
20 situation where I believe Mr. Mauldin has already
21 stated to the jury in opening arguments -- although
22 it's not evidence, stated to the jury in opening
23 arguments, you know, this is not a home that you go
24 to for Thanksgiving. This is not your ordinary
25 house. So we can't use a brush and just paint the

1 members of the house as not so much upstanding
2 citizens as it was implied without now giving it a
3 context. Yes, they were using the drugs in the
4 house, but they were using drugs in the house with
5 Mr. Frye on the day of the incident. This argument
6 was about lost drug proceeds. And that, ultimately,
7 is what the testimony would be.

8 I don't know how much detail would need to be
9 gone into other than that, but their connection to
10 Mr. Frye was a drug connection. So to imply to the
11 jury this isn't a place you go to for Thanksgiving
12 and I believe the other statement made was these
13 witnesses' testimony will be subject to scrutiny,
14 yes, as long as the jury is aware of the fact that
15 all of them are involved in this together, including
16 the defendant.

17 THE COURT: Would someone move this for me,
18 please?

19 MS. MAYES: Yes, sir, Your Honor. I will.

20 THE COURT: Mr. Mauldin.

21 MR. MAULDIN: Your Honor, I would object to
22 that evidence being introduced under Rule 403, Rule
23 404(b) and Lyle and its progeny and would also say
24 it's not res gestae.

25 THE COURT: When you say that evidence --

1 MR. MAULDIN: The drug evidence.

2 THE COURT: What about the Crown Royal bag?
3 You object to the Crown Royal bag being
4 introduced -- if it existed, I don't know if it
5 existed or not. I'm selling it like I bought it.

6 MR. MAULDIN: Yes, sir, Your Honor.

7 THE COURT: You object to that?

8 MR. MAULDIN: No. I was -- the fact that it's
9 a Crown Royal bag, I wouldn't object to; the fact
10 that it was involved in drugs, I would.

11 THE COURT: You don't object to the Crown Royal
12 bag being introduced. Do you object to knowledge by
13 Mr. Boyer and Ms. Vinson that money was kept by
14 Mr. Frye in the Crown Royal bag?

15 MR. MAULDIN: No, Your Honor.

16 THE COURT: You object to -- and I don't know
17 what the testimony specifically may be, to the
18 connection between Mr. Boyer and Ms. Vinson and
19 Mr. Frye?

20 MR. MAULDIN: As far as being drug dealers
21 together?

22 THE COURT: I didn't understand that Ms. Vinson
23 was a drug dealer. I understood that Mr. Boyer and
24 Mr. Frye were. I understood she was a drug user.
25 But as to --

1 Is that correct?

2 MS. MAYES: That's correct, Your Honor.

3 MR. MAULDIN: As it relates to --

4 THE COURT: As to the drugs or the relationship
5 or part of the relationship that the three of those
6 had?

7 MR. MAULDIN: Yes, sir.

8 MS. MAYES: And I believe Adams is the case
9 that we discussed yesterday, Your Honor, that also
10 deals with a similar issue in terms of putting into
11 context the relationship between the parties.

12 Our concern is statements like this isn't a
13 Norman Rockwell painting have already been made to
14 the jury. They've already heard that, we can't undo
15 that. So the attempt being made by the defense to
16 paint the victims and the people in the house and
17 the witnesses as if they're all part of some illicit
18 activity without putting it into context...

19 THE COURT: Tell me specifically, Solicitor,
20 which Lyle exception are you referring to under
21 404(b)?

22 MS. MAYES: Your Honor, the State's position is
23 that it would be more of a res gestae issue than a
24 classic 404(b) regarding absence or mistake or
25 common scheme or identity. Although with that said,

1 motive certainly would be applicable here as well as
2 a 404(b) exception as it was in the Adams case. The
3 motive is to recover the drug money because he owes
4 it to someone else.

5 But with that said, again, I believe it would
6 be your classic res gestae exception as well in that
7 it goes to the context of the facts and
8 circumstances of that day. And the jury has already
9 heard certain things; it's already been implied that
10 the witnesses aren't trustworthy or subject to
11 scrutiny and this is not a Norman Rockwell painting.
12 So pursuant to the res gestae exception, this
13 testimony would be needed for a full presentation of
14 the facts, a full explanation of the circumstances
15 and putting into context how the events led to that
16 altercation in the kitchen.

17 The extent of prior dealings, Your Honor, is
18 not something that we're necessarily going into. We
19 just want to establish that their connection to one
20 another was a drug connection. They're not
21 long-term friends otherwise. They were all users of
22 methamphetamine, including the defendant, and as
23 stated previously, he had multiple sores on his body
24 from that. According to reciprocal Rule 5 we
25 received from the defense, they intend to imply

1 somehow injuries were sustained during some kind of
2 altercation when, in fact, these people that have
3 used methamphetamine with him previously are
4 familiar with those sores on his body and have seen
5 them before as a result of his methamphetamine use.

6 In addition to that, Your Honor, as I stated, I
7 believe it's just necessary for a full presentation
8 of the facts as to why he was in a rage and
9 demanding this money from multiple people in the
10 house and, ultimately, from Mr. Prine.

11 THE COURT: I've never done a study of this, I
12 don't know if anyone else has, of how many times in
13 the history of her tenure on the Supreme Court Chief
14 Justice Toal and, previously, Justice Toal, how many
15 times her dissenting opinions become law within
16 about three to five years of her dissent. They're
17 actually fascinating to read.

18 And that dissenting opinion with the res gestae
19 theory came out in State vs. Smith, which is cited
20 in State vs. Adams. State vs. Smith being 309 S.C.
21 442, 1992, wherein she did dissent. And it is the
22 theory of -- the rationale underlying the res gestae
23 theory is that evidence of other criminal conduct
24 that occurs contemporaneous with or as part and
25 parcel of the crime charged is considered part of

1 the res gestae of that offense.

2 Under res gestae, evidence of other crimes is
3 admissible where it is intimately connected with the
4 pending offense or is necessary to provide a
5 complete story or explanation of the pending
6 offense. Cited State vs. Johnson, 306 S.C. 119,
7 1991 and cert denied 503 U.S. 993, 1691, 1992, and
8 State vs. Bolden, 303 S.C. 41, State vs. Smith, the
9 one I just cited, and noted in State vs. Hough,
10 H-O-U-G-H, a 1995 South Carolina Supreme Court case,
11 where the uncharged offense is so linked together in
12 point of time and circumstances with the crime
13 charged that one cannot be fully shown without
14 proving the other, admissibility of evidence of the
15 other crime is appropriate in order to complete the
16 story of the crime on trial by proving its immediate
17 context of the res gestae.

18 Now, maybe I have missed it, but I have heard
19 no testimony and no statements by the attorneys that
20 Mr. Frye on 1 October 2015 had used or taken drugs
21 or was attempting to recover any drugs that were in
22 a Crown Royal bag. From pretrial through opening,
23 it's all been money. It's all been money. That's
24 all I've heard. There's no evidence in the record
25 that he was suspicious of anyone for taking any

1 drugs, just money. The money -- I don't know if it
2 was taken or not, obviously, but I believe now
3 Detective, then Deputy Smith, testified it was
4 \$482 he had -- no, however much money it was, \$482
5 of it was his girlfriend's. And I thought that was
6 recovered off of him at the time he was transferred
7 from the Richland deputy to Lexington Deputy Smith.

8 My close reading of State vs. Adams says the
9 evidence of Adams' cocaine use prior to the robbery
10 and murder at Johnny's Groceries was admissible both
11 to show motive and as part of the res gestae. We
12 appreciate the great possibility that unfair
13 prejudice may result from evidence of a criminal
14 defendant's past use of cocaine in prior cases.
15 Therefore, we have been especially careful to ensure
16 that evidence of prior drug use actually falls
17 within one of the exceptions to Lyle and that its
18 probative value outweighs the danger of unfair
19 prejudice to the defendant. Although several cases
20 are relevant to this issue generally, three are
21 particularly relevant. And that's citing the
22 dissent in Smith. State vs. Bolden, the Court
23 indicated where drug use is unrelated to the crime
24 at issue, evidence of the drug use should be
25 excluded. We also rejected the dissent's argument

1 that the evidence of cocaine use was part of the res
2 gestae. In so doing, the Court made special note
3 that the prior incident of the defendant smoking
4 cocaine at an unspecified time was certainly not
5 contemporaneous with the victim's murder.

6 In Bolden, the Court found the trial court
7 erred in allowing evidence the defendant smoked
8 crack cocaine the night before he committed an armed
9 robbery. Evidence presented at trial indicated the
10 defendant had checked into a hotel with a woman and
11 had smoked crack cocaine while at the hotel. The
12 next morning, he robbed the hotel clerk at gunpoint.
13 We held that there is nothing in the record to
14 indicate a logical relevance between use of crack
15 cocaine during the night before the robbery and the
16 robbery which occurred at 6:10 a.m. the next day.
17 The Court rejected the argument by the State and the
18 dissent that evidence of defendant's use of crack
19 cocaine the night before the robbery was admissible
20 as part of the res gestae.

21 State vs. Coleman, the Court unanimously held
22 that the trial court should not have allowed
23 evidence that the defendant was a social user of
24 cocaine. The Court recognized that evidence of
25 prior bad acts sometimes is admissible, but found

1 that the trial judge abused his discretion and
2 committed legal error in admitting such evidence.
3 While there was testimony the appellant apparently
4 appeared wired on the morning of the murder, there
5 was no evidence to suggest the appellant's condition
6 was the result of cocaine use.

7 Further, there was nothing in the record to
8 support the inference that the victim and the
9 appellant were involved in a drug transaction. The
10 evidence of appellant's social use of cocaine was
11 therefore incompetent to establish a motive for the
12 murder. In fact, the only function of this evidence
13 was to demonstrate appellate's bad character and
14 social irresponsibility. The prejudice to appellate
15 as a result of the admission of the evidence far
16 outweighs its probative value.

17 And that's drug use, not drug distribution and
18 use. And it -- if you go on and read Adams, it says
19 evidence in the record in Adams is competent to show
20 Adams' motive for robbing Johnny's Grocery because
21 the evidence itself establishes a relationship
22 between drug use and the robbery. If you could put
23 in there drug distribution and the robbery. And
24 Adams indicated he and Brown robbed the Circle K and
25 spent the money on rocks, about \$60 worth. We

1 smoked what we bought. Pookie came around. She
2 told us about a place, Johnny's Grocery. She then
3 told us the store we did around 6:00 a.m. And then
4 they were getting high in the morning and that the
5 money from the robbery of Johnny's Grocery was used
6 to buy rocks.

7 And it -- the evidence that Boyer and Vinson
8 know Mr. Frye -- right now, the motive for the
9 murder, if it were a murder, assuming it was a
10 murder, the murder is to recover money. And all the
11 money a drug dealer may have doesn't necessarily
12 mean it's drug money. I don't think it's -- by
13 clear and convincing evidence reaches the standard
14 of State vs. Lyle. I just don't think that's the
15 motive -- there's no evidence in the record that's
16 the motive for the murder. The motive for the
17 murder is -- what I've heard from the testimony in
18 the record so far is money. People kill for money
19 all the time.

20 MS. MAYES: And then, Your Honor, if the
21 Court's ruling is, of course, because defense is
22 making a motion to exclude any reference to the
23 defendant being involved in drug activity, then the
24 State has a motion in limine. This goes both ways.
25 It's completely unfair and a misrepresentation to

1 the jury for counsel to imply that they are involved
2 in drug activity --

3 THE COURT: I'm not -- I'll move in limine, but
4 I can't tell you what might happen with my ruling --
5 most people don't realize that I very often quote
6 Justice Sonia Sotomayor of the United States Supreme
7 Court. Lawyers make the record; judges just rule on
8 the record. That record is not before me except
9 through the attorneys. I'm not making an
10 anticipatory ruling on whether the door is or is not
11 open. If they say, well, we met Wade Frye in the
12 young adult Sunday School at the First whatever
13 denomination church you want to talk about, or if
14 they imply -- he implies while Mr. Boyer and
15 Ms. Vinson may have been using or abusing or
16 distributing drugs while he was in Bible study, I
17 get that. I'm like Alicia Keys; I don't have to
18 read between the lines to get that. But right now,
19 there's not the connection with the drugs and the
20 murder.

21 MS. MAYES: And then, Your Honor, I would
22 add -- of course, we're talking all of this up at
23 this stage before we put witnesses up --

24 THE COURT: Yes, ma'am, and that could change,
25 of course. And if you think it does, you know,

1 Solicitor, you've tried enough cases in front of me,
2 just say I've got a matter of law to take up.

3 MS. MAYES: And we didn't want to tread that
4 ground in front of the jury.

5 Finally, Your Honor, we'd say there is a
6 witness, Matthew Bowers, who is the cousin of the
7 defendant, who had supplied him with, what he calls
8 fronted him, he fronted him ice. He fronted him
9 \$500 worth of ice and so that money has to be paid
10 back to him, ultimately is what he says. And he had
11 a conversation with the defendant and the defendant
12 was stressing. And, of course, that's information
13 we had relayed to defense counsel prior to the
14 trial, but that would ultimately go to state of mind
15 of the defendant to recover that money.

16 THE COURT: So what are you asking me in that
17 regard?

18 MS. MAYES: Your Honor, just laying out that we
19 would potentially have more testimony that we could
20 proffer, but that would not be until tomorrow.

21 THE COURT: All right.

22 MS. MAYES: That's all at this time.

23 THE COURT: Thank you, Solicitor.

24 Anything further, Mr. Mauldin?

25 MR. MAULDIN: No, Your Honor.

1 THE COURT: I have not and will not make a 403
2 ruling at this time on that evidence, on the
3 evidence of Mr. Bowers and Ms. Vinson.

4 All right. Thank you very much. 2:30.

5 (Luncheon recess 1:29 PM - 2:38 PM.)

6 THE COURT: Anything before we bring in our
7 jury, Mr. Mauldin?

8 MR. MAULDIN: No, Your Honor.

9 THE COURT: Solicitor?

10 MS. MAYES: No, Your Honor.

11 (The jury enters the courtroom at 2:37 PM.)

12 THE COURT: Welcome back, ladies and gentlemen.
13 I hope y'all had a pleasant lunch. We are
14 continuing the trial of the case by the presentation
15 of evidence by the State in its case in chief. If
16 you would please give the parties your complete and
17 undivided attention as you have done throughout the
18 trial of the case.

19 Solicitor, you may call your next witness.

20 MS. MAYES: The State calls Katie Vinson.

21 KATIE VINSON

22 being first duly sworn, testified as follows:

23 THE WITNESS: Yes, ma'am.

24 THE CLERK: Once you're seated, state your full
25 name, spelling your last, please.

1 THE WITNESS: Katie Vinson, V-I-N-S-O-N.

2 DIRECT EXAMINATION

3 BY MS. MAYES:

4 Q. Good afternoon, Ms. Vinson.

5 A. Hey.

6 Q. I'm going to need you to pull that microphone a
7 little bit closer. How old are you, Ms. Vinson?

8 A. I'm 32.

9 Q. And who do you currently reside with?

10 A. My parents.

11 Q. How is it that you knew the victim in this
12 case, Joshua Prine?

13 A. He was my boyfriend.

14 Q. You said you currently live with your parents?

15 A. Yes, ma'am.

16 Q. Where are you working?

17 A. Lizard's Thicket.

18 Q. That's the Lexington County Lizard's Thicket?

19 A. Yes, ma'am.

20 Q. I want to take you back to 2015. Where were
21 you and Joshua, your boyfriend, living in October of
22 2015?

23 A. On Marty Lane.

24 Q. And who were you living there with?

25 A. Ray and Amanda.

1 Q. When you say Ray, who is Ray?

2 A. Joshua's good friend and mine.

3 Q. What is Ray's last name?

4 A. Boyer.

5 Q. There's been talk about various people who
6 either resided in the home or would visit the home,
7 so I just want to ask you a little bit more about
8 that. This is the residence at [REDACTED] Marty Lane. So
9 that's Ray Boyer, you, Katie Vinson, and Josh.
10 Katie, how long had you and Josh been living there
11 at [REDACTED] Marty Lane?

12 A. About two weeks. We had just moved in there.

13 Q. And were pretty much all of your belongings
14 there?

15 A. Yes, ma'am.

16 Q. What about Josh?

17 A. His also.

18 Q. Now, where was Josh working?

19 A. Lucas Septic.

20 Q. And when he worked at Lucas Septic, is that a
21 day job or night job?

22 A. Day job.

23 Q. So on this particular occasion, October 1st of
24 2015, do you recall whether or not Josh worked that
25 day?

1 A. Yes, ma'am, he did.

2 Q. What time would he normally get home from work?

3 A. About 4:30 or 5:00.

4 Q. I want to take you back to that morning. About
5 what time does Josh normally go to work when he's
6 working for Lucas Septic?

7 A. In between 6:30 and 7:00, depending on the job.

8 Q. And that would be 6:30 and 7:00 a.m., correct?

9 A. Yes, ma'am.

10 Q. All right. So after Josh went to work that
11 morning, on the morning of October 1st, who do you
12 recall being there?

13 A. Myself, Ray Boyer. That was it that morning.

14 Q. All right. And did anyone else drop by?

15 A. Yes, ma'am.

16 Q. Who do you recall dropping by?

17 A. Ryan Boulware, A.J.

18 Q. I'm going to write their names on here as we
19 go. So these would be visitors at the home; is that
20 correct?

21 A. Yes, ma'am.

22 Q. You said Ryan Boulware and A.J.?

23 A. Yes, ma'am.

24 Q. Who is A.J.?

25 A. He's a friend of Ray, I believe.

1 Q. All right. And do you know whether that's
2 Aaron Gwilliam?

3 A. Yes, ma'am.

4 Q. Now, Katie, had anybody else been in that house
5 in the last 24 hours?

6 A. Yes, ma'am.

7 Q. And specifically, did anybody else ask for a
8 place to stay the night before?

9 A. Not to me, but to Ray.

10 Q. And when you say to Ray, is it pretty much
11 Ray's house?

12 A. Yes. His name was on the lease, but we were
13 all residing there.

14 Q. You and Josh and Ray?

15 A. Right.

16 Q. Who is the person that asked Ray for a place to
17 stay the night before?

18 A. Marion Wade Frye.

19 Q. Is that the defendant in this case?

20 A. Yes, ma'am.

21 Q. Had he crashed over the night before?

22 A. Yes, ma'am.

23 Q. I'll put his name on here as well. That's the
24 defendant, Wade Frye. Now, did you know Wade Frye
25 very well?

1 A. No, ma'am.

2 Q. About how long had you known him?

3 A. About a week.

4 Q. And how is it that you got to know him?

5 A. Through Ray Boulware.

6 Q. Okay. So was that the first and only time he'd
7 been to the house that week?

8 A. No, ma'am.

9 Q. He'd been other days that week as well?

10 A. Yes, ma'am.

11 Q. Just dropping by?

12 A. Yes, ma'am.

13 Q. Was there any connection between Wade and your
14 boyfriend, Josh? And by connection, I mean were
15 they close friends?

16 A. No, ma'am.

17 Q. Did they know each other well at all?

18 A. No, ma'am.

19 Q. So after Wade stays over the night before, now
20 we're in the next morning. Josh is at work, you're
21 at home, Ray's at home. You've testified Ryan and
22 A.J. dropped by. What happened next?

23 A. That morning?

24 Q. Uh-huh.

25 A. Ray and, I guess, some of his other friends, I

1 can't remember exactly who they were, had to go to
2 SCE&G to have the lights put over in somebody else's
3 name.

4 Q. Did there ever come a time when you saw
5 interaction between Wade, the defendant, and Ryan
6 Boulware?

7 A. Yes, ma'am.

8 Q. When did that occur?

9 A. Early afternoon that day.

10 Q. Tell us what you recall.

11 A. I recall Ryan Boulware and Wade Frye exchanging
12 a firearm.

13 Q. Okay. So a firearm exchange between this
14 person, Ryan Boulware, and the defendant, Wade Frye?

15 A. Yes, ma'am.

16 Q. Now, prior to that, did you hear Wade Frye
17 talking about anything?

18 A. Yes, ma'am.

19 Q. What was he talking about?

20 A. Somebody had stole \$500 from him.

21 Q. All right. So he's saying someone stole \$500
22 from him. Who was he approaching about that?

23 A. Ryan Boulware at that time.

24 Q. And what did you see Ryan do in response to
25 getting approached about his money he says was

1 missing?

2 A. Emptied his pockets.

3 Q. So you saw Ryan empty his pockets?

4 A. Yes, ma'am.

5 Q. Did he appear to have his money?

6 A. No, ma'am.

7 Q. And what did you hear him say, if anything,
8 about the firearm?

9 A. If I recall correctly, it was for collateral
10 until the money was recovered.

11 Q. I'm going to ask you to explain that a little
12 bit more. Who said it was collateral until the
13 money was recovered?

14 A. Wade Frye.

15 Q. Who did he take that firearm from?

16 A. Ryan Boulware.

17 Q. What did you see Wade Frye do once he took that
18 firearm for collateral, as he put it?

19 A. He took it out of his hand and put it in the
20 left side of his jeans -- or this side.

21 Q. Saw him put it in his pants?

22 A. Yes, ma'am.

23 Q. Was it in a pocket or --

24 A. The waistband.

25 Q. What happened next?

1 A. The day went on pretty normal and then -- until
2 Joshua got home from work.

3 Q. Okay. Approximately what time would that have
4 been?

5 A. Honestly, I don't really remember. I think he
6 got home a little late that day because they had a
7 flat tire on the way home from work.

8 Q. There's been testimony in regards to a 911 call
9 being placed at 7:30 p.m. Approximately how long do
10 you think Josh had been home before this incident
11 occurred?

12 A. Maybe an hour.

13 Q. So after Josh got home, what did Josh do? What
14 do you recall him doing?

15 A. He took a shower.

16 Q. Is that routine after he gets home from work?

17 A. Yes, ma'am.

18 Q. After he got out of the shower, where was he?

19 A. We sat in the living room.

20 Q. Okay. I want to show you a diagram, which is
21 State's Exhibit 4.

22 MS. MAYES: Your Honor, if I may approach the
23 witness?

24 THE COURT: Yes, ma'am.

25 BY MS. MAYES:

1 Q. Looking here at State's Exhibit 4, what area of
2 the home was it that you and Joshua were sitting on
3 the couch?

4 A. I think Joshua was sitting here and I was here.

5 Q. That would be what area of the home?

6 A. The living room.

7 Q. Okay. How was Josh's demeanor at that point in
8 time?

9 A. He was fine, a good mood.

10 Q. What happened next?

11 A. Sorry. Wade was asking about the \$500 and they
12 started getting into a verbal altercation. And Wade
13 was standing in the kitchen and Joshua -- Wade was
14 confronting Joshua about it and Joshua said
15 something like, if you think I have the money, then
16 just do something about it. And I told Joshua to
17 stop because Wade had a gun. And as soon as --
18 sorry. Whenever I said that, that's when I was
19 pulled out of the house. And I saw Wade pull the
20 gun from the side of his waistband and do like this
21 and I was pulled out of the house.

22 Q. When you say you were pulled out of the house,
23 who pulled you out?

24 A. A.J.

25 Q. Aaron Gwilliam?

1 A. Yes, ma'am.

2 Q. Did he come out of the house with you?

3 A. Yes, ma'am.

4 Q. And that's once the gun was presented?

5 A. Yes, ma'am.

6 Q. Katie, I want to back up a little bit. You
7 said that after you and Josh were in the living room
8 on the couch, Wade approached about the money. Who
9 did he first accuse of taking the money?

10 A. Myself.

11 Q. How did you feel about being approached about
12 stealing his money?

13 A. Not really sure. I mean, I didn't, so it
14 didn't really affect me at the time.

15 Q. Who did he approach next?

16 A. Joshua.

17 Q. So he's come to your house and Joshua's house
18 and is now accusing you both of stealing his money?

19 A. That's correct.

20 Q. What was Joshua's reaction to that?

21 A. He got upset, as anybody would, and they got
22 into an argument about it.

23 Q. When you say an argument, did you ever see any
24 punches exchanged?

25 A. No, ma'am.

1 Q. Did you ever see Josh physically assault him
2 even though he was accusing him of taking the money?

3 A. No, ma'am, I didn't.

4 Q. And where were they at this point?

5 A. In the kitchen.

6 Q. So they're now in the kitchen?

7 A. Yes, ma'am.

8 Q. What caused you to say watch out, he's got a
9 gun?

10 A. I saw him put it in his pants earlier that day.

11 Q. You're referring to the earlier incident when
12 you saw him take that gun from Ryan Boulware?

13 A. Yes, ma'am.

14 Q. Before that moment, had you even gotten a
15 chance to tell Josh yet about the earlier events of
16 that day?

17 A. No, ma'am.

18 Q. Now, how was Josh dressed?

19 A. He had on blue jeans, his white and navy blue
20 Nikes and he was shirtless.

21 Q. So you could see his waistband?

22 A. Yes, ma'am.

23 Q. Did Josh have a weapon?

24 A. No, ma'am.

25 Q. What happened immediately after you said watch

1 out, he's got a gun?

2 A. A.J. pulled me out of the house and held me
3 like this. And I heard one gunshot and I screamed,
4 and then I heard another gunshot seconds later and
5 that's when I ran in the house.

6 Q. Who did you see with possession of the gun?

7 A. Wade Frye.

8 Q. Did you ever see anyone else with possession of
9 the gun that he pulled out of his waistband?

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

11 Q. And at the point that A.J. pulled you out --
12 when you say out, was that out through the back door
13 or out through the front door?

14 A. Front door.

15 Q. The front door right here?

16 A. Yes, ma'am.

17 Q. And are there steps on this front door?

18 A. Yes, ma'am. Well, on the porch, there is.

19 Q. There is a porch?

20 A. Yes, ma'am.

21 Q. At the point you were being pulled out, did you
22 ever see anyone physically assault the man with the
23 gun?

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

25 Q. Who do you recall being in the area at this

1 point in time? And this would be after he's had the
2 verbal argument with Josh and after you see the
3 weapon drawn and A.J. comes outside with you?

4 A. You mean in the house?

5 Q. Yes.

6 A. Okay. Myself -- well, I wasn't in the house,
7 but Ray Boyer, Ryan Boulware, Wade Frye and Joshua.

8 Q. Okay. So I'm going to put this back up here
9 just so we can follow along. So at this point, Josh
10 is still in what area of the home?

11 A. The kitchen.

12 Q. The defendant is in what area of the home?

13 A. The kitchen.

14 Q. Ray is in what area of the home?

15 A. The kitchen, I believe.

16 Q. And do you know whether or not Ryan Boulware
17 was still in the home once Aaron took you out?

18 A. I can't remember.

19 Q. Okay. And you mentioned that once you got on
20 the steps, you heard something. What was the first
21 thing you heard?

22 A. Gunshot.

23 Q. There was a 911 call that was published and it
24 was indicated that someone had screamed. Who was
25 that person?

1 A. Myself.

2 Q. How long do you think the timing was between
3 that first shot and the second shot?

4 A. Just a few seconds.

5 Q. Long enough for you to scream?

6 A. Yes, ma'am.

7 Q. After you heard the second shot, what did you
8 do?

9 A. I ran inside.

10 Q. Once you ran back inside, what did you see?

11 A. Joshua was laying on the floor.

12 Q. He's in approximately this area of the home?

13 A. Yes, ma'am.

14 Q. Okay. You had come back in through this door?

15 A. Yes, ma'am.

16 Q. Did you see any sign of the defendant, Wade
17 Frye, once you made it back in to Josh?

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

19 Q. Did you see any sign of that gun that had been
20 in his waistband that you last saw in his hand?

21 A. No, ma'am.

22 Q. Do you know where Ray was at that point?

23 A. I don't.

24 Q. Okay. What did you do once you found Josh?

25 A. I ran and picked him up, held him, his upper

1 torso and --

2 Q. Was he able to say anything to you?

3 A. No, ma'am.

4 Q. Okay. Katie, I'm going to show you what is
5 State's Exhibit 2. And to clarify, the blood that
6 is around Josh, who was in that area?

7 A. Just myself and Joshua at that moment, and then
8 Ray Boyer came inside.

9 Q. When Ray Boyer came inside, what did he do?

10 A. Laid on the floor with me.

11 Q. When you say laid on the floor with you, you
12 mean --

13 A. And held Joshua.

14 Q. With Josh, okay. So some of the blood that's
15 dispersed around Josh would have come from who?

16 A. What do you mean?

17 Q. I'll ask you to take a look at State's Exhibit
18 2. So the pattern of blood around Josh would have
19 come from who?

20 A. From him.

21 Q. Now, after you find him and you're on the floor
22 and Ray is on the floor, were you asking people to
23 do anything?

24 A. Call 911.

25 Q. All right. And to your knowledge, was that

1 being done?

2 A. Yes, ma'am.

3 Q. There's a female who's heard in the background
4 on one of the 911 calls. Who is that person?

5 A. Myself.

6 Q. And from that point in time to the time that
7 law enforcement and EMS arrived at the scene, did
8 you ever see any other weapons or firearms other
9 than the one you had seen in the hands of Wade Frye?

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

11 Q. Did you ever see Wade Frye return back to the
12 scene?

13 A. No, ma'am.

14 Q. What happened next, Katie?

15 A. It's -- I remember a police officer coming and
16 he had to pull me off Joshua, and then we spoke with
17 detectives outside.

18 Q. Okay. During your contact with the defendant,
19 Wade Frye, up to the point that he pulled that gun,
20 did you ever see any injuries on him or active
21 bleeding on him consistent with a fistfight?

22 A. No, ma'am.

23 Q. I'm going to show you some photographs. Who is
24 depicted in these photographs?

25 A. Myself.

1 Q. And the blood on you?

2 A. Joshua's.

3 Q. Up until that moment in time, had you ever
4 known of any dispute that Joshua had with Wade Frye?

5 A. No, ma'am.

6 Q. Did you ever hear Joshua make any threats to
7 Wade Frye?

8 A. No, I did not.

9 Q. Did you ever hear anyone else in the house make
10 any threats to Wade Frye?

11 A. No, ma'am.

12 Q. Did you see anything that would have or should
13 have caused Wade Frye to pull out that firearm?

14 A. No, ma'am, I didn't.

15 Q. Were you able to observe Wade Frye -- as you
16 mentioned when he was at the home earlier that day
17 when he got the gun from Ryan Boulware and then also
18 once he returned and confronted you and Josh in the
19 living room, were you able to observe his person?

20 A. Yes, ma'am.

21 Q. What can you tell us about his hygiene
22 generally?

23 A. He just had a lot of acne or pimples, whatever
24 you would call them, on his cheeks and arms.

25 Q. And is that how you had known him to look

1 earlier that day?

2 A. Yes, ma'am.

3 Q. As well as when he returned to the house?

4 A. Yes, ma'am.

5 Q. I want to show you what is State's 12 now for

6 ID. Do you recognize the person in that photograph?

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

8 Q. Who is that person?

9 A. Marion Wade Frye.

10 Q. Is that how he appeared, to the best of your
11 recollection, even earlier that day?

12 A. Yes, ma'am.

13 Q. Before the shooting?

14 A. Yes, ma'am.

15 MS. MAYES: Nothing further at this time, Your
16 Honor.

17 THE COURT: Thank you, Solicitor.

18 Mr. Mauldin.

19 CROSS-EXAMINATION

20 BY MR. MAULDIN:

21 Q. Ms. Vinson, you were convicted in February of
22 2011 of petit larceny?

23 A. Yes, sir.

24 THE COURT: Tell me that date again, please.

25 MR. MAULDIN: February 23rd, 2011.

1 THE COURT: Thank you.

2 BY MR. MAULDIN:

3 Q. And September 28th, 2011, you were convicted of
4 shoplifting?

5 A. Yes, sir.

6 Q. Now, you talked with detectives. They prepared
7 a statement for you and you signed it; is that
8 correct?

9 A. Yes, sir.

10 Q. And you read over that statement?

11 A. Yes, sir, I have.

12 Q. To make sure it was correct before you signed
13 it?

14 A. I can't remember whether I did or not. I was
15 upset.

16 Q. You signed it on four separate pages; is that
17 correct?

18 A. I'm sorry?

19 Q. You signed it four separate times on four
20 separate pages; is that correct?

21 A. That night?

22 Q. Yes, ma'am.

23 A. I don't recall.

24 Q. Would looking at a copy of it refresh your
25 memory?

1 A. I don't remember signing it four times. I
2 don't even remember signing it one time. But I did,
3 obviously.

4 Q. Would looking at a copy of it refresh your
5 memory as to whether you signed it?

6 A. Sure.

7 MR. MAULDIN: Your Honor, may I approach?

8 THE COURT: Yes, sir.

9 THE WITNESS: Yes, sir. Yes, sir. Yes, sir.
10 And, yes, sir.

11 BY MR. MAULDIN:

12 Q. Now, you were in the trailer when Marion
13 crashed that night; is that correct?

14 A. Yes, sir.

15 Q. And you were there when he woke up; is that
16 right?

17 A. Yes, sir.

18 Q. And that was in the early morning hours; is
19 that right? Or what time would that have been?

20 A. That he woke up?

21 Q. Yes, ma'am.

22 A. I don't remember what time he woke up.

23 Q. Was it before or after this incident with
24 Mr. Boulware?

25 A. I don't remember.

1 Q. What time did this incident with
2 Mr. Boulware -- what time do you say that happened?

3 A. Morning.

4 Q. Before lunch? After lunch?

5 A. It was before lunch.

6 Q. But it was sometime after Mr. Frye woke up?

7 A. Yes.

8 Q. And he had left the house and been back; is
9 that right?

10 A. I think so.

11 Q. Okay. Now, when he woke up, that's when he
12 noticed he was missing his money; is that right?

13 A. Yes.

14 Q. And he asked you about it then?

15 A. Yeah, I believe he did.

16 Q. And you told him that Josh said that when he
17 left for work -- or when he was getting ready to
18 leave for work, Ryan left out of there real quick
19 and he looked like he had just seen a ghost?

20 A. Yes, sir.

21 Q. Because you were trying to say that maybe Ryan
22 had taken the money?

23 A. I guess, yes.

24 Q. And you're saying you didn't take the money?

25 A. No, sir, I did not.

1 Q. So Ryan had spent the night or was he just
2 there that morning when you got up?

3 A. I don't know if he had spent the night or not.

4 Q. And he had left and returned several times
5 throughout the day?

6 A. Yes, sir.

7 Q. Do you remember the police writing in the
8 statement that you signed that you had seen Wade
9 earlier that morning with a gun?

10 A. Yes, sir.

11 Q. And that gun was silver and black?

12 A. I believe so.

13 Q. That's not the same gun that you're talking
14 about with Ryan, or is it the same gun?

15 A. It's the same gun.

16 Q. It's the same gun. And in the statement that
17 you wrote to the police -- or the police wrote and
18 you reviewed it and signed, you didn't mention
19 anything about Ryan Boulware being in the house; is
20 that right?

21 A. I'm sorry?

22 Q. You didn't mention anything about Ryan Boulware
23 being there?

24 A. That day?

25 Q. That day or at the time of the incident or

1 anything?

2 A. I -- I don't know if I did or not. He was
3 there, though.

4 Q. Would reviewing the statement help refresh your
5 memory as to whether or not you mentioned him?

6 A. Yes, sir.

7 THE COURT: Step out, please, ladies and
8 gentlemen. Do not discuss the case during this
9 brief recess.

10 (The jury exits the courtroom at 3:08 PM.)

11 THE COURT: What's the basis for the
12 admissibility of that question and that response?

13 MR. MAULDIN: Well, Your Honor, different
14 witnesses say different people were in the house at
15 different times. A lot of people say Mr. Boulware
16 was in the house at the time of the shooting.
17 Mr. Boulware says he was in the house at the time of
18 the shooting, but he's omitted from several
19 statements.

20 THE COURT: What is the basis of asking that
21 question, the question you just asked to this
22 witness?

23 MR. MAULDIN: I'm attempting to impeach the
24 witnesses and show that they have different --

25 THE COURT: She didn't deny it. She said I

1 don't remember. There's got to be a denial for
2 there to be extrinsic evidence of a prior
3 inconsistent statement. If she says I don't
4 remember, that's not a denial. Unless I wasn't
5 tracking your question, Mr. Mauldin.

6 MR. MAULDIN: I can proceed with a different
7 form of the question, Your Honor.

8 THE COURT: All right. Ask -- rephrase your
9 question. Let me hear your question, please.

10 BY MR. MAULDIN:

11 Q. You didn't mention Ryan Boulware in your
12 statement to the police at all, did you?

13 A. I don't remember.

14 Q. Would looking at the statement refresh your
15 memory?

16 A. Yes.

17 THE COURT: Her answer is I don't remember.
18 It's not no, I didn't. So it's still -- you can't
19 push a person off the cliff. It's misleading the
20 witness, it's -- she's not denying it. She doesn't
21 remember. Unless I'm misreading 613(b), extrinsic
22 evidence of prior inconsistent statement by a
23 witness is not admissible unless the witness is
24 advised of the substance of the statement, the time
25 and place it was allegedly made, the person to whom

1 it was made and is given the opportunity to explain
2 or deny the statement. If a witness does not admit
3 that he has made a prior inconsistent statement,
4 extrinsic evidence of such statement is admissible;
5 however, if a witness admits making the prior
6 statement -- extrinsic evidence that a prior
7 statement was made is inadmissible.

8 So she hasn't denied -- it's -- she has no
9 memory of it one way or the other, so how can it be
10 a prior inconsistent statement? Show her the
11 statement, Mr. Mauldin, and ask her the question
12 again.

13 BY MR. MAULDIN:

14 Q. In the statement that you signed that the
15 police took from you, you did not mention that Ryan
16 Boulware was in the house?

17 A. No, I did not.

18 THE COURT: Bring us the jury.

19 (The jury enters the courtroom at 3:13 PM.)

20 THE COURT: All right. Mr. Mauldin, you may
21 ask that same question.

22 And if you would speak up for me, please.

23 MR. MAULDIN: Thank you, Your Honor.

24 THE COURT: Thank you, Mr. Mauldin.

25 BY MR. MAULDIN:

1 Q. On that evening of October 1st in the statement
2 that you gave to the police that you signed, you did
3 not mention Ryan Boulware being at the residence; is
4 that correct?

5 A. Correct.

6 MR. MAULDIN: May I approach, Your Honor, and
7 get my --

8 THE COURT: Yes, sir, you may.

9 BY MR. MAULDIN:

10 Q. I'm going to refer you again to State's 4?

11 THE COURT: Speak up for me a little bit,
12 please.

13 MR. MAULDIN: Okay. If anybody has a problem,
14 let me know, please.

15 THE COURT: That's why I'm asking you to speak
16 up.

17 MR. MAULDIN: Thank you.

18 THE COURT: Thank you very much, Mr. Mauldin.

19 BY MR. MAULDIN:

20 Q. Refer you to State's 4, which is a diagram of
21 Mr. Boyer's trailer. All right. It's not to scale.
22 It doesn't show everything in the house; is that
23 right?

24 A. Yes, sir.

25 Q. And this is the front door entrance, right?

1 A. Yes, sir.

2 Q. What room is this here?

3 A. Mine and Joshua's room.

4 Q. How many other bedrooms were in that trailer?

5 A. Two.

6 Q. Two other bedrooms?

7 A. Yes, sir.

8 Q. So it's three bedrooms. So the other two
9 bedrooms are back here?

10 A. Yes, sir.

11 Q. Do some of those doors have padlocks on them?

12 A. Yes, they did.

13 Q. They padlock the doors to the bedrooms?

14 A. Yes.

15 Q. Were there cameras in the house?

16 A. I believe there was a baby monitor there and
17 there might have been one camera there.

18 Q. Is there cameras on the outside of the house?

19 A. I can't remember.

20 Q. Now, where was Wade sleeping when he crashed
21 that night?

22 A. In a chair.

23 Q. And it's not this couch or this couch?

24 A. No, we had moved that furniture in there that
25 night or the night before and there was a bed in

1 there. And I remember in the living room because
2 there was a chair beside the bed and that's where he
3 slept that one night he stayed was in the chair.

4 Q. Are you talking about Wade's furniture?

5 A. No, ours.

6 Q. And Wade had been moving his things in the
7 night before; is that right?

8 A. Uh-huh, temporarily.

9 Q. So he -- so when you saw him that morning with
10 the black-and-silver gun before the exchange, where
11 was that -- where was he in this trailer?

12 A. Standing by the front door.

13 Q. Over here by the front door?

14 A. Yes, sir.

15 Q. Where was Ryan?

16 A. By the front door, also.

17 Q. Where were you?

18 A. I was on the couch.

19 Q. This couch or the big couch?

20 A. I don't remember which couch.

21 Q. Was anybody else there?

22 A. I can't remember.

23 Q. Okay.

24 A. I believe Ray might have been there.

25 Q. So that evening Josh came home and he took a

1 shower and y'all were sitting on these couches; is
2 that right?

3 A. Yes, sir.

4 Q. Where was A.J. sitting?

5 A. I don't remember.

6 Q. Where was Jeffrey Behymer?

7 A. I don't know.

8 Q. You remember him being there at all?

9 A. Vaguely.

10 Q. And how long had Josh been home before Wade
11 arrived at the trailer?

12 A. I don't remember, not very long.

13 Q. Okay. And how long had Ray and Ryan been there
14 when Wade arrived at the trailer?

15 A. I don't remember.

16 Q. Were they there when Josh got home?

17 A. No, I don't think -- no, they weren't.

18 Q. But they had arrived sometime and then Wade
19 arrived after that; is that right?

20 A. Yes, I think so.

21 Q. And you and Josh were sitting here and Wade had
22 come in the back door, right?

23 A. I don't know.

24 Q. Had his girlfriend, Katelyn Turner, ever come
25 in the trailer as well?

1 A. No, not that day.

2 Q. You don't remember her coming in and asking you
3 for any kind of hygiene product or anything like
4 that?

5 A. No, I don't.

6 Q. So how long had Wade been in the trailer before
7 this discussion started about the money?

8 THE COURT: With who? Which discussion?

9 BY MR. MAULDIN:

10 Q. Well, you say he confronted you first; is that
11 right? Or did he confront Ryan first?

12 A. I don't remember who he confronted first.

13 Q. But how long had he been there before he
14 started confronting people about it?

15 A. I don't know.

16 Q. And was it several minutes?

17 A. I have no idea.

18 Q. Okay. And when that started, where was Ray?

19 A. I don't know where Ray was.

20 Q. Okay. Where was Ryan?

21 A. I don't know.

22 Q. But you remember you were on this couch and
23 Josh was on this couch?

24 A. Yes.

25 Q. Okay. And at some point, Josh got up and went

1 into the kitchen; is that correct?

2 A. Yes.

3 Q. And he was angry at being accused about the
4 money; is that right?

5 A. Yes.

6 Q. And he started cussing at Wade?

7 A. They had an altercation. They were arguing
8 about it.

9 Q. But he was cussing at Wade?

10 A. Yes.

11 Q. And he said, If you're going to accuse me, you
12 better do something about it?

13 A. Yes.

14 Q. Did he jump at Wade?

15 A. No.

16 Q. Did he ever rush at Wade?

17 A. They got into it, but he didn't come at him
18 like that.

19 Q. Well, they got into it. Does that mean he went
20 toward Wade aggressively cussing?

21 A. Yes.

22 Q. And jumped at him?

23 A. What do you mean jumped at him?

24 Q. Jumped at him like he wanted to hit him?

25 A. No, he never jumped at him.

1 Q. And he did hit him?

2 A. He did not hit him.

3 Q. At that point, you said Ray was in the kitchen?

4 A. Yes.

5 Q. But you don't know where he was when the
6 discussion started?

7 A. No, I don't.

8 Q. And you said Ryan was in the kitchen?

9 A. Yes.

10 Q. And you don't know where he was when the
11 discussion started?

12 A. No, I don't.

13 Q. And you said at some point in time, you see
14 Wade pull out a gun and point it towards the
15 ceiling?

16 A. Yep.

17 Q. And after that, you were pulled out of the
18 house and didn't see anything further?

19 A. Yes, sir.

20 Q. Well, if Ryan was there, why wouldn't you
21 mention the fact that he was there in your
22 statement?

23 A. I'm not sure. I had just lost my boyfriend. I
24 wasn't thinking clearly.

25 MR. MAULDIN: Beg the Court's indulgence.

1 THE COURT: Yes, sir.

2 MR. MAULDIN: No further questions.

3 THE COURT: Thank you, Mr. Mauldin.

4 Redirect, Solicitor?

5 MS. MAYES: Yes, sir, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. MAYES:

8 Q. And in followup of those questions that he just
9 posed to you, your response about your state of mind
10 was what?

11 A. I'm sorry?

12 Q. Your response to Mr. Mauldin's question about
13 your state of mind that night after you had just
14 lost Josh?

15 A. I wasn't thinking clearly at all. I couldn't
16 even write my statement; the detective had to.

17 Q. And that statement was given to a detective
18 right there at the scene?

19 A. Yes, ma'am.

20 Q. Did you ever get a chance to sit down with
21 family and grieve or even talk about what had
22 happened?

23 A. No, ma'am, not that day.

24 Q. So you had a detective there that night trying
25 to take a statement from you as all this is going

1 on?

2 A. Yes, ma'am.

3 Q. The photos I showed you earlier, that's you at
4 the scene?

5 A. Yes, ma'am.

6 Q. Is that how you looked when you gave that
7 statement to the detective that Mr. Mauldin was
8 asking you about?

9 A. Yes, ma'am.

10 MS. MAYES: State's 17 and 18 for evidence,
11 Your Honor.

12 MR. MAULDIN: No objection.

13 THE COURT: All right. State's 17 and 18 in
14 evidence without objection.

15 (State's Exhibit Nos. 17 and 18 admitted into
16 evidence.)

17 BY MS. MAYES:

18 Q. Katie, who's in this picture?

19 A. Me.

20 Q. Did you even get a chance to change clothes
21 before detectives showed up and started asking you
22 about this?

23 A. No, ma'am.

24 Q. And on that night, did you do your best to
25 recall the events for the officer that was writing

1 the statement for you?

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

3 Q. Did that include information that Boyer was
4 there?

5 A. Yes, ma'am.

6 Q. And A.J. and, of course, the defendant was
7 there?

8 A. Yes, ma'am.

9 Q. Now, this person Ryan Boulware, did you even
10 know him well?

11 A. I've known him for several years, but we were
12 just acquaintances.

13 Q. Whose friend was he?

14 A. Ray.

15 Q. Okay. And what about the defendant, Wade Frye,
16 was he acquainted with Mr. Boulware?

17 A. Not that I know of.

18 Q. And you saw him take that gun from
19 Mr. Boulware?

20 A. Yes, ma'am.

21 Q. Now, when he took that gun, did Wade show it to
22 you after he took it and put it in his waistband?

23 A. No.

24 Q. Did you get a good look at that gun?

25 A. I just saw the exchange.

1 Q. Did you get enough of a look to know the make
2 or the model or the type of gun metal or anything of
3 that nature?

4 A. No, ma'am. I don't know much about guns.

5 Q. And you saw that exchange from what distance?

6 A. Maybe from where I'm sitting to where you are.

7 Q. So some distance away?

8 A. Yes, ma'am.

9 Q. How long do you think you had a chance to even
10 look at that gun before it went into his waistband?

11 A. Just a glimpse, a few seconds.

12 Q. Ms. Vinson, did you tell officers everything
13 you knew that night to the best of your knowledge?

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

15 MS. MAYES: Nothing further.

16 THE COURT: Recross, Mr. Mauldin?

17 MR. MAULDIN: No, Your Honor.

18 THE COURT: All right.

19 Thank you. Thank you very much, ma'am. You
20 may step down.

21 All right. Solicitor, you may call your next
22 witness.

23 MR. BELL: Thank you, Your Honor. The State
24 calls Ray Boyer to the stand.

25 RAYMOND BOYER

1 being first duly sworn, testified as follows:

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Have a seat, sir. Once you're
4 seated, state your full name, spelling your last,
5 please.

6 THE WITNESS: Ray Boyer, B-O-Y-E-R.

7 DIRECT EXAMINATION

8 BY MR. BELL:

9 Q. Mr. Boyer, do you go by Ray?

10 A. Ray.

11 Q. Do you mind if I call you Ray?

12 A. That's fine.

13 Q. Ray, where do you currently live?

14 A. I live at [REDACTED] Crystal Springs Road.

15 Q. And how old are you?

16 A. I'm 32 years old.

17 Q. Back in October of 2015, where were you living?

18 A. [REDACTED] or [REDACTED] Marty Lane. I can't
19 remember the exact address.

20 Q. Who owned that house?

21 A. That was Hannah's grandmother. Hannah
22 Montgomery's grandmother owned the house.

23 Q. Who else was living with you there?

24 A. It was my girlfriend, Amanda Smoak, Katie
25 Vinson, Josh Prine and myself.

1 Q. Did you know Joshua Prine?

2 A. Yes, sir.

3 Q. How long had you known him?

4 A. I've known Josh about a year, year and a half
5 or so. We became really good friends.

6 Q. Did you know Marion Wade Frye?

7 A. Yes, sir.

8 Q. How long had you known him?

9 A. Probably eight, ten years now.

10 Q. So had you known Wade Frye longer than Joshua
11 Prine?

12 A. Yes, sir.

13 Q. Were you present the night Josh was killed?

14 A. Yes, sir.

15 Q. And where did that take place?

16 A. That happened in the Marty Lane in our kitchen.

17 Q. That's the address that you indicated you were
18 living back in October of 2015?

19 A. Yes, sir.

20 Q. I'm showing you what's been entered as State's

21 10. Are you able to see that from where you are?

22 A. Yes, sir.

23 Q. I'm referencing up here. Can you see that
24 okay?

25 A. Yes, sir.

1 Q. The location that has that little orb, is that
2 the address that you were living?

3 A. The --

4 Q. Are you able to see right in here?

5 A. Yes, sir, that's it.

6 Q. Okay.

7 MR. BELL: Permission to approach the witness?

8 THE COURT: Yes, sir.

9 MR. BELL: Thank you, Judge.

10 BY MR. BELL:

11 Q. I'm going to hand you a laser pointer to help
12 out.

13 A. Yes, sir.

14 Q. So if you'd use that laser pointer to indicate
15 where you were living back in 2015.

16 A. 2015, should be right here.

17 Q. Okay. And that's where the incident where Josh
18 was killed took place?

19 A. Yes, sir.

20 Q. Did Wade Frye live with you at that address?

21 A. No, sir, he was just a guest. He was fighting
22 with his girlfriend, Katie Campbell, and he was
23 moving all his stuff out of there and he asked me if
24 he could store it at my house just to get it away
25 from -- I don't want to use the term he was using,

1 get it away from --

2 Q. So he was --

3 A. He was trying to get away from her.

4 Q. How long was he staying with y'all?

5 A. He only stayed a night or two.

6 Q. In reference to the incident on October 1st,
7 2015, when did Wade come to stay with y'all, if at
8 all?

9 A. It was like two, three days before the incident
10 happened, something like that.

11 Q. And was he at your house the morning of the
12 incident?

13 A. The morning of? I think he was there because
14 my girlfriend and I, we got into an argument and --
15 he was there that morning and my girlfriend, Amanda,
16 she done left; she went to a friend's house. And
17 Katie, I think she was still in the bedroom.

18 Q. Okay. Did he come over to your house with
19 anyone else?

20 A. No, sir.

21 Q. Do you know a Ryan Boulware?

22 A. Yes, sir.

23 Q. And how long have you known Ryan Boulware?

24 A. About eight, ten years. You know, we was high
25 school friends, you know, back in -- probably eight

1 to ten years as well, as long as I known Wade.

2 Q. Did you hang out with Ryan Boulware and Wade
3 Frye at the same time ever?

4 A. Yeah, we all hung out together at times, yes,
5 sir.

6 Q. As far as you knew, were Ryan Boulware and Wade
7 Frye also friends?

8 A. Yes, sir.

9 Q. Around the time of the incident, do you recall
10 an argument between Mr. Boulware and Wade Frye?

11 A. Earlier that -- it was like midmorning. It was
12 Ryan and A.J. Because Ryan was going to give me a
13 ride to SCE&G because I needed to get my power bill
14 stuff straightened out. Well, before that, Wade got
15 into a -- him and Ryan got into a confrontation
16 because he was accusing Ryan Boulware of
17 stealing the \$500 missing out the Crown Royal bag.

18 Q. I'm going to slow you down. You said
19 midmorning. What day are you referring to?

20 A. The day of the incident.

21 Q. And is that October 1st, 2015?

22 A. Yes, sir.

23 Q. You said -- you mentioned an A.J. Is that
24 someone whose last name is Gwilliam?

25 A. I think so, but that was Ryan's friend.

1 Q. So to be clear, that midmorning, who all showed
2 up to your house?

3 A. It was I think Ryan and A.J. and Wade were
4 there, and Katie.

5 Q. When -- when Wade and Ryan and A.J. showed up,
6 did anything happen that caught your attention?

7 A. No, sir. When Ryan and Wade got into -- they
8 were having a little -- because he was accusing Ryan
9 of the money and stuff, and so Ryan started pulling
10 out of his pockets and -- pulled all his pockets
11 out, like showing him he didn't have the money.

12 Q. So who was accusing Ryan?

13 A. Wade Frye.

14 Q. And what was he accusing him of?

15 A. Stealing the money.

16 Q. Did he say where the money was stolen out of?

17 A. He said he was missing \$500 -- because he had a
18 Sentury safe and he said somebody stole it out of
19 the Sentury -- out of the safe or whatever.

20 Q. Had you ever seen Wade Frye carry his money in
21 any other container?

22 A. I've seen him in the -- either in his pocket
23 or, you know, in the Sentury safe.

24 Q. Okay. And when Wade was accusing Ryan of
25 taking that money, what was Wade Frye's demeanor

1 like?

2 A. He was going to find out who took his money.

3 He was determined to figure out who, because he was
4 blaming everybody. He blamed a few people.

5 Q. Did Wade Frye appear angry?

6 A. He was very agitated, yes, sir.

7 Q. Was he questioning Ryan about it in a calm
8 manner?

9 A. Kind of calm, but, you know, stern.

10 Q. And what was -- without saying what Ryan said,
11 what was Ryan's reaction to these accusations?

12 A. I truly can't remember what Ryan said, but Ryan
13 handed him -- because Wade took Ryan's gun kind of
14 like just holding it until, I guess, Wade found his
15 money or whatnot.

16 Q. You mentioned earlier that someone pulled their
17 pockets out. Can tell us about that?

18 A. Ryan Boulware, just to show Wade that he
19 didn't -- that he didn't have his money, so he
20 pulled all of his pockets out and kind of -- you
21 know, Wade was kind of searching him, checking his
22 pockets and stuff like that. And --

23 Q. What happened after Ryan emptied his pockets?

24 A. He gave -- after that, he gave Wade Frye his
25 gun, kind of like, I guess, let Wade hold it for

1 collateral or whatnot or something in that category,
2 sir.

3 Q. Who else was in the house when this was taking
4 place?

5 A. When the --

6 Q. When this argument that you're telling us about
7 took place.

8 A. It was just -- I think Katie was in there, me,
9 Ryan, A.J. and Wade.

10 Q. And to be clear, when you say Katie, do you
11 know her last name?

12 A. Katie Vinson.

13 Q. Okay. Did you see what Wade did with that
14 pistol?

15 A. Yes, sir, he put it in his waistband.

16 Q. Did you yourself get involved in that argument?

17 A. With Ryan and Wade?

18 Q. Right.

19 A. No, sir.

20 Q. Did you leave the house at any point after that
21 incident took place?

22 A. Yes, sir. Wade ended up -- I think Wade left
23 and then I asked Ryan and A.J. to take me to the
24 SCE&G and they took me to SCE&G. And after that,
25 which was probably about 2:30, 3:00, we was at

1 SCE&G. Then we went by Ryan Boulware's house and
2 then I asked Ryan to take me to my buddy's house
3 because I left my phone in his truck. And I went
4 and got my telephone from my buddy's house, Bubba,
5 on Chalk Hill Road. And then when I left my buddy's
6 house after picking my phone up, I went -- I came
7 back to the house.

8 Q. And when you came back to the house, who was
9 all there?

10 A. It was Josh, Katie, J.C., Ryan and A.J.

11 Q. And again, just so we're clear, when you say
12 Katie?

13 A. Katie Vinson.

14 Q. Do you know who a Katie Campbell or a Katelyn
15 Turner is?

16 A. Yes, sir.

17 Q. Who is that?

18 A. That is Wade's girlfriend.

19 Q. Was she there at the time?

20 A. She was not at the house, no, sir.

21 Q. When you came back home from being at SCE&G and
22 returning from those other errands you mentioned,
23 was there anything going on at your house that
24 caught your attention?

25 A. When I got to the house, it was probably about

1 6:30 or so, something in that category, Josh and
2 Katie were sitting on the one couch. I do believe
3 J.C. was on the little love seat against the wall.
4 And Wade and Josh were already having kind of a
5 confrontation because that's what I walked into and
6 they were having a little confrontation in the
7 living room --

8 Q. I'm going to stop you right there.

9 A. Yes, sir.

10 Q. And refer you to what's been entered as State's
11 4.

12 A. Yes, sir.

13 Q. Does that accurately reflect the main part of
14 the home that you were living in at that time?

15 A. Yes, sir.

16 Q. Do you still have that laser pointer with you?

17 A. Yes, sir.

18 Q. If you wouldn't mind just pointing out on that
19 poster where you said everybody was positioned when
20 you got there.

21 A. Josh was right here. Katie Vinson right here.
22 I do believe J.C. was sitting right here, and A.J.
23 and Ryan were somewhere over in this area. And I do
24 recall there was -- we have a little chair right
25 here, it was a wooden chair, and I think that's

1 where Wade was sitting at first when I walked in
2 when him and Josh were exchanging words, and then
3 they proceeded into the kitchen.

4 Q. So let's talk more about that. So you said you
5 walked in. Who was arguing with who?

6 A. Wade Frye and Josh.

7 Q. And what was that argument over?

8 A. Wade was accusing Josh of stealing his money.

9 Q. And again, how was Wade acting when he was
10 making those accusations?

11 A. He was going to find out who -- he was stern
12 about he was going to find out who -- he was going
13 to get to the bottom of this; he would find out who
14 took his money.

15 Q. And at the time that you saw him while the
16 altercation was going on, did you notice any
17 injuries on Wade Frye?

18 A. Had the normal sores and stuff he had, the acne
19 on his face. That's it.

20 Q. Did he appear to have been potentially attacked
21 prior to you coming into that confrontation?

22 A. No, sir.

23 MR. BELL: Beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 BY MR. BELL:

1 Q. I'm going to show you what's been marked as
2 State's 12 for ID only.

3 A. Yes, sir.

4 Q. Do you recognize the person in that picture?

5 A. Yes, sir.

6 Q. And who is that?

7 A. Wade Frye.

8 Q. And you mentioned a moment ago, sores or -- I
9 can't remember how you put it, but do you see those
10 in that picture?

11 A. Yes, sir.

12 Q. On what cheek do you see the major ones?

13 A. On his right cheek.

14 Q. Were those there prior to him being at your
15 house that day?

16 A. Yes, sir.

17 Q. Aside from what you just mentioned, any other
18 obvious injuries at that time?

19 A. No, sir.

20 Q. You mentioned it was over money. Do you know
21 whether or not Wade was accusing Josh of the same
22 money he was accusing Ryan of earlier in the day?

23 A. Yes, sir. He was accusing a few people.

24 Q. What was the amount he was accusing Josh of
25 taking?

1 A. \$500.

2 Q. How was Josh reacting to those accusations?

3 A. He was pissed. He was mad.

4 Q. Did he punch Wade when he was being accused?

5 A. No, sir. They were having a confrontation in
6 the kitchen and when Wade was accusing Josh of
7 stealing his money, Josh was telling Wade, so you're
8 telling me I stole your \$500; that's what you're
9 saying? And Wade said something -- I don't know
10 what Wade was saying, but -- and Josh said, so
11 you're telling me I stole your \$500; that's what
12 you're saying?

13 Q. So when Wade is making these accusations, is
14 Josh denying it?

15 A. No, he was like -- he told Wade, If you think I
16 stole your money, do something about it.

17 Q. And when you say do something about it, did
18 that mean Josh was attacking Wade?

19 A. No, sir. He was --

20 Q. How did Josh react in that moment when he said
21 do something about it?

22 A. He was like, if you think I stole your money,
23 do something. Because Wade was hounding Josh, you
24 know, accusing -- anybody would get mad being
25 accused.

1 Q. Did Josh leap at Wade Frye?

2 A. He kind of bowed up at him.

3 Q. Did he rush at him like he was going to tackle
4 him like a football player?

5 A. No, sir.

6 Q. What did you see Josh do?

7 A. When they were having that confrontation, after
8 Josh said, You think I stole your money, do
9 something. Wade said something else and then Josh
10 said something, I'm done talking and kind of jumped
11 at him and that's it.

12 Q. Walk us through that. I want you to be
13 perfectly clear. When you say jumped at him, what
14 does that mean?

15 A. Like bowed up at him, like, fight -- like
16 let's --

17 Q. So in your terminology, when you say jump at,
18 does that mean he actually jumped and attempted to
19 make physical contact with Wade at that time?

20 A. No, sir, just kind of like bowed his chest out,
21 like getting ready for a fighting stance.

22 Q. And what was Josh wearing while all this was
23 going down?

24 A. I think -- because he just got off work. He
25 had jeans on and no shirt and his blue hat he always

1 wore.

2 Q. Did Josh appear to be armed?

3 A. No, sir.

4 Q. Could you see Josh's waistband?

5 A. Clearly.

6 Q. Did you see anything that looked like a weapon?

7 A. No, sir.

8 Q. After Josh jumped at him, in your words, or
9 bowed up, what did Wade do next?

10 A. That's when I seen Wade reaching for his right
11 side and he pulled out a handgun. And when he
12 pulled out a handgun, I kind of jumped behind him.
13 I was behind him trying to grab the gun from his
14 back side. I think Ryan Boulware jumped over the
15 counter --

16 Q. I'm going to slow you down so we can process
17 piece by piece.

18 A. I'm sorry, sir.

19 MR. BELL: Your Honor, permission to ask the
20 witness to step down?

21 THE COURT: Yes, sir, you may step down.

22 BY MR. BELL:

23 Q. Mr. Boyer, I'm going to ask that you stand on
24 this side of me so that you're talking back nice and
25 loud so the court reporter can hear you.

1 A. Yes, sir.

2 Q. I want you to demonstrate for us when you say
3 jumped at what you actually mean. I'm Wade Frye;
4 what did Josh do?

5 A. He kind of just jumped at him like that.

6 Q. And at that time, did he throw a punch?

7 A. No, sir.

8 Q. Did he try to kick him?

9 A. No, sir.

10 Q. Did he have any sort of weapon that would
11 extend his reach in his hand?

12 A. No, sir.

13 Q. Thank you. You can take your seat.

14 A. Yes, sir.

15 Q. After that bowing up occurred, you indicated
16 that's when Wade Frye pulled the firearm. Where did
17 he pull the firearm from?

18 A. From his right waistband.

19 Q. Do you recall what kind of firearm it was?

20 A. Yes, sir.

21 Q. What kind was it?

22 A. It was Ruger nine millimeter.

23 Q. When -- what was the color?

24 A. It was like a charcoalish black, a black,
25 charcoalish gray color kind of.

1 Q. Is it a very large pistol or smaller pistol?

2 A. Hand size.

3 Q. Okay. Referring to State's 4, where is Wade
4 positioned when he pulls that firearm?

5 A. When he pulls the firearm, Wade is like right
6 here.

7 Q. And where is Josh?

8 A. Josh is actually standing about right here in
9 this area. Wade is kind of almost in this corner
10 right here and I'm on the back side on the right
11 side over here.

12 Q. Okay. Now, beyond the kitchen, is there
13 another exit to your residence?

14 A. Yes, sir.

15 Q. Can you indicate where that is?

16 A. It's the back door right here. There's a back
17 door.

18 Q. At the time that the confrontation was taking
19 place between Josh and Wade, was there anybody
20 between Wade and that back door?

21 A. No, sir -- what do you mean? Repeat that, sir.

22 Q. No, was there -- where was Josh -- when Wade
23 went toward the kitchen, where was Josh?

24 A. Wade was right here -- when they were having
25 that conversation, Wade was here and Josh was about

1 right here.

2 Q. And prior to Wade getting into that position,
3 where was Josh?

4 A. Josh was right here in this area.

5 Q. Okay. What I'm getting at, Mr. Boyer, is you
6 indicated earlier that Josh was seated on one of
7 your couches. Is that accurate?

8 A. Yes, sir. That's --

9 Q. So did Wade follow Josh to the kitchen or did
10 Josh follow Wade to the kitchen?

11 A. I do believe Josh followed Wade to the kitchen.

12 Q. So if Wade wanted to, was there anybody between
13 him and leaving out that back door?

14 A. No, sir.

15 Q. So Wade's in the kitchen with Josh sort of
16 between the kitchen and the living room. Wade pulls
17 the firearm. What do you do?

18 A. When he pulls the firearm, I'm about right here
19 in this location because I was on his right side and
20 like -- because here's the sink area and that's
21 about where I was. I knew Wade had a gun. I
22 just -- I wasn't sure if he had it on him or not.
23 And when I seen him pull the gun, I jumped on his
24 back side right here.

25 Q. And the gun that you saw him pull, did it

1 appear to be the same gun you had seen earlier that
2 day?

3 A. Yes, sir.

4 Q. Is that the gun that he took from Ryan
5 Boulware?

6 A. Yes, sir.

7 Q. Now, you used the word you jumped on his back?

8 A. Right.

9 Q. What does that mean?

10 A. I was kind of leaning over his back trying to
11 reach around and grabbed the gun because we were
12 just trying to disarm him.

13 MR. BELL: Your Honor, if I may ask him to step
14 down again?

15 THE COURT: You may step down, yes, sir.

16 BY MR. BELL:

17 Q. So if the sink is right here behind me and I'm
18 Mr. Frye?

19 A. How do you want me to --

20 THE COURT: Speak up a little bit for me.

21 BY MR. BELL:

22 Q. Here's what we'll do: I want you to pretend
23 like this is your kitchen counter between your
24 kitchen and your living room. Okay?

25 A. Yes, sir.

1 Q. So Wade has his back to the sink, with this
2 being the bar heading towards the living room?

3 A. Yes, sir.

4 Q. Where were you positioned?

5 A. I was kind of over here to the right side.

6 Q. If you would, demonstrate for the jury what you
7 mean when you said you jumped on his back.

8 A. Because they were having the confrontation, I
9 jumped around his back trying to reach for the gun.

10 Q. And why did you have to reach across his body
11 or behind his back?

12 A. Okay. I'm shorter. I'm short.

13 Q. What side was the gun on?

14 A. It was on the right side, his right side, and
15 I'm having to reach around him. And Ryan has done
16 jumped over the bar.

17 Q. Turn around and talk towards the court
18 reporter. At any point in time, are you able to
19 actually grab ahold of his gun arm or the gun
20 itself?

21 A. I think I had his arm at one point because I
22 remember touching the gun. We was just trying to
23 grab the gun. And I remember grabbing, like had his
24 arm or something.

25 Q. Okay. If you'd go ahead and have a seat.

1 A. Yes, sir.

2 Q. So, again, do you recall actually being able to
3 make contact with the firearm?

4 A. I didn't get my hands on it, no, sir. It felt
5 like I touched it, but I couldn't grab it, sir.

6 Q. Okay. But you did testify you were able to
7 grab his arm?

8 A. Yes, sir, I was trying to disarm him, sir.

9 Q. Was anybody else attempting to disarm him?

10 A. Ryan Boulware.

11 Q. And where did Ryan Boulware come into the
12 picture as far as trying to secure the gun?

13 A. He jumped over the bar --

14 Q. And if you'd use that laser pointer up there
15 and indicate on State's 4.

16 A. He jumped over the bar right here. He jumped
17 over that bar.

18 Q. And what was he doing when he jumps over the
19 bar?

20 A. He's trying to get the gun, too, sir.

21 Q. Was there anyone on the back side of that bar
22 facing the living room?

23 A. There was a shelf there, sir.

24 Q. Showing you State's 13. Using your laser
25 pointer, will you indicate the shelf?

1 A. Right there, sir.

2 Q. And in 14, a little better shot here, is that
3 the same shelf?

4 A. Well, it was level before the incident
5 happened.

6 Q. And what caused it to crash down?

7 A. Most likely, Ryan jumping over the counter.

8 Q. So earlier in the day, was that shelf properly
9 perpendicular?

10 A. Yes, sir.

11 Q. Do you know if Ryan was able to get his hand on
12 the gun?

13 A. No, sir, I -- no, sir.

14 Q. Were you able to secure the firearm?

15 A. No, sir.

16 Q. What happened next?

17 A. While we're trying to fight over the gun, Wade
18 kind of like threw me off his back and he came up --
19 came up with the gun, you know, I guess when he like
20 must have ripped his arm.

21 Q. When you say came up with the gun, what do you
22 mean?

23 A. Like, he pulled just, I guess, where I had his
24 arm down and when he spun out, like spun throwing me
25 off his back, he came up with the gun and that's

1 when I remember seeing the gun. And I ducked and
2 Josh -- that's when Josh turned.

3 Q. I'm going to stop you for a second. When you
4 say he pulls that gun up, did it appear that he was
5 just going to put it back in his waistband?

6 A. No, sir.

7 Q. What did he appear he was doing with that gun?

8 A. Going to intimidate or use it.

9 Q. Was he aiming it or pointing it in a direction
10 of people in the room?

11 A. I'm sure, yes, sir. Like, when he pulled that
12 gun and I seen it, that's when he fired it. And I
13 closed my eyes and I grabbed my side because I
14 thought I was shot.

15 Q. So tell us about that. The gun goes off. Is
16 your hand on the gun when it goes off?

17 A. No, sir.

18 Q. Is Ryan Boulware's hand on the gun when it goes
19 off?

20 A. No, sir.

21 Q. Whose hand was on the gun when it goes off?

22 A. Wade Frye.

23 Q. Is Josh's hand on the gun?

24 A. No, sir.

25 Q. When that first bullet -- or first gunshot goes

1 off, what's your reaction?

2 A. When I first -- when -- the initial gunshot, I
3 closed my eyes and closed my side because it just --
4 I thought I was shot. It scared me.

5 Q. How close to the firearm were you when it went
6 off?

7 A. Two, three foot, I guess.

8 Q. Did it have any effect on you aside from what
9 you just told us about grabbing your side?

10 A. My ears were ringing and I --

11 Q. It's not a trick question.

12 A. Yeah, I know. Just I -- it was --

13 Q. Okay. And after that first shot went off, you
14 curled up. Do you recall seeing what Josh did?

15 A. After the shot was fired, because I closed my
16 eyes and grabbed my side, I think Josh was turned.
17 I think he reacted on my reaction and turned.

18 Because I remember hearing Katie screaming and I
19 think he was looking for her and that's when he
20 turned his back and that's when he was shot.

21 Q. So after the first shot went off, was Josh
22 still on his feet?

23 A. I do believe so, sir, but I only heard one
24 gunshot.

25 Q. And why do you think you only heard one

1 gunshot?

2 A. Because I guess it was so close to my ear and
3 it just --

4 Q. Did you see where Wade went after the shooting?

5 A. After I closed my eyes and grabbed my side, I
6 don't know if it was 30 seconds, three minutes, I
7 came back to. I was chasing Wade out the back door.

8 Q. I know you used sort of the phrase 30 seconds
9 or three minutes, but how long do you really think
10 it was?

11 A. It was probably 10 seconds, 20 seconds.

12 Q. And you said during that time what happened?

13 A. I chased Wade out the door, but he done got in
14 his car and left.

15 Q. Show us with that laser pointer the path that
16 you took when you chased him and where you stopped
17 chasing him.

18 A. Out the back door.

19 Q. And where did you stop?

20 A. I don't really remember where I stopped because
21 I came around the back of the house and he was
22 already going down the little side road.

23 Q. What did he leave in?

24 A. A white Escalade.

25 Q. Were you yelling anything at him while you were

1 chasing him?

2 A. I said some -- if I -- if I would have had a
3 gun, I would have shot because -- I would have shot
4 at him.

5 Q. I want you to put that together just so
6 everybody is understanding what you're trying to
7 say. What were you yelling at him?

8 A. I'm going to kill you, you know.

9 Q. Did you have a firearm on you?

10 A. No, sir.

11 Q. After chasing him and him leaving in the
12 Escalade, what did you do next?

13 A. I came around the back side of the house and my
14 sister -- I seen my sister coming down the driveway
15 and I ran to her car because my sister, she's CWP
16 registered and all I could think about was getting
17 to her gun. So I tried jumping in her window, grab
18 her -- I'm screaming, Josh has been shot, Josh has
19 been shot; give me your gun because Wade is up
20 there, he's still going down Marty Lane. Well, my
21 sister kind of runs me over and goes down to my
22 parents' house to get my father --

23 Q. When you say runs over...

24 A. Kind of like I'm hanging halfway in the window
25 trying to get to her gun, but her buddy grabbed my

1 arm.

2 Q. And is she trying to stick around after you say
3 somebody was shot?

4 A. She left. She was just trying to --

5 Q. Were you able to get a firearm from your
6 sister?

7 A. No, sir.

8 Q. What did you do after that?

9 A. I went straight into the front door and that's
10 when I went in -- Katie was with Josh and she was
11 trying to give him CPR.

12 Q. Where was -- referring to State's 4, is that
13 roughly where Josh's body was when you saw it?

14 A. Yes, sir.

15 Q. Where was Katie, using the laser pointer?

16 A. Katie was kind of like on his right side,
17 trying to give him CPR.

18 Q. Where did you go next?

19 A. I laid right there next to them holding --
20 because we was trying to hold the gunshot wound.

21 Q. Where did you think he had been shot at?

22 A. In the chest because that's where the little --
23 had like a little incision.

24 Q. I'm going to show you State's 2. Where was
25 Katie when you saw her trying to give CPR?

1 A. She was on this side of him right here.

2 Q. And where did you kneel down or sit down at?

3 A. I was on this side over here, sir.

4 Q. Do you recall anyone calling 911?

5 A. I don't recall anybody calling 911, no, sir.

6 Q. How were you feeling at that particular time?

7 A. I'm distraught. I -- you know, I'm just very
8 distraught.

9 Q. Did you -- when running out that back door and
10 chasing Wade Frye out, did you ever see Katie Turner
11 or Katelyn Turner?

12 A. I didn't see them, but I think they were
13 already in the car. And I come to find out later
14 that they had the kids in the car.

15 Q. Did you ever see them in the house or on the
16 porch?

17 A. No, sir.

18 Q. And Katie Turner is the same person as Katie
19 Campbell?

20 A. Yes, sir.

21 Q. Did you see a Melinda Frye inside the house as
22 you were running out?

23 A. No, sir.

24 Q. Did you see her on the porch?

25 A. No, sir.

1 Q. Did you see a child anywhere?

2 A. No, sir. I wasn't even paying attention to
3 that. I was in one track mind, sir.

4 Q. Okay. Did you end up meeting with law
5 enforcement?

6 A. Sir?

7 Q. Did you meet with law enforcement that night?

8 A. Yes, sir.

9 Q. And do you recall them interviewing you and
10 taking pictures?

11 A. Yes, sir.

12 Q. I'll show you three pictures. Do you recognize
13 those pictures?

14 A. Yes, sir.

15 Q. Would you flip through all of them for me? Do
16 you recognize that picture?

17 A. Yes, sir.

18 Q. And then one more. Do you recognize that
19 picture?

20 A. Yes, sir.

21 Q. And what are those pictures of?

22 A. That's myself.

23 Q. And when were they taken?

24 A. The night of the incident.

25 Q. Do they fairly and accurately reflect the way

1 that you looked that night after the incident?

2 A. Yes, sir.

3 Q. Did they take pictures of your hands?

4 A. Yes, sir.

5 Q. Did you know why they were doing that?

6 A. No, sir.

7 Q. Were you ever a threat to Wade Frye that day?

8 A. No, sir.

9 Q. Was Ryan ever a threat to Wade Frye that day?

10 A. No, sir.

11 Q. Was Joshua Prine ever a threat to Wade Frye
12 that day?

13 A. No, sir. No, sir.

14 Q. Around October 1st of 2015, do you know if Wade
15 Frye was working anywhere?

16 A. No, sir.

17 THE COURT: No, sir, he wasn't or no, sir, you
18 don't know?

19 THE WITNESS: No, sir, I don't believe so.

20 BY MR. BELL:

21 Q. I want to step back to the incident that
22 occurred earlier in the day between Ryan Boulware --
23 I apologize. Did you ever have an opportunity to
24 talk to Wade about his missing money?

25 A. Yes, sir.

1 Q. And did he ever specifically mention thinking
2 that Josh Prine took it?

3 A. Yes, sir.

4 Q. Did you say anything in response to his
5 accusation?

6 A. Yes, sir. I said, Wade, look at -- because,
7 you know, Wade and I have been friends for a long
8 time. And I was like, Wade, look at Josh as you
9 would look at me. I was like, He don't -- because
10 Josh, he wasn't a thief. He worked every day. I
11 told him -- I was like, man, don't confront him like
12 that because you're going to end up having a fight
13 if you do.

14 Q. Did Wade let it go after you told him that?

15 A. Oh, no. No, sir.

16 MR. BELL: I beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 BY MR. BELL:

19 Q. I'm showing you two photos. In the first one,
20 do you recognize that individual?

21 A. Yes, sir.

22 Q. Who is that?

23 A. That's Wade Frye.

24 Q. Are you able to see his right arm in that
25 picture?

1 A. The sores on it, sir.

2 Q. I'm going to refer you to this picture. What
3 does that appear to be a picture of, generally
4 speaking?

5 A. That's his right arm.

6 Q. Is that a closer picture of his right arm?

7 A. Yes, sir.

8 Q. And these markings indicated right here on his
9 inner forearm, is that where you grabbed him?

10 A. That's most likely where I had my hand on his
11 arm trying to disarm him, sir.

12 Q. When you saw the argument taking place between
13 Josh Prine and Wade Frye, who provoked that
14 argument?

15 A. Wade.

16 Q. How many people was that argument between?

17 A. Wade was accusing quite a few people of
18 stealing his money.

19 Q. But in that particular moment, who was it
20 between?

21 A. It was between Josh and Wade.

22 Q. Who all was armed in the house that night?

23 A. No one but Wade.

24 Q. Prior to the firearm being pulled out, did
25 anybody make physical contact with Wade Frye?

1 A. No, sir.

2 Q. And once the firearm was pulled, what was the
3 purpose of any physical contact that was made as far
4 as you're concerned?

5 A. Once the firearm was pulled, just trying to
6 grab the gun.

7 Q. Did you punch Wade?

8 A. No, sir.

9 Q. Did you see Ryan punch Wade?

10 A. No, sir.

11 Q. Did you see Josh punch Wade?

12 A. No, sir. He knows we didn't jump nobody.

13 MR. BELL: Beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 BY MR. BELL:

16 Q. Do you know who a Matthew Hartley is?

17 A. Yes, sir.

18 Q. Was he present during this confrontation and
19 altercation that took place?

20 A. No, sir. I do believe he's the one that --
21 because we do a lot of riding four-wheelers and he's
22 my tow guy. And he come up to the house and I think
23 he's the one who found Katie and I in the kitchen
24 with Josh.

25 Q. So to be clear, was he there before or after

1 the incident took place?

2 A. After.

3 Q. Would he have any knowledge of the actual
4 incident?

5 A. No, sir.

6 MR. BELL: Please answer any questions from the
7 defense.

8 THE COURT: Ladies and gentlemen, let's take
9 about a 10-minute recess before we get to
10 cross-examination. Please do not discuss the case
11 during this brief recess.

12 (The jury exits the courtroom at 4:11 PM.)

13 THE COURT: Mr. Boyer, you may step down during
14 this recess and refresh yourself. Do not discuss
15 your testimony with anyone.

16 THE WITNESS: Yes, sir.

17 THE COURT: Court will be in recess 10 minutes.

18 (Short break.)

19 THE COURT: Mr. Boyer, you understand you're
20 still under oath?

21 THE WITNESS: Yes, sir, Your Honor.

22 THE COURT: Is the State ready to bring the
23 jury in?

24 MR. BELL: Yes, sir, Your Honor.

25 THE COURT: Mr. Mauldin?

1 MR. MAULDIN: Yes, Your Honor.

2 (The jury enters the courtroom 4:25 PM.)

3 THE COURT: All right. The jury is back.

4 Mr. Mauldin, you may proceed.

5 MR. MAULDIN: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. MAULDIN:

8 Q. Now, Mr. Boyer, you were convicted December
9 17th of 2014 of shoplifting?

10 A. Yes, sir.

11 Q. And you were convicted March 2nd of 2016 of
12 receiving stolen goods between 2 and \$10,000?

13 A. Yes, sir.

14 Q. Now, the gun used in this incident you're
15 describing is the black nine millimeter Ruger you
16 saw earlier in the day; is that right?

17 A. Yes, sir. It was a blackish, charcoalish,
18 grayish nine millimeter. Right.

19 Q. It's not the silver-and-black 380 Hi-Point that
20 you had given Wade the week before, was it?

21 A. That was like two weeks before that and I never
22 seen that gun again, sir.

23 Q. That silver-and-black gun?

24 A. Yes, sir.

25 Q. Okay. So this Ruger, this nine millimeter,

1 that was Ryan's gun?

2 A. Yes, sir.

3 Q. Now, Josh was pretty mad at Wade for accusing
4 him of taking the money; isn't that right?

5 A. He was aggravated. He was being accused of
6 something he didn't do.

7 Q. Something that he said he didn't do?

8 A. I know he didn't do.

9 Q. Did you steal the money?

10 A. No, sir.

11 THE COURT: That's not a proper question.

12 Strike that question from the record.

13 BY MR. MAULDIN:

14 Q. Do you know who stole the money?

15 A. From what everybody says, come to find out
16 later, his girlfriend, Katie Campbell.

17 Q. She wasn't there that night, was she?

18 A. Not that night.

19 Q. But it was missing that morning?

20 A. Missing what morning?

21 Q. He was missing the money that morning?

22 A. The night he lost the money was not the same
23 night of the incident, no, sir.

24 Q. So you're not saying that's the same night?

25 A. Sir?

1 Q. You're saying that's not the same night?

2 A. The night Josh got killed?

3 Q. That's right.

4 A. Was not the same night he lost that money
5 because it was like two days before. Because when
6 Wade fell asleep on the little chair -- because we
7 had a bed set up in the living room because my
8 girlfriend and I just got into a four-wheeler
9 accident. And we done rearranged the living room,
10 put all the furniture back in the living room. And
11 this was, like, two or three nights prior to the
12 incident is when Wade's money come up missing.

13 Q. So --

14 THE COURT: Excuse me a minute, Mr. Mauldin.

15 As I gaze the gallery in the courtroom,
16 wherever my eyes fall, whoever I see that exhibits
17 any body language, pro or con, as any witness is
18 testifying, agreeing with them or disagreeing with
19 them, I'm holding you in contempt and you're going
20 to wake up tomorrow morning in the Lexington County
21 Detention Center.

22 This jury has a hard enough decision to make in
23 a case of this seriousness in any case and I will
24 not have them influenced by any member of the
25 gallery. I demand decorum in this courtroom and

1 respect for this jury. If you cannot control
2 yourself, your body language, your eye movement,
3 you've been warned, you better leave now.

4 Thank you very much, Mr. Mauldin. I did not
5 mean to interrupt you. You may proceed.

6 BY MR. MAULDIN:

7 Q. Going back, this is your trailer, right? You
8 were renting it?

9 A. Yes, sir.

10 Q. You were renting this trailer. And you had
11 cameras around the house?

12 A. Yes, sir.

13 Q. Were they on the outside of the house?

14 A. Yes, sir.

15 Q. And the inside?

16 A. We had baby monitors inside the house.

17 Q. And they were like camera monitors?

18 A. They were just little baby monitors that come
19 in like a little tablet or something.

20 Q. Did you have any recordings from those?

21 A. No, sir. I didn't have a DVR system.

22 Q. And several of the bedrooms had padlocks on the
23 doors?

24 A. Yes, sir.

25 Q. Padlocks that lock and you have to open them

1 with a key?

2 A. Yes, sir.

3 Q. And some of Wade's things were in one of those
4 rooms with a padlock on them?

5 A. I think he put his TV and some of his clothes
6 in the middle room and I locked it up for him so
7 nobody would steal it because he was just trying
8 to -- he just wanted to get all his stuff out of his
9 girlfriend's house.

10 Q. Did you have padlocks on all the rooms in the
11 house?

12 A. No, sir, I don't recall.

13 Q. More than one?

14 A. Yes, sir.

15 Q. So you had padlocks on some of the doors and
16 cameras on the outside?

17 A. Yes, sir.

18 Q. And Wade had moved his things in that night
19 before; is that right?

20 A. It was the night before, like two nights
21 before. He was just storing all of his stuff
22 because he didn't want her to have none of it.

23 Q. And some of his stuff was under the trailer?

24 A. Yes, sir.

25 Q. Now -- so you said that when Wade came to the

1 house earlier that day he had mentioned he wanted
2 things out of his room and he wanted to get that
3 padlock off the door; is that right?

4 A. Now, which --

5 Q. The day of the incident?

6 A. I don't recall that, sir.

7 Q. And you told him that you would have to go get
8 the key from your buddy, Bubba? That you didn't
9 have the key on you?

10 A. I left my phone and keys and stuff in the -- in
11 my buddy, Bubba's truck that -- the day before or
12 whatever. So after Ryan and A.J. took me to SCE&G,
13 we went to Ryan's house and then to my buddy,
14 Bubba's house to go get my phone and I think I left
15 my key. I might have left my keys, too; I'm not
16 sure.

17 Q. You wanted to get to your keys because Wade
18 wanted to get to his stuff, right?

19 A. No, sir. All I remember is leaving my cell
20 phone. I don't recall him wanting to get his stuff
21 or nothing like that. That was the last of his
22 worries.

23 Q. Now, you say that you came back to the house
24 and Wade was already there?

25 A. Yes, sir.

1 Q. Okay. And you say you didn't see him come in,
2 which way he came in?

3 A. Wade was already at my house.

4 Q. Right. So you wouldn't have seen which
5 entrance he came in the house?

6 A. No, sir. Ryan, A.J. and I, after we left my
7 buddy, Bubba's house, it was probably about -- we
8 got back to my house around 6:30 or so and Wade was
9 already -- Wade, Josh, Katie and J.C. were already
10 at the house.

11 Q. So you get back to the house about 6:30 and all
12 those people are already there?

13 A. Yes, sir.

14 Q. And you say Wade is sitting down in a chair
15 around this area near the front door?

16 A. Yeah, there was like a wooden chair. I think
17 that's where he was sitting at first. And Josh was
18 right here and Katie was right here.

19 Q. Okay. And --

20 A. And they were having a confrontation back and
21 forth with each other.

22 Q. And this is Gwilliam, Aaron Gwilliam?

23 A. J.C. -- I think J.C. was sitting right here.

24 Q. And A.J. was right here?

25 A. A.J. or Ryan I think were over here somewhere,

1 yes, sir.

2 Q. Now, if Ryan was over here, did he get in the
3 house before you or after you?

4 A. They came in after me, I do believe.

5 Q. Where were you when all this was going on?

6 A. I was paying attention to -- I was right here
7 talking to Josh. I was sitting about right here
8 talking to Josh and listening -- I dapped Josh up.
9 I think I gave -- dapped Wade up. And they were
10 already arguing, already having a confrontation. I
11 was just sitting there listening to the
12 confrontation.

13 Q. All right. So Wade is in this chair over here?

14 A. Yes, but he wasn't there long. He gets up and
15 goes into the kitchen.

16 Q. Gets up and goes to the kitchen around the
17 counter; is that right?

18 A. Yes, sir. And that's when Josh gets up and --
19 when Wade goes into the kitchen, Josh -- because
20 they're kind of arguing back and forth, Josh kind of
21 followed Wade into the kitchen.

22 Q. So he follows Wade into the kitchen and he's
23 cussing at him; is that right?

24 A. No, sir. Wade's accusing him -- accusing Josh
25 of stealing the money and Josh was getting agitated.

1 He said -- he was like, So you think I stole your
2 money. And they were having a verbal confrontation
3 back and forth.

4 Q. Now, you remember writing a statement for the
5 police that night?

6 A. Yes, sir.

7 Q. And you reviewed it; is that right? You've
8 reviewed it recently?

9 A. I don't need to review it.

10 Q. Okay. You didn't write in that statement that
11 Josh said, motherfucker, I didn't steal shit from
12 you. Did you write that?

13 A. I think I might have said, mother-effer, if you
14 think I stole your money, do something. I think
15 that's what the statement says.

16 Q. Could you have written both?

17 A. No, I just wrote the one statement.

18 Q. So you deny writing that first statement?

19 A. I'm not deny writing no statement, sir.

20 Q. So it's possible you did write that? If you're
21 not denying it, then it's possible you did write it?

22 A. Wrote?

23 Q. The first statement, M-Effer, I didn't steal
24 shit from you?

25 THE COURT: He hasn't denied he might have

1 wrote Motherfucker.

2 BY MR. MAULDIN:

3 Q. So he was cussing him?

4 A. Yeah, he was cussing.

5 Q. And he said something like if you think I stole
6 something from you, then you do something about it?

7 A. Yes, sir.

8 Q. Then you say he jumped at him?

9 A. Yeah, bowed up at him the way Wade was running
10 his mouth.

11 Q. And Wade kept running his mouth after he bowed
12 up at him, right?

13 A. Yes, sir.

14 Q. And then you write that Josh rushed at him
15 after that?

16 A. Bowed up at him.

17 Q. The second time?

18 A. No. After Josh said if you think I stole your
19 money -- because they went back and forth. Josh
20 said, If you think I stole your money, then do
21 something. And then Wade said something and Josh
22 says, I'm done talking and kind of jumped at him.
23 And that's when Wade pulled his gun.

24 Q. So he jumped at him twice?

25 A. One time.

1 Q. Okay. You didn't write that Josh said,
2 M-Effer, if you think I stole something from you,
3 then do something, and Josh kind of jumped at Wade?
4 You wrote that?

5 A. Yes, sir.

6 Q. Then later on, did you write, well, Wade kept
7 running his mouth and that's when Josh kind of
8 rushed him?

9 A. Meaning all the same thing. It's not two
10 different statements; it's one statement. My mind
11 is distraught -- you got to think my mind is
12 distraught.

13 Q. It's a statement where you're saying that
14 Mr. Prine is acting aggressive and jumping at and
15 rushing Mr. Frye on separate occasions. He jumped
16 at him. Wade kept running his mouth, and then he
17 rushed him. That's two separate aggressive moves,
18 isn't it?

19 A. No. That's all one statement, sir.

20 Q. I know it's one statement.

21 A. That's one motion.

22 Q. But you did write that?

23 A. Yes, sir.

24 Q. Okay. And you wrote that Wade snatched the gun
25 from you and fired it point-blank at Josh's chest?

1 A. Snatched the gun from me?

2 Q. Wade snatched it and fired point-blank to his
3 chest?

4 A. Wade grabbed the gun and when he pulled the
5 gun, that's when I dove behind Wade trying to grab
6 the gun, get ahold of the gun.

7 Q. Right. And then you wrote Wade snatched it and
8 fired point-blank to his chest?

9 A. Yes, sir.

10 Q. Okay. Now, point-blank would mean right up
11 against him, wouldn't it?

12 A. Well, point-blank, like three to five foot is
13 what I'm --

14 Q. Okay. If somebody wrote that somebody shot
15 somebody point-blank in the chest, you would assume
16 they saw them do it, right?

17 A. When Wade fired -- the reason I thought he was
18 shot in the chest is because that's where the wound
19 was coming out. When I seen Wade fire, I closed my
20 eyes and grabbed my side because I thought I was
21 shot.

22 Q. So you're saying you write statements based on
23 assumptions you make from later on --

24 MR. BELL: Objection, Your Honor, argumentative.

25 THE WITNESS: No, that's the truth.

1 THE COURT: That is argumentative. I will
2 sustain the objection.

3 BY MR. MAULDIN:

4 Q. So you didn't see Wade shoot him point-blank in
5 the chest?

6 A. I seen Wade fire the gun, yes, sir. When I
7 ducked, Josh turned.

8 Q. But you didn't see him shoot him in the chest?

9 A. No, sir, that's where I thought he was shot
10 because that's where the wound was at was in his
11 chest.

12 Q. And you're stating that Wade got up and went
13 over to this side of the counter?

14 A. Yes, sir.

15 Q. Had you gone to the kitchen before that
16 happened?

17 A. I'm kind of like right over here. I'm over
18 here kind of watching what's going on. Wade goes
19 into the kitchen right over here. Josh gets up
20 behind Wade and they're having a confrontation right
21 here. I walk around the back side of Josh kind of
22 over here on this side because I knew Wade had a
23 gun. I didn't know if he had it on him or not, but
24 I wasn't sure.

25 Q. So the argument is still going on with the

1 cussing and the jumping and the rushing, and you
2 work your way over here on the other side?

3 A. As they're having a confrontation, I'm over
4 here on this side right over here kind of watching,
5 have my arms crossed watching.

6 Q. So you got Josh right here and you right here
7 and Wade right here in the corner?

8 A. Yes, sir.

9 Q. And you saw Wade reach for something, so you
10 jumped on him; is that right?

11 A. Yes. I seen him reach for his right side.

12 Q. And you jumped on him and you grabbed his arm
13 because you wanted to disarm him?

14 A. Yes, sir.

15 Q. Is that right? And you're on top of him. And
16 if you want to disarm somebody, you want to grab him
17 pretty good, right?

18 A. I'm reaching around behind him. I'm on his
19 back side because I got a counter, a sink right
20 there. Like, the sink's right there and I'm kind of
21 reaching over the sink kind of and that's when Ryan
22 jumped over the bar area.

23 Q. Did you see Ryan do that?

24 A. Sir?

25 Q. Did you see Ryan jump over the bar area?

1 A. I didn't see him jump over it.

2 Q. Okay. Well, if you didn't see it --

3 A. I just remember both of us -- it was all this
4 chaos going on and we're trying to disarm this man.

5 Q. There's a bunch of chaos going on and Josh is
6 on top of Wade and you're on top of Wade and Ryan is
7 on top of Wade?

8 A. Josh wasn't on top of Wade at all. I was on
9 top -- I was on his back side trying to prevent any
10 of this from happening.

11 Q. If you're on his back side, how could you see
12 where Josh was?

13 A. When Wade spun -- when Wade kind of spun out
14 because I think when I had my hand on his arm,
15 when he spun out, he came up, I remember seeing the
16 gun and I ducked and that's when he fired.

17 Q. Okay.

18 A. And Josh was already turned, because I think
19 Josh was trying to -- because he heard Katie
20 screaming and I think he was looking for his
21 girlfriend and he was just trying to get away.

22 Q. And as far as you knew that night, there was
23 one shot? As far as you knew that night?

24 A. Yes, sir.

25 Q. That one shot?

1 A. Yes, sir.

2 MR. MAULDIN: I beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 MR. MAULDIN: No further questions, Your Honor.

5 THE COURT: Redirect, Solicitor?

6 MR. BELL: Thank you, Judge.

7 REDIRECT EXAMINATION

8 BY MR. BELL:

9 Q. Ray, I want to clarify something. The morning
10 that the altercation took place between Ryan
11 Boulware and Marion Frye, was that the morning
12 leading up to Josh's murder?

13 A. Yes, sir.

14 Q. And the argument that took place that morning
15 prior to the murder [sic] between Ryan Boulware and
16 Marion Frye, was that about money?

17 A. Yeah, because Wade was accusing Ryan of
18 stealing the money, too.

19 Q. So the money was missing prior to the shooting
20 of Joshua Prine?

21 A. Yes, sir, it was missing for like two days.

22 Q. There's mention about a camera that you had.
23 What was the purpose of having that camera?

24 A. We had the cameras -- you know, we were living
25 that kind of lifestyle -- just to see who's coming

1 and going.

2 Q. Again, were you recording on those cameras?

3 A. No, sir, I didn't have a DVR, sir.

4 Q. On cross, you were asked about who stole the
5 money and you responded I believe Katie Campbell; is
6 that correct?

7 A. That's what we later found out.

8 Q. Again, who is Katie Campbell?

9 A. Katie Campbell is Wade's girlfriend.

10 Q. And Katie Campbell, is that a different person
11 than Katie Vinson?

12 A. Yes, that's --

13 Q. You were questioned about when you jumped on
14 Wade Frye and you said he was reaching for his
15 waistband. Did he actually pull that firearm out?

16 A. Yes, sir.

17 Q. And is that why you jumped in to intervene?

18 A. Yes, sir. When I seen him pull the firearm,
19 that's when I dove kind of behind him trying to get
20 the gun.

21 Q. And you testified that you don't remember
22 seeing Ryan Boulware jump over the bar, but do you
23 remember him being in the mix attempting to get that
24 gun?

25 A. Yes, sir.

1 Q. Where were your eyes focused during that
2 altercation?

3 A. On that gun.

4 Q. You were questioned about your use of the
5 phrase point-blank?

6 A. Yes, sir.

7 Q. How far did you say point-blank was again?

8 A. About three to five foot, I'm guessing, you
9 know.

10 Q. And you believed that night that he had been
11 shot in the chest; is that right?

12 A. Yes, sir.

13 Q. And what was that thought based on?

14 A. Because that's the only wound we seen. When I
15 was holding Josh's chest, that's where I seen the --
16 the wound at.

17 Q. There was some testimony about padlocked doors
18 and you keeping some of Wade's belongings while he
19 was moving. Who requested that you padlock that
20 door?

21 A. I think I already had the doors padlocked, you
22 know, because when I leave my house, you just kind
23 of -- I had a lot of nice things at the time and
24 just try to keep everything locked up.

25 Q. And was that under the presumption that you

1 would keep his items from being stolen?

2 A. So nobody would mess with them, yes, sir.

3 Q. Ray, what's the last thing you saw Josh do?

4 A. Last thing I seen Josh do was -- after that
5 shot was fired, he was turned; he turned his back.

6 Q. And by turning, does that mean that he was
7 facing Wade?

8 A. He was facing Wade at first. I think he
9 reacted on my reaction. When the gun came up,
10 that's when I ducked and that's when Wade fired.

11 Q. So to be clear, did he turn away from Wade?

12 A. Yes, sir.

13 Q. And that means that his back was facing Wade?

14 A. Yes, sir. And he was not armed.

15 MR. BELL: Thank you, sir.

16 THE WITNESS: Yes, sir.

17 THE COURT: Recross, Mr. Mauldin?

18 RE CROSS-EXAMINATION

19 BY MR. MAULDIN:

20 Q. Regarding the not seeing Ryan Boulware, it's
21 Anthony Ryan Boulware, but he goes by Ryan, right?

22 A. Yes, sir.

23 Q. Why didn't you mention him in your statement at
24 all to the police?

25 A. Because I think he was on the scene and --

1 MR. BELL: Objection, Your Honor. Outside the
2 scope of redirect.

3 THE COURT: Overruled.

4 THE WITNESS: I'm not sure why.

5 BY MR. MAULDIN:

6 Q. So you left out Ryan Boulware; is that right?

7 A. Yes, sir. My statement is the truth.

8 MR. MAULDIN: No further questions.

9 THE COURT: Thank you very much, Mr. Boyer.

10 THE WITNESS: Yes, sir.

11 THE COURT: Step up here, please, Solicitor and
12 Mr. Mauldin.

13 (Sidebar conference.)

14 THE COURT: All right. Ladies and gentlemen,
15 after talking with the attorneys about our
16 scheduling, perhaps now would be a good time to take
17 our evening recess. Please remember, do not discuss
18 this case with others, fellow jurors, family,
19 friends, anyone else. Do not watch, read or listen
20 to any news accounts about the case should there be
21 any. Do not do any independent research or any
22 research on the internet. Remember to keep an open
23 mind and do not begin your deliberations until
24 you've heard all of the evidence and testimony,
25 closing arguments by the attorneys, instruction on

1 the law by the Court, and then directed by the Court
2 to begin your deliberations with your fellow jurors.

3 With that being said, I'm trying to gauge my
4 time this week and your time, which is much more
5 valuable than my time. I'm going to say 9:45 in the
6 morning. I've got another matter to take up about
7 9:15. And y'all know how I am about time, so we'll
8 see if I can hit that point of 9:45 in the morning.
9 I hope y'all have a pleasant evening. Thank you
10 very much.

11 (The jury exits the courtroom at 4:53 PM.)

12 THE COURT: All right. Solicitor, anything
13 before we take our evening recess from the State?

14 MS. MAYES: Nothing from the State, Your Honor.

15 THE COURT: Mr. Mauldin?

16 MR. MAULDIN: No, Your Honor.

17 THE COURT: Thank you very much. 9:45 in the
18 morning.

19 (The following proceedings were held February
20 7, 2018.)

21 THE COURT: All right. Anything from the State
22 before we bring in our jury, Solicitor?

23 MS. MAYES: Yes, sir, Your Honor. The witness
24 is here regarding the incident involving seeing the
25 defendant with a firearm earlier that day

1 approximately three hours beforehand. She said she
2 saw it in his waistband and then also at some point,
3 she -- at some point, he pulls it out. She's not
4 going to say he threatened her with it, but just
5 that she was able to visualize the gun when it was
6 displayed and that it appeared to be a nine
7 millimeter.

8 We would also have the 911 dispatcher who
9 verifies the date and time of that event and how it
10 was reported, but it's going to be limited to
11 subject with a gun, not to any threats that were
12 made with the gun. I just wanted to go ahead and
13 advise the Court of that.

14 THE COURT: Thank you, Solicitor.

15 Mr. Mauldin.

16 MR. MAULDIN: I would again object, Your Honor,
17 under 403, 404(b) and Lyle and its progeny. They
18 established Mr. Frye had had a gun earlier in the
19 day with other witnesses. The prejudice outweighs
20 the probative value.

21 THE COURT: I do not think it's 404(b)
22 testimony. I think it's circumstantial evidence
23 that he was -- had a weapon. And I know no prior
24 bad act that says having that weapon is a bad act,
25 none whatsoever. That's not been presented to me

1 whatsoever. He was in possession of a weapon
2 earlier in the day. So your motion is noted.

3 MR. MAULDIN: Yes, sir.

4 THE COURT: Anything additional, Mr. Mauldin,
5 before I bring in the jury?

6 MR. MAULDIN: No, Your Honor.

7 (The jury enters the courtroom at 10:14 AM.)

8 THE COURT: Good morning.

9 THE JURY: Good morning.

10 THE COURT: I apologize for the delay, but
11 y'all are probably getting as tired of hearing my
12 apologies as, perhaps, I am at giving them, but I do
13 apologize. Nothing to do whatsoever with the
14 parties. They were not on time; they were early and
15 working very diligently. It was another matter I
16 had to address independent of this case.

17 With that being said, we're continuing the
18 trial of the case.

19 Solicitor, you may call your next witness.

20 MS. MAYES: The State calls Brandi Slusher.

21 BRANDI SLUSHER

22 being first duly sworn, testified as follows:

23 THE WITNESS: I do.

24 THE CLERK: Have a seat right up here, ma'am.

25 Once you're seated, state your full name, spelling

1 your last.

2 THE WITNESS: Brandi Slusher, S-L-U-S-H-E-R.

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. Good morning, Ms. Slusher.

6 A. Good morning.

7 Q. I'm going to pull this up just a little bit.

8 MS. MAYES: Your Honor, if I may approach?

9 THE COURT: Yes, ma'am.

10 BY MS. MAYES:

11 Q. Now, Ms. Slusher, I want to start by asking
12 you, in what county do you reside?

13 A. Lexington.

14 Q. All right. And tell us where you were living
15 on or about October of 2015.

16 A. I think it was [REDACTED] Old Barnwell.

17 Q. Okay. And what area of Lexington County is
18 that known as?

19 A. I think it's Lexington. It's on Old Barnwell
20 Road.

21 Q. Okay. The Old Barnwell Road area?

22 A. Yes, ma'am.

23 Q. Okay. Now, I want to ask you if you know
24 personally any of the parties in this case?

25 A. No, ma'am.

1 Q. Did you know the defendant, Wade Frye, prior to
2 October of 2015?

3 A. No, ma'am.

4 Q. Did you know the victim in this case, Joshua
5 Prine?

6 A. No, ma'am.

7 Q. Okay. I want to take you back specifically,
8 Ms. Slusher, to October 1st of 2015. I want to
9 start by asking you a little about yourself. Do you
10 have children?

11 A. Yes, ma'am.

12 Q. All right. And your son in October of 2015 was
13 approximately how old or attending what school?

14 A. He was 14 and he was going to Carolina Springs
15 Middle.

16 Q. Okay. And at that point in time, did he play
17 any sports?

18 A. Yes, ma'am.

19 Q. What sports did he play?

20 A. Football.

21 Q. And as a result of that, did he have teammates
22 that he was friends with as well?

23 A. Yes, ma'am.

24 Q. All right. Now, sometime after school -- take
25 us through the normal routine after school for your

1 14-year-old back in 2015.

2 A. I would go and pick him up from school every
3 day and come home. That day, I picked him up and
4 his friends had also came to the house to hang out
5 until the game later that day.

6 Q. And when you say his friends, you're referring
7 to teammates on his football team?

8 A. Yes, ma'am.

9 Q. When we talk about the Old Barnwell Road area,
10 I'm going to show you an aerial photograph, which is
11 premarked as State's Exhibit 19, and ask you whether
12 or not you recognize this area.

13 A. Yes, ma'am.

14 Q. Does that appear to be a fair and accurate
15 representation of the area around Old Barnwell Road?

16 A. Yes, ma'am.

17 Q. In looking at this, would your home in 2015 be
18 visible?

19 A. Yes, ma'am.

20 MS. MAYES: Your Honor, at this time, this
21 would be State's Exhibit 19 for evidence.

22 MR. MAULDIN: No objection, Your Honor.

23 THE COURT: State's 19 is in evidence without
24 objection.

25 (State's Exhibit No. 19 admitted into

1 evidence.)

2 BY MS. MAYES:

3 Q. Now, Ms. Slusher, looking here at the diagram,
4 what is this area right here?

5 A. That would be my homeplace.

6 Q. That was the home you were residing in at that
7 time?

8 A. Yes, ma'am.

9 Q. And what would this road here be?

10 A. That would be Old Barnwell Road.

11 Q. This highway running here would be Old Barnwell
12 Road?

13 A. Yes, ma'am.

14 Q. Now, what is this location right here adjacent
15 to your home or across the street from your home
16 with the brown roof?

17 A. It's called The Barn.

18 Q. All right. What type of establishment is The
19 Barn?

20 A. It's a bar.

21 Q. Okay. Now, during daytime hours, having lived
22 right here at this location across the street, did
23 you ever see persons around this area during daytime
24 hours at The Barn?

25 A. Yes, ma'am, that day I did.

1 Q. All right. What is it that you remember about
2 that day?

3 A. That day behind The Barn, there was a white
4 Escalade and there was a man and a woman outside
5 in --

6 MR. MAULDIN: Your Honor, at this time, I would
7 renew my objection.

8 THE COURT: So noted.

9 BY MS. MAYES:

10 Q. And, Ms. Slusher, what I'm going to do is I'm
11 going to take you through this step by step. You
12 mentioned that there was a white Escalade. Would
13 that have been in front of The Barn or behind The
14 Barn?

15 A. Behind.

16 Q. What, if anything, had occurred that caused you
17 to come outside of your residence that day?

18 A. My dog had gotten outside.

19 Q. All right. And after you came outside, did you
20 see any individuals affiliated with that white
21 Escalade?

22 A. Yes, ma'am.

23 Q. Describe the individuals that you recall being
24 there.

25 A. It was a white male and a white female outside

1 and the -- I can't remember what the girl was
2 wearing, but the man was wearing white pants and a
3 yellow shirt.

4 Q. So you remember white pants, a yellow shirt on
5 the male. Now, is this a black male, white male,
6 Asian male?

7 A. It's a white male.

8 Q. Had you ever seen him before?

9 A. No, ma'am.

10 Q. What about the female in the white Escalade,
11 had you ever seen her before?

12 A. No, ma'am.

13 Q. What about inside the Escalade, could you
14 determine whether there were any people inside of
15 it?

16 A. There was nobody inside, but there was another
17 female that came out from behind the bar and two
18 children.

19 Q. Where did they go?

20 A. They got in the Escalade at that time.

21 Q. All right. So, ultimately, there was a white
22 male, two females and children in the Escalade?

23 A. Yes, ma'am.

24 Q. Now, prior to the male getting in the Escalade,
25 did you observe anything about him?

1 A. He had a gun that was in his pants waist on the
2 left-hand side.

3 Q. Let me stop you right there. When you say
4 there was a gun, where exactly did you visualize it?

5 A. It was inside his pants waist on the left-hand
6 side.

7 Q. All right. And then did you get an
8 opportunity -- this is a yes-or-no question. Did
9 you get an opportunity to see the gun in any more
10 detail after that?

11 A. Yes, ma'am.

12 Q. Okay. Did you have an opportunity to see the
13 entire gun?

14 A. Yes, ma'am.

15 Q. All right. How would you describe the gun or
16 how, ultimately, did you describe the gun to law
17 enforcement in this case?

18 A. It was a dark gun, looked like a nine
19 millimeter.

20 Q. All right. And what color did it appear to be
21 to you?

22 A. Black.

23 Q. And the fact that it looked like a nine
24 millimeter, did you report that to law enforcement?

25 A. Yes, ma'am.

1 Q. Now, after that occurred, where did you see
2 that individual go?

3 A. They had gotten in their vehicle and they went
4 up the road between the bar and our house, but I
5 can't tell you if they went to the left or to the
6 right once they got to Old Barnwell.

7 Q. So it would be this road here that they
8 followed up to Old Barnwell?

9 A. Yes, ma'am.

10 Q. And were you able to determine if it turned
11 left or right?

12 A. No, ma'am.

13 Q. Do you know who was driving the Escalade at
14 that point?

15 A. The male was.

16 Q. After that occurred, Ms. Slusher, did you take
17 any action?

18 A. I had called the officers and reported it.

19 Q. All right. And when you say reported it, what
20 number did you call to make that report?

21 A. 911.

22 Q. All right. And did you call 911 and make that
23 report -- how long did you wait? Let me ask you
24 like that. How long do you estimate you waited to
25 call 911 and make that report?

1 A. Once I seen the gun, I called immediately.

2 Q. All right. So you had access to a phone right
3 there?

4 A. Yes, ma'am.

5 Q. And, ultimately, did an officer come out and
6 speak with you?

7 A. Yes, ma'am.

8 Q. Now, I want to take you on to the next day.
9 What, if anything, brought this to your attention
10 that caused you to notify law enforcement once
11 again?

12 A. Once -- I was sitting watching TV with my son
13 and when they had showed a picture of the guy that
14 had murdered someone, I called right then because I
15 recognized him then.

16 Q. And when you say you recognized him then, you
17 mean from a photo on the news?

18 A. Yes, ma'am.

19 Q. And you're referring to recognizing it to be
20 the same individual that you saw at your
21 residence -- or near your residence?

22 A. Yes, ma'am.

23 MS. MAYES: Nothing further, Your Honor.

24 THE COURT: Thank you, Solicitor.

25 Mr. Mauldin?

1 MR. MAULDIN: Thank you.

2 CROSS-EXAMINATION

3 BY MR. MAULDIN:

4 Q. Ms. Slusher, you met with law enforcement last
5 October of 2017 and provided them with a written
6 statement, correct?

7 A. Yes, sir.

8 Q. And that was two years after this happened?

9 A. Yes, sir.

10 MR. MAULDIN: No further questions.

11 THE COURT: Redirect, Solicitor?

12 MS. MAYES: Yes, sir. I'll follow up a little
13 bit more.

14 REDIRECT EXAMINATION

15 BY MS. MAYES:

16 Q. However, you had an officer -- did you have an
17 officer come out to your home that day, earlier that
18 day on October 1st?

19 A. Yes, ma'am.

20 Q. Back in 2015?

21 A. Yes, ma'am.

22 Q. Did you report to him what you saw?

23 A. Yes, ma'am.

24 Q. Did you report to the --

25 MR. MAULDIN: Objection, Your Honor; hearsay.

1 MS. MAYES: I'm asking her what she --

2 THE COURT: Overruled.

3 BY MS. MAYES:

4 Q. So prior to meeting with the detective, as
5 Mr. Mauldin is asking you about, did you meet with a
6 road deputy?

7 A. I had gone to the Lexington County place on the
8 17th of October.

9 Q. Okay. Who actually came out to your residence
10 the day that this happened?

11 A. It was a 911 officer that had came out when I
12 made the report.

13 Q. Okay. And was he in uniform?

14 A. Yes, ma'am.

15 Q. Did you make a police report at that time?

16 A. Yes, ma'am.

17 Q. And can you tell us whether or not you reported
18 the gun at that time?

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

20 MS. MAYES: Nothing further.

21 THE COURT: Recross, Mr. Mauldin?

22 MR. MAULDIN: No, Your Honor.

23 THE COURT: Thank you, Ms. Slusher. You may
24 step down. You may be excused.

25 Solicitor, you may call your next witness.

1 MR. BELL: Thank you, Judge. The State calls
2 KM .

3 KM
4 being first duly sworn, testified as follows:

5 THE WITNESS: I do.

6 THE CLERK: Have a seat, sir. Once you're
7 seated, state your full name, spelling your last,
8 please.

9 THE WITNESS: KM ,
10 .

11 DIRECT EXAMINATION

12 BY MR. BELL:

13 Q. KM , how old are you?

14 A. Sixteen.

15 THE COURT: Speak up for me just a little bit,
16 please.

17 THE WITNESS: Sixteen.

18 BY MR. BELL:

19 Q. And back in October of 2015, how old would you
20 have been?

21 A. Thirteen.

22 Q. What grade are you in right now?

23 A. Tenth.

24 Q. You got a favorite subject?

25 A. Math.

1 Q. Play any sports?

2 A. Football.

3 Q. Is your mother with you today?

4 A. Yes, ma'am -- yes, sir.

5 Q. Is that Ms. Paris?

6 A. Yes, sir.

7 Q. Now, KM, back in October 1st of 2015, do you
8 recall talking to police about a man that you saw
9 that day?

10 A. Yes, sir.

11 Q. And do you recall where you were when you
12 talked to police that day?

13 A. At Deon's house.

14 Q. Do you know what road Deon lived off of?

15 A. Old Barnwell.

16 Q. Do you recall what time of day it was when you
17 spoke to the officer?

18 A. No. No, sir.

19 Q. Did they ask you questions about the man that
20 you saw that day?

21 A. Yes, sir.

22 Q. When you saw the man that they were asking you
23 about, what kind of vehicle was he in?

24 A. A white SUV.

25 Q. Did you see anybody else with him?

1 A. A female and a child.

2 Q. Where were they?

3 A. Outside of the truck.

4 Q. The same truck you just mentioned?

5 A. Yes, sir.

6 MR. MAULDIN: Your Honor, at this time, I would
7 renew my objection.

8 THE COURT: So noted. Thank you, Mr. Mauldin.

9 BY MR. BELL:

10 Q. Was there anything about the man that you saw
11 in that white SUV that stood out to you that day?

12 A. He had a firearm in his waistband.

13 Q. And you were able to see that firearm?

14 A. Yes, sir.

15 MR. BELL: Permission to approach the witness?

16 THE COURT: Yes, sir.

17 BY MR. BELL:

18 Q. The SUV that you mentioned, did it look similar
19 to this SUV in this picture?

20 A. Yes, sir.

21 Q. Do you know Ms. Brandi Slusher?

22 A. Yes, sir.

23 Q. Was she out there that same day where you saw
24 this man with the gun?

25 A. Yes, sir.

1 Q. And do you recall seeing police talk to her as
2 well?

3 A. Yes, sir.

4 MR. BELL: Thank you, [REDACTED].

5 THE COURT: Thank you, Solicitor.

6 Mr. Mauldin?

7 CROSS-EXAMINATION

8 BY MR. MAULDIN:

9 Q. [REDACTED], you provided a written statement to the
10 Solicitor's Office and law enforcement earlier last
11 week; is that right?

12 A. Yes, sir.

13 Q. Okay.

14 MR. MAULDIN: No further questions.

15 THE COURT: Redirect, Solicitor?

16 MR. BELL: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. BELL:

19 Q. Again, [REDACTED], on the day this happened, did you
20 speak to law enforcement?

21 A. Yes, sir.

22 Q. And did you tell them what you just told this
23 jury?

24 A. Yes, sir.

25 MR. BELL: Nothing further.

1 THE COURT: Recross, Mr. Mauldin?

2 MR. MAULDIN: No, Your Honor.

3 THE COURT: Thank you very much. You may step
4 down. Thank you for being with us.

5 All right, Solicitor.

6 MS. MAYES: The State calls Angela Gunter.

7 ANGELA GUNTER

8 being first duly sworn, testified as follows:

9 THE WITNESS: Yes, ma'am.

10 THE CLERK: Once you're seated, state your full
11 name, spelling your last, please.

12 THE WITNESS: Angela Gunter, G-U-N-T-E-R.

13 DIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. Ms. Gunter, I want to start by asking you a
16 little bit about yourself. Where are you employed?

17 A. Lexington County Communications.

18 Q. And that's the same Lexington County
19 Communications in which Nikki Rodgers is the
20 director?

21 A. Yes, ma'am.

22 Q. Okay. And we've heard testimony previously.
23 But when a 911 call is made, is information entered?

24 A. Yes.

25 Q. And specifically, can you tell us what role you

1 were playing on the date of October 1st, 2015 during
2 daytime hours?

3 A. I worked and I took a call from Ms. Slusher.

4 Q. All right. And that was on -- tell us the date
5 of that, please.

6 A. That was on October the 1st, '15.

7 Q. All right. Now, you indicated you took a call
8 from Ms. Slusher. Can you give us the full name of
9 that individual that made the call?

10 A. Brandi Slusher.

11 Q. What time was that call placed to the 911
12 center here in Lexington County?

13 A. 1623.

14 Q. Break that down for us in civilian time,
15 please.

16 A. 3:23. I believe that's right. Yeah. Yeah,
17 3:23. Sorry.

18 Q. You want to try that again?

19 A. Is that not right? Oh, I'm sorry. 4:23. I
20 apologize.

21 Q. Y'all work mainly off of military time at the
22 911 center, correct?

23 A. Yes, ma'am.

24 Q. So just to clarify, under military time, it
25 would be what time?

1 A. 4:23.

2 Q. 4:23 civilian time?

3 A. And 1623 military time.

4 Q. And 1623 military time or the time you use
5 there at the 911 Center?

6 A. Yes, ma'am.

7 Q. This would be p.m. hours, correct?

8 A. Correct.

9 Q. So we're talking about 4:23 p.m. in the
10 afternoon, the call comes in?

11 A. Uh-huh.

12 Q. And if you could, just tell us, what was the
13 nature of the call?

14 A. It was a subject with a gun.

15 Q. All right. Now, was any type of vehicle
16 description given?

17 A. Yes, ma'am.

18 Q. What type of vehicle description was given?

19 A. White Cadillac Escalade.

20 Q. A white Cadillac Escalade?

21 A. Uh-huh. Yes, ma'am.

22 Q. And was a license plate number provided?

23 A. Yes, it was.

24 MR. MAULDIN: Objection; hearsay, Your Honor.

25 THE COURT: Overruled.

1 BY MR. BELL:

2 Q. What license plate number was entered in
3 reference to this call?

4 A. [REDACTED].

5 Q. [REDACTED]?

6 A. Yes.

7 Q. Okay. That would be the license plate
8 affiliated with what vehicle?

9 A. That would be the white Cadillac Escalade.

10 Q. Now, again, are these records kept in the
11 ordinary course of your business at the 911 call
12 center?

13 A. Yes, ma'am.

14 Q. And is the information entered -- can you tell
15 us whether or not the information is entered
16 contemporaneously with the dispatcher taking the
17 call?

18 A. Yes. I take the call at the information center
19 as it's given.

20 Q. In response to that, can you tell us whether or
21 not a deputy was sent out to the location?

22 A. Yes.

23 Q. And what was the location provided?

24 A. [REDACTED] Old Barnwell Road.

25 Q. And does your report indicate which officer

1 responded out there after this call was made by Ms.
2 Slusher?

3 A. I have a unit number here.

4 Q. What's the unit number?

5 A. L 943.

6 Q. And below that, does it give the name of the
7 officer?

8 A. Hang on one second.

9 Q. Let me just ask you like this: Based on your
10 review of the call record, can you confirm whether
11 or not an officer went to that location?

12 A. Yes, one arrived on scene.

13 MS. MAYES: Nothing further.

14 THE COURT: Thank you, Solicitor.

15 Mr. Mauldin?

16 MR. MAULDIN: I have no questions for this
17 witness, Your Honor.

18 THE COURT: Thank you, Ms. Gunter. Thank you
19 for being with us today. You may step down.

20 All right. Solicitor?

21 MR. BELL: Thank you, Your Honor. At this
22 time, we'd call Investigator Tom Smith to the stand.

23 THE COURT: All right. Investigator Smith, if
24 you'd come around and join us, please.

25

1 THOMAS SMITH

2 being first duly sworn, testified as follows:

3 THE WITNESS: I do.

4 THE CLERK: Have a seat, sir. Once you're
5 seated, state your full name, spelling your last.

6 THE WITNESS: Thomas Alvin Smith, S-M-I-T-H.

7 DIRECT EXAMINATION

8 BY MR. BELL:

9 Q. Sir, who are you employed by?

10 A. The Lexington County Sheriff's Department.

11 Q. How long have you been with the department?

12 A. Since December of 2013.

13 Q. What's your current capacity with the Sheriff's
14 Department?

15 A. I'm currently with the Crime Scene
16 Investigation Unit or Forensic Services.

17 Q. Now, back in October of 2015, were you still
18 with the Sheriff's Department?

19 A. I was.

20 Q. What capacity back then?

21 A. I was a road patrol deputy.

22 Q. What sort of duties go into that job?

23 A. We were responsible for answering calls to
24 service, responsible for minor traffic incidences,
25 responding to 911 calls and other activities

1 associated with law enforcement.

2 Q. Now, on October 2nd of 2015, do you recall
3 being requested to transport an individual to the
4 Lexington County Detention Center?

5 A. I do.

6 Q. And who was that individual?

7 A. Marion Wade Frye, Jr.

8 Q. Where were you supposed to pick him up from?

9 A. I was dispatched by my supervisor to go over to
10 the little shop at a corner store at the corner of
11 Beatty and Kay Street, where I met with Richland
12 County.

13 Q. And was he in custody at that time?

14 A. Yes. He was, at that time, in the back of a
15 Richland County patrol vehicle.

16 Q. When you met with the Richland County sheriff
17 deputies, did you take custody of Mr. Frye?

18 A. I did.

19 Q. Walk us through the process of taking custody
20 of someone like that.

21 A. Upon arriving there, I spoke with Sergeant
22 Laintz at the time, who requested that I transport
23 Mr. Frye to the Sheriff's Department. I went over
24 and had him exit out of the vehicle from Richland
25 County. I swapped cuffs out and gave the cuffs that

1 he was originally in at the time back to the
2 Richland County officer. I then escorted Mr. Frye
3 to the back of my vehicle where I conducted a full
4 search of his person.

5 Q. And why do you search someone that you're
6 taking custody of?

7 A. We search them for twofold; A, search them for
8 our protection to make sure they don't have any
9 weapons on them or any contraband. We'll also
10 search them for any evidence of a crime.

11 Q. And did you locate a wallet on Mr. Frye's
12 person?

13 A. I did.

14 Q. Is that something that you would have seized?

15 A. Yes, it was.

16 Q. And what do you do with somebody's personal
17 belongings like that when you seize them?

18 A. I keep a roll of evidence bags in the front
19 seat of my vehicle, so any personal property,
20 anything that's on them that they're not going to be
21 booked in with, I drop inside that bag. And then if
22 it's evidence that's booked into the evidence
23 property room, if it's something that's going to go
24 with him with his personal belongings to the jail, I
25 transfer it over to the COs, correction officers.

1 MR. BELL: Permission to approach the witness,
2 Judge?

3 THE COURT: Yes, sir.

4 BY MR. BELL:

5 Q. Handing you an item, do you recognize this
6 item, sir?

7 A. I do.

8 Q. What is that item?

9 A. It's a leather tri-fold wallet.

10 Q. Why is that relevant to this case?

11 A. This is the wallet I took off of Mr. Frye
12 during the search of his person.

13 Q. Are you sure that's the same wallet?

14 A. Yes, sir, it still has his identification card
15 and other documents in it.

16 MR. BELL: Beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 BY MR. BELL:

19 Q. One more question here, Investigator. All of
20 the items that you just saw inside of the wallet,
21 were those also present when you seized the wallet
22 off Mr. Frye?

23 A. I can't be specific exactly what items were in
24 here. I do remember during the search finding his
25 South Carolina identification card.

1 Q. Did you remove anything or add anything to that
2 wallet prior to putting it in your evidence bag?

3 A. No, sir.

4 MR. BELL: Your Honor, at this time, the State
5 would seek to admit State's 20 into evidence.

6 THE COURT: Mr. Mauldin?

7 MR. MAULDIN: If he's introducing the wallet,
8 no objection.

9 THE COURT: And the items therein?

10 MR. MAULDIN: Your Honor, the items do contain
11 personalized information as far as birthdays and
12 social security numbers of my client. I don't know
13 that that necessarily needs to be entered into
14 evidence.

15 THE COURT: So you're objecting to the items in
16 the wallet?

17 MR. MAULDIN: Just on that basis, Your Honor.

18 THE COURT: Have it marked. And may I see it,
19 please?

20 MR. BELL: Yes, sir.

21 THE COURT: What will this be, 20?

22 MR. BELL: Yes, sir.

23 Your Honor, may we approach on the issue?

24 THE COURT: Yes, sir, give me just one second.

25 (Pause.)

1 THE COURT: Yes, Solicitor, Mr. Mauldin.

2 (Sidebar conference.)

3 THE COURT: State's 20 is in evidence subject
4 to defense objections.

5 (State's Exhibit No. 20 admitted into
6 evidence.)

7 BY MR. BELL:

8 Q. Investigator, if you look on the right side of
9 that wallet when you open it, can you tell us what
10 cards are present in the wallet?

11 A. There's a South Carolina identification card
12 bearing Mr. Frye's name. There's a TD Bank debit
13 card bearing the name of Katelyn Turner. There's a
14 PayPal debit card, just says PayPal customer on it,
15 and there's a South Carolina Bank card of some type
16 debit bearing the name of Katelyn Tilly on it.

17 Q. And on the opposite side of the wallet, would
18 you identify those documents in the wallet?

19 A. There's a social security card bearing the name
20 of Katelyn Erin Turner and a social security card
21 bearing the name of Marion Wade Frye, Jr.

22 Q. Are there any other documents on that side of
23 the wallet?

24 A. There is a receipt.

25 Q. Is it receipt dated?

1 A. It is. It's dated for 2 October at 12:42.

2 It's for the South Carolina Education Lottery.

3 Q. Does that indicate the purchase of a lottery
4 ticket?

5 A. To be honest with you, I don't know exactly
6 what this is. It says Cash \$10. So I'm not
7 familiar with the lottery system in South Carolina,
8 so I'm not sure exactly what this is.

9 Q. And again, the date, you said 2 October. Is
10 that October 2nd of 2015?

11 A. Correct.

12 Q. Aside from the items that you've told us about,
13 was there any cash inside the wallet?

14 A. There was.

15 Q. How much cash was in the wallet?

16 A. In the sum of \$402 and maybe some change.

17 Q. Why is the cash not present in that wallet?

18 A. The cash isn't present because the cash usually
19 gets separated out. Cash has to go either one of
20 two places: Either into evidence, or when they're
21 booked in the CO, it goes into a large fund; they
22 feed it into the system. So all cash, regardless,
23 is separated from that person.

24 Q. Okay. But did you document that cash amount in
25 your report?

1 A. I did.

2 Q. Aside from conducting your search of a person
3 prior to putting them in your vehicle, do you also
4 check their person for any signs of injury?

5 A. I give them a quick once-over to make sure
6 they're not broken, bleeding or on fire.

7 Q. Why would you be interested in documenting
8 injuries before someone comes to your custody?

9 A. We document injuries to make sure that they, A,
10 can't come back later and say they were injured and
11 we failed to give them treatment. We also check to
12 make sure that they're not injured because if we get
13 to the jail and the jail recognizes that they're
14 injured, bleeding, something -- or have other
15 medical issues, then we have to turn around and go
16 back to the ER and have them checked and released by
17 a doctor anyways. So we always give them a quick
18 once-over to make sure there's nothing there instead
19 of wasting time going to the jail and then coming
20 back, and we can just go straight to the jail.

21 Q. When you gave him that quick once-over, did you
22 see any black eyes on him?

23 A. No, I don't recall and I didn't document in my
24 report any injuries.

25 Q. If you had seen black eyes, is that something

1 you would have documented?

2 A. Yes, sir.

3 Q. Any other injuries, like fat lips, busted nose,
4 anything of that nature?

5 A. Nothing that I documented.

6 Q. What was Mr. Frye's demeanor like as you were
7 taking custody of him?

8 A. When I first took custody of him and searched
9 him, he was quiet. As I got him into the car and
10 actually left and started heading towards the jail,
11 he seemed restless and agitated.

12 Q. Where did you ultimately take him?

13 A. Lexington County Detention Center.

14 Q. And who did you turn him over to when you got
15 to the detention center?

16 A. I turned him over to Investigator Ben Booth
17 and, at the time, Sergeant Jesse Laintz.

18 Q. Did you have any further involvement in the
19 case?

20 A. No, sir.

21 Q. Did you have any involvement in the initial
22 investigation of the crime scene?

23 A. No, sir.

24 Q. Any further interaction with the evidence that
25 you deposited?

1 A. I didn't deposit any evidence. His whole
2 personal property was turned over to Investigator
3 Ben Booth and Sergeant Jesse Laintz.

4 Q. Aside from the transportation of Mr. Frye to
5 the Lexington County Detention Center, did you have
6 any other involvement aside from that?

7 A. No, sir.

8 MR. BELL: Thank you, sir.

9 THE COURT: Thank you, Solicitor.

10 Mr. Mauldin?

11 MR. MAULDIN: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MAULDIN:

14 Q. So how much money was in the wallet and how
15 much money was in his pants?

16 A. I don't remember specifically what came from
17 where. I just know there was a total of \$402 and
18 some change taken off of his person.

19 MR. MAULDIN: No further questions, Your Honor.

20 THE COURT: Redirect?

21 MR. BELL: Nothing, Your Honor.

22 THE COURT: Thank you, Detective Smith.

23 THE WITNESS: Am I dismissed, Your Honor?

24 THE COURT: Yes, sir.

25 All right, Solicitor.

1 MR. BELL: Thank you, Judge. The State calls
2 Reggie Lighty to the stand.

3 REGGIE LIGHTY

4 being first duly sworn, testified as follows:

5 THE WITNESS: So help me God.

6 THE CLERK: Please state your full name, once
7 you're seated, and spell your last, please.

8 THE WITNESS: My name is Reggie Lighty. Last
9 name is L-I-G-H-T-Y.

10 DIRECT EXAMINATION

11 BY MR. BELL:

12 Q. Sir, who do you work for?

13 A. I work for Lexington County Detention Center.

14 Q. And in what capacity do you work for the
15 detention center?

16 A. I'm currently an FTO, which is a field training
17 officer. I work all throughout the jail, all
18 housing units as well as booking.

19 Q. And what does the training part of field
20 training officer mean?

21 A. When we get new hires that come in after
22 they're done with their pre-service and they come
23 over to the jail, I teach them how to run the pods
24 and policies and procedures and things of that sort.

25 Q. Are you versed in all of the protocols and

1 procedures at the detention center?

2 A. Yes, sir.

3 Q. Back in October of 2015, what capacity were you
4 working?

5 A. Booking. I was booking at the time.

6 Q. Were you still at the detention center?

7 A. Yes, sir.

8 Q. What exactly does booking mean?

9 A. That's the process that when the officers bring
10 an inmate to the jail, they get processed through
11 the intake. Then we have to do the booking process,
12 which is we get the information, we put the charges
13 in the system, we classify them; they go through a
14 medical screening and then we house them to whatever
15 area they're going to. And that pretty much covers
16 the -- we take their property. We have a property
17 room where we put their property at. Things of that
18 sort.

19 Q. Can you walk us through, just generally
20 speaking, how the general booking process goes when
21 an inmate comes to the detention center?

22 A. Yes. When they first get there, they come
23 through the intake process. That's the first
24 process they go through. And during that process,
25 we -- as a correction officer, we will come out and

1 meet the deputy or officer. We will search the
2 inmate, pat them down, make sure they don't have any
3 type of weapons, contraband, things like that. We
4 get all their property. We go through their
5 property, money; we separate it. We have a bag we
6 put their property in. We seal it in front of them.
7 We have them sign -- we have documents that we write
8 down everything that they have. We do an actual
9 inventory, and then we have them sign it, if they're
10 capable of signing it.

11 After that, we take them on in. We change them
12 out in a dress-out room into a jail uniform and tell
13 them to have a seat in the lobby. At that time, we
14 will go ahead and prepare their paperwork. And once
15 we get their paperwork ready, we'll call them up and
16 we'll book them in, ask them questions about their
17 address, phone number, employed and all stuff like
18 that. After that, we'll take their picture and
19 we'll wait for them to be screened by medical.

20 Once medical screens them and we find out what
21 type of classification, which is where we can put
22 them in the jail, we'll go ahead and house them.
23 You have to fingerprint them. And then after the
24 fingerprinting process, it's pretty much time to go
25 down to their housing area.

1 Q. Okay. Now, you mentioned that at some point
2 during the process, the inmates will go through a
3 medical screen. Is that accurate?

4 A. Yes.

5 Q. Can you tell us more about what the medical
6 screen is?

7 A. Well, during the intake process, what will
8 happen is we have a medical form that we have to ask
9 questions. And on this form, we -- some of the
10 questions are, are there any, like, cuts and bruises
11 and lacerations? Do you suffer from anxiety?
12 Depression? Are you homicidal? Suicidal? Have you
13 been injured in the last 24 to 48 hours? Have you
14 used any alcohol or drugs within the last 24 to 48
15 hours?

16 So if we get a yes on any one of those
17 questions, we have to call medical to the intake.
18 So medical will come to intake and then they will do
19 their assessment right there just to see if we can
20 accept them into the jail. If they sign off and
21 they accept them, then we'll go ahead and take them
22 in the jail and we'll begin the process of booking.

23 But then there's another medical screening
24 process, which is, you know, more intense as far as
25 the medical actually pulls them to the side, talks

1 to them and asks them all sorts of questions about
2 medication and history of injuries or seizures,
3 whatever it may be, cigarette smoking, and they do
4 their medical assessment. And then they'll let us
5 know, based on their medical assessment, where they
6 can be housed, if they should be on mental health,
7 if they should be on the lower tier because they
8 have a medical issue, things of that sort.

9 Q. Now, you mentioned the medical screener signs
10 off and you can take them to housing. What happens
11 if the medical screener doesn't sign off?

12 A. What will happen is like the -- before the
13 deputy or the officer leaves the intake process,
14 when medical comes out and assesses them, medical
15 will not approve them or accept them. The deputy
16 has to -- or the officer has to take them to the
17 hospital to have them checked by a doctor before
18 they can bring them -- before they can return them
19 to the detention center.

20 Q. Sir, were you present back in October 2nd of
21 2015 during the booking process of Marion Wade Frye?

22 A. Yes, sir.

23 Q. And did Mr. Frye go through the same procedure
24 that you just outlined for us here today?

25 A. Yes, sir.

1 Q. And did you have the opportunity to see Mr.
2 Frye with your own two eyes?

3 A. Yes, sir.

4 Q. And during your process and during your looking
5 at Mr. Frye, did he appear to have any apparent
6 injury?

7 A. No, sir.

8 Q. Did he appear to have black eyes or a busted
9 nose?

10 A. No, sir.

11 Q. Fat lip?

12 A. No, sir.

13 Q. Any signs of injury that you could see?

14 A. No, sir.

15 Q. Ultimately, was Mr. Frye booked into the jail
16 on the night that he was brought in?

17 A. I cannot recall, but I know that he spent quite
18 some time in the -- they call it the drunk tank, the
19 tank --

20 Q. We'll talk about that in a moment. But as far
21 as his booking, do you recall whether or not he was
22 referred to the medical center because of an injury?

23 A. No, he was not.

24 Q. Do you recall a detective being present that
25 night and taking pictures of Mr. Frye?

1 A. Yes, sir.

2 Q. Do you recall if they made him remove any
3 clothing?

4 A. I do recall them making him take his shirt off.

5 MR. BELL: Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 MR. BELL: Permission to approach the witness?

8 THE COURT: Yes, sir.

9 BY MR. BELL:

10 Q. Sir, I'm handing you a stack of photographs.
11 If you could, just take a moment to look through
12 them and after you've had a moment to do so, just
13 let me know. Do you recognize the individual in
14 that series of pictures?

15 A. Yes, sir.

16 Q. Who is it?

17 A. Marion Frye.

18 Q. Is that the same gentleman you were present for
19 the booking of on October 2nd, 2015?

20 A. Yes, sir.

21 Q. Does the content of the pictures that you
22 looked at fairly and accurately reflect the way that
23 he looked when you saw him that night during
24 booking?

25 A. Yes, sir.

1 MR. BELL: Your Honor, at this time, the State
2 would seek to admit State's Exhibits 21 through 33
3 as well as State's 12 into evidence.

4 THE COURT: 12 is a photograph of Mr. Frye?

5 MR. BELL: Yes, Your Honor.

6 MR. MAULDIN: No objection, Your Honor.

7 THE COURT: State's 12, 21 through 33 is in
8 evidence without objection.

9 (State's Exhibit Nos. 12, 21 through 33
10 admitted into evidence.)

11 BY MR. BELL:

12 Q. Sir, was Mr. Frye in a calm state of mind
13 during booking?

14 A. No, sir.

15 Q. Would you expand on that for us?

16 A. Well, there are --

17 MR. MAULDIN: Objection; relevance, Your Honor.

18 THE COURT: Overruled.

19 THE WITNESS: There are policies that are put
20 in place where, you know, males are not supposed to
21 talk to females once you're into the jail --

22 THE COURT: Let me stop you.

23 Step out, please, ladies and gentlemen. Do not
24 discuss the case during this brief recess.

25 (The jury exits the courtroom at 11:07 AM.)

1 THE COURT: Tell me -- explain to me a little
2 further where you're going with this, Solicitor.

3 MR. BELL: And, Your Honor, that is not the
4 line of questioning that I was heading towards. I
5 did want to extrapolate upon his demeanor. And I'm
6 happy to proffer it, but I believe that Mr. Lighty
7 will say that he appeared intoxicated and
8 belligerent during the booking process. And that's
9 what I was trying to elicit.

10 THE COURT: And your objection again,
11 Mr. Mauldin?

12 MR. MAULDIN: Well, at first, it was relevance,
13 but now it's also 403, the prejudice outweighs the
14 probative value. I don't understand how his
15 attitude when he's being booked in jail has any
16 relevance to the night before or -- you know, I have
17 no idea where it ties into the events of the evening
18 and the fact that he's acting in a bad way.

19 THE COURT: Well, the question was originally,
20 I think, was Mr. Frye calm during the booking
21 process. I believe the officer testified he was
22 not. Then I think the question was can you expand
23 on that. My mind was tracking demeanor, quite
24 frankly, at that point, not necessarily -- no
25 comment on the officer's testimony whatsoever in a

1 critical fashion, about necessarily his behavior or
2 violating a policy, so to speak. That's kind of why
3 I stopped him.

4 What is the relevance of it, Solicitor? What
5 is the relevancy?

6 MR. BELL: This booking process would have
7 taken place less than 24 hours after the incident
8 occurred. I believe it's relevant because it goes
9 further to establishing that his flight was not
10 accidental, that his flight was not because he
11 believed a mistake had been made and he was scared.
12 I believe it goes towards showing that his flight
13 was intentional, he was still angry from the event
14 and that he was not happy about being located by law
15 enforcement and had no intent of turning himself in.

16 THE COURT: Was his behavior such that he was
17 expressing -- that his belligerent behavior, as the
18 officer described it, was based on his
19 disappointment, so to speak, in being captured? Was
20 he expressing that?

21 MR. BELL: Your Honor, to my knowledge, he was
22 not expressly stating I'm upset being caught by law
23 enforcement. I think that is relevant information
24 for the jury to consider. The testimony that Mr.
25 Lighty was about to go into was about him also being

1 upset that he was being separated from Ms. Turner,
2 his codefendant in this case, which I didn't plan to
3 get into that testimony, but I do feel that his
4 behavior less than 24 hours after being on the run
5 from the scene of a murder goes towards ongoing
6 activity as well as his behavior following the
7 crime.

8 THE COURT: Okay. Let's take about a 10-minute
9 recess. Thank you.

10 Do not discuss your testimony.

11 Thank you, Solicitor.

12 (Short break.)

13 THE COURT: Although Mr. Frye --

14 Yes, Solicitor, did you want to say something?

15 MR. BELL: No, Your Honor.

16 THE COURT: All right.

17 I can't connect the dots between belligerence
18 during the booking process and how that relates to
19 evidence of guilt. I don't know the relevancy of
20 it, nor do I track the relevancy of his -- if you
21 didn't question Officer Lighty any further
22 concerning Mr. Frye's questioning of the policy of
23 separating males and females and then how that would
24 relate back to evidence of guilt.

25 With that being said, the demeanor may have

1 some relevancy in some areas, but I don't think
2 that's evidence of guilt that corroborates flight
3 evidence.

4 So I will -- from what I've heard so far, the
5 direction it's going now, I would sustain the
6 objection.

7 MR. BELL: Yes, sir.

8 THE COURT: All right. Thank you, Solicitor.

9 Anything further before we bring in the jury?

10 MR. MAULDIN: I'd move to strike that question
11 and response in light of your ruling.

12 THE COURT: And that question being -- well,
13 you didn't object on not calm -- that's irrelevant,
14 was he calm during booking. And I think the
15 officer's testimony was he was not calm during
16 booking. Is that what you're asking me to strike?

17 MR. MAULDIN: Yes, sir. And then he started
18 talking about the conversation between a male and a
19 female, something along those lines afterward and --

20 MR. BELL: Your Honor --

21 THE COURT: Well, I think -- again, I think the
22 solicitor said can you explain that or words of
23 similar effect.

24 You have a position on that, Solicitor?

25 MR. BELL: Yes, Your Honor. My recollection is

1 I did ask the question about whether he was calm.
2 The response was he was not calm. I paused for a
3 moment to try to determine how I wanted to proceed
4 with the next question and there was no objection
5 until I asked him to expand upon it, and the officer
6 began answering at that point. So my position would
7 be the statement about he was not calm during the
8 booking should stand in the record; however, no
9 objection to striking the follow-up to that.

10 THE COURT: That's kind of the flow as I recall
11 it, Mr. Mauldin.

12 All right. I'll tell them something.

13 Anything further?

14 MR. BELL: Nothing from the State.

15 THE COURT: Thank you.

16 (The jury enters the courtroom at 11:46 AM.)

17 THE COURT: Welcome back, ladies and gentlemen.

18 There was a question prior to our recent recess when
19 I asked you to step out, and then the officer -- no
20 criticism to the officer one way or the other.

21 Obviously the credibility of any witness is to be
22 determined by the jury. But in getting to a
23 particular policy at the jail about the segregation
24 of male and female and the demeanor -- alleged
25 demeanor of the defendant as to being belligerent,

1 I'm striking that from the record.

2 What that means when I say I strike it from the
3 record, obviously it's still on the record, but I
4 would advise the jury that I would ask you not to
5 consider that testimony in any way whatsoever
6 through your deliberations in your determination of
7 the facts. It shouldn't even be discussed in the
8 jury room.

9 All right. Thank you very much, Solicitor, Mr.
10 Mauldin.

11 Solicitor, you may ask your next question.

12 MR. BELL: Thank you, Your Honor.

13 At this time, Your Honor, the State would
14 request to publish State's 12.

15 THE COURT: The photograph?

16 MR. BELL: Yes, sir.

17 THE COURT: Yes, sir, you may publish it, of
18 course.

19 BY MR. BELL:

20 Q. Officer, referring to the projector in State's
21 12, again, who is this gentleman that you see?

22 A. Marion Frye.

23 Q. And is that the way he looked when he came into
24 the detention center on October 2nd, 2015?

25 A. Yes, sir.

1 Q. And you testified earlier that you didn't see
2 any sign of black eyes or busted lips or things of
3 that nature. Do you stand by that comment in
4 looking at this photo?

5 A. Yes, sir.

6 Q. Are there any markings that do stand out to
7 you?

8 A. It appears that he has, looks like, two zits on
9 the right side of his face.

10 Q. Any other injuries that stood out to you?

11 A. No, sir.

12 MR. BELL: Thank you, Officer.

13 THE COURT: Thank you, Solicitor.

14 Mr. Mauldin?

15 CROSS-EXAMINATION

16 BY MR. MAULDIN:

17 Q. Officer Lighty, you were the intake officer for
18 Mr. Frye?

19 A. Sir, I cannot recall if I was the intake
20 officer on that specific date. I was working in the
21 booking area, but as far as the actual intake
22 officer, I do not recall that.

23 Q. Well, the intake officer would have to fill out
24 a form about the intake officer's observations; is
25 that correct?

1 A. Correct.

2 Q. And that's a series of questions that you were
3 mentioning that they go through and if there's an
4 answer yes, then the nurse would come in; is that
5 right?

6 A. Correct.

7 Q. Did you fill out a form like that in this case?

8 A. Once again, I do not recall if I was the intake
9 officer, so I don't recall.

10 Q. But the intake officer is the one that asked
11 those questions, right?

12 A. Yes, sir.

13 Q. And they're the ones that make the nurse come
14 if there's a yes or no answer to those questions?

15 A. Yes, sir.

16 Q. So you don't recall if you did that or not?

17 A. No, sir, I do not recall if I was the intake
18 officer that day.

19 Q. So you don't recall whether or not a nurse was
20 called?

21 A. I do not recall, sir.

22 Q. If any of those answers -- if the question is
23 are there any visible signs of fever, jaundice, skin
24 lesions, rash, infections, cuts, bruises or minor
25 injuries, if that answer is yes, the nurse is

1 coming?

2 A. Yes. There's several questions on there. Some
3 of them are pertaining to injuries and some of them
4 are pertaining to alcohol and all sorts of different
5 portions. So if any of them are answered yes, a
6 nurse will be called.

7 Q. But you testified that you don't remember
8 whether or not you were the intake officer?

9 A. That's correct.

10 Q. And whether or not a nurse was called because
11 there was a yes answer to one of those questions?

12 A. That's correct.

13 MR. MAULDIN: No further questions.

14 THE COURT: Redirect, Solicitor?

15 MR. BELL: Briefly.

16 REDIRECT EXAMINATION

17 BY MR. BELL:

18 Q. Have you ever claimed to this jury that you
19 were the intake officer that night?

20 A. No, sir.

21 Q. However, were you present and saw Mr. Frye that
22 night?

23 A. Yes, sir.

24 Q. Based on the procedures and protocols that you
25 were trained on and you now train on, if he did have

1 injuries and medical did not clear him, would he
2 have been booked in that night?

3 A. He would not. He would have had to go to the
4 hospital and get checked by a doctor.

5 MR. BELL: Thank you.

6 THE COURT: Recross?

7 RE CROSS-EXAMINATION

8 BY MR. MAULDIN:

9 Q. But he could have had injuries and medical did
10 clear him, right, to be booked at the jail?

11 A. If it's not, you know, anything serious enough,
12 they can actually clear him if it's something the
13 jail can handle, the medical staff can handle.

14 Q. Right, if it doesn't require hospitalization?

15 A. Correct.

16 Q. So there could have been injuries; he could
17 have been seen by a nurse and cleared by the jail?

18 A. That's correct.

19 Q. But you don't remember whether or not that
20 happened?

21 A. I don't.

22 MR. MAULDIN: No further questions.

23 THE COURT: Thank you very much, Officer.

24 Thank you for being with us today. You may step
25 down.

1 Solicitor, you may call your next witness.

2 MS. MAYES: The State calls Matthew Hartley.

3 MATTHEW HARTLEY

4 being first duly sworn, testified as follows:

5 THE WITNESS: I do.

6 THE CLERK: Have a seat, please, sir. Once
7 you're seated, state your full name, spelling your
8 last.

9 THE WITNESS: Matthew Lee Hartley, last name,
10 H-A-R-T-L-E-Y.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q. Good day, Mr. Hartley. I just want to ask you
14 a few questions about yourself. What county do you
15 reside in?

16 A. Lexington.

17 Q. How long have you been living here in Lexington
18 County?

19 A. Pretty much all my life.

20 Q. I want to take you back to October 1st of 2015.
21 Did you have the opportunity to be a 911 caller on
22 that date?

23 A. Yes, I did.

24 Q. And specifically, can you tell us what address
25 you were calling about?

1 A. Marty Lane.

2 Q. Okay. Tell us a little bit, Mr. Hartley, about
3 how it is that you know Raymond Boyer and what
4 brought you there that night.

5 A. I know his mom and the family. I've been
6 knowing them for a while. And he was doing
7 remodeling at his house and I had some paint for him
8 that night and I was on the way over there to give
9 it to him. And that's what I was headed over there
10 for.

11 Q. All right. And were you the only one helping
12 him remodel?

13 A. Yes, ma'am.

14 Q. All right. Is that something your father had
15 been involved in as well?

16 A. That's what my dad had done, yes, ma'am, for a
17 living.

18 Q. And did you have the occasion to take the paint
19 over there towards Mr. Boyer's house?

20 A. I was on the way with it. I mean, I arrived
21 with it. Yes, I did.

22 Q. Tell us what you observed upon your arrival.

23 A. When I got there -- I went through the back
24 door. It was a quarter of a way to halfway open,
25 and I heard somebody crying pretty loud. I thought

1 it was the TV at the time. I wasn't sure, so I
2 stuck my head in the door and I hollered for Ray,
3 and I still didn't get no response. And then I
4 heard an even louder cry and then I walked on in and
5 told Ray, Hey, Ray, it's me, and then I walked into
6 the kitchen and that's what I walked into.

7 Q. All right. Let me stop you right there. I'm
8 going to show you this diagram, Mr. Hartley, which
9 is State's Exhibit 4 and ask you to take a look at
10 that.

11 A. Yes, ma'am.

12 Q. Where would the kitchen area be?

13 A. Right here. Yes, right in there.

14 Q. And do you see the back door area on this?

15 A. Yes, right in -- somewhere maybe right in here,
16 I think, because -- yeah, somewhere maybe right in
17 there.

18 Q. Okay. And you recall seeing the back door
19 already open?

20 A. Yes, ma'am.

21 Q. And you could hear the crying from inside?

22 A. Yes, ma'am.

23 Q. Now, what else did you observe once you walked
24 in?

25 A. When I walked into the kitchen and I found out

1 who was crying, it was Ray -- it was Ray crying
2 laying on the floor in a bunch of blood with his arm
3 over Josh.

4 Q. Who else, if anyone, did you see in that area?

5 A. Yes, ma'am, Katie. She was laying beside
6 Josh -- I'm sorry, laying beside Ray. And it was
7 Ray -- well, both of them were crying, but what
8 sticks with me is Ray crying, asking me to help, but
9 I couldn't do nothing.

10 Q. Did you see anyone else in the kitchen other
11 than those three, being Josh, Katie and Ray?

12 A. No, ma'am.

13 Q. You mentioned that you had the occasion to call
14 911?

15 A. Yes, ma'am.

16 Q. I'm going to play a portion of this which is
17 already in evidence.

18 (Audio recording played for the jury and his
19 Honor.)

20 BY MS. MAYES:

21 Q. Okay. Whose voice is that saying, I just came
22 up on them?

23 A. It was mine.

24 (Audio recording continued.)

25 BY MS. MAYES:

1 Q. And at this point, Mr. Hartley, what had
2 happened?

3 A. Give me just a minute, please. I'm sorry. Ask
4 me again. I'm sorry. I'm sorry.

5 Q. At that point during the call?

6 A. Yes.

7 Q. Can you tell us whether or not you handed the
8 phone off to anyone at some point?

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

10 (Audio recording continued.)

11 BY MS. MAYES:

12 Q. And at this point, Mr. Hartley, whose voice is
13 on the phone?

14 A. Mine. That's me.

15 Q. So you got the phone back?

16 A. I got the phone back, yes, ma'am.

17 (Audio recording continued.)

18 BY MS. MAYES:

19 Q. And, Mr. Hartley, at that point in time, could
20 you visualize an officer?

21 A. Yes, ma'am.

22 Q. He was already there at the scene?

23 A. Yes, ma'am. He was -- yes, ma'am.

24 Q. Did law enforcement remain there at that scene
25 from that point on?

1 A. Yes, ma'am.

2 Q. Okay. And if there's information that this
3 call was received at 7:38 p.m., can you tell us
4 whether or not that is accurate to you?

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

6 Q. All right. Now, one of the things that she
7 asked you was is there guns there. What did you
8 mean by your response?

9 A. Like I said, when I walked in and I seen Ray, I
10 could still smell it and I could see the haze going
11 through the air.

12 Q. When you say you could still smell it, you're
13 referring to what?

14 A. Gun powder.

15 Q. So what did that lead you to believe?

16 A. I thought there was a gun still there
17 somewhere.

18 Q. Did you ever see a gun?

19 A. No, huh-uh. I didn't.

20 Q. Did you see a gun laying around the kitchen
21 area anywhere?

22 A. No, ma'am.

23 Q. Did you see anybody else in that house with a
24 gun?

25 A. No, ma'am.

1 Q. From the time of your call to the point law
2 enforcement arrived right there on the property?

3 A. No, ma'am.

4 Q. And you testified that when you got there, the
5 back door was ajar?

6 A. Yes, ma'am.

7 Q. Is that the door that you came on in?

8 A. Yes, ma'am. The back door, yes, ma'am.

9 Q. Did you see the white Escalade anywhere?

10 A. No, ma'am. No, ma'am.

11 Q. So the information that you provided to 911,
12 the name of the shooter you gave was Wade Frye and
13 then that he left in a white Escalade, where did you
14 receive that information?

15 A. Like I said, everybody was talking after the
16 fact, but with Wade or whatever, that's what Ray was
17 telling me. You could hear on the phone who it was.

18 Q. So as the 911 dispatcher was asking you, you're
19 getting information from Ray?

20 A. Yes, ma'am.

21 Q. Throughout that point in time, did you ever see
22 Ray or Katie leave Josh's side?

23 A. No, they wouldn't. I had to -- huh-uh. I had
24 to -- the officer that was there and a couple
25 minutes later, another officer pulled up and it got

1 chaotic. And they asked could I help Ray and Katie
2 get up. And I had a hard time getting Ray up off of
3 him. Ray didn't want to turn him loose. But no,
4 ma'am, both of them, actually, but Ray wouldn't turn
5 him loose.

6 MS. MAYES: Nothing further.

7 THE COURT: Thank you, Solicitor.

8 Mr. Mauldin?

9 CROSS-EXAMINATION

10 BY MR. MAULDIN:

11 Q. So your answer to the question were there guns
12 in the house was yes, ma'am; is that correct?

13 A. Yes, sir.

14 Q. Is that possibly because you knew Ray had guns
15 in the house prior?

16 A. I don't know nothing about that. Like I said,
17 when -- I walked in and I seen the haze still in the
18 living room and I could smell the gun powder. I
19 didn't know what had happened at that time.

20 Q. Because she was asking guns, plural, wasn't
21 she?

22 A. Right. But, like I said, I could smell the gun
23 powder. And when she asked were there still guns
24 there, I just -- like I said, it was pretty chaotic;
25 I just assumed there still was. Like I said, I

1 smelled gun powder and seen the haze.

2 MR. MAULDIN: No further questions, Your Honor.

3 THE COURT: Redirect?

4 MS. MAYES: No, Your Honor.

5 THE COURT: All right. Solicitor, you can call
6 your next witness.

7 MS. MAYES: The State calls Lieutenant Jesse
8 Laintz.

9 JESSE LAINTZ

10 being first duly sworn, testified as follows:

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Have a seat, please. Once you're
13 seated, state your full, spelling your last.

14 THE WITNESS: Jesse Laintz. Last name is
15 L-A-I-N-T-Z.

16 DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. Good day, Lieutenant Laintz. Can you tell us
19 some information about yourself, where you're
20 employed and your current job description?

21 A. I work with the Lexington County Sheriff's
22 Department and I am the south region assistant
23 commander. That means I'm a lieutenant over the
24 south region.

25 Q. And how long have you been in law enforcement?

1 A. I've been in law enforcement for 12 years now.

2 Q. And what was your experience prior to law
3 enforcement?

4 A. Before I was in law enforcement, I was in the
5 Marine Corp for about seven years.

6 Q. Now, during your time with the Lexington County
7 Sheriff's Department, how much of that time has been
8 spent as a detective or in the Major Crimes Unit?

9 A. I was in Major Crimes for a total six years.
10 Five of those years, I was a sergeant.

11 Q. And as a sergeant in Major Crimes, what are
12 your job responsibilities?

13 A. Sergeant of Major Crimes oversees a group of
14 people, a team. My team consisted of four people,
15 then I also supervised our VAs, which are victim
16 assistants, and we would investigate anything from a
17 simple assault or domestic-type situation, all the
18 way up to homicide. I also dealt largely with our
19 gangs and armed robberies.

20 Q. And specifically at that point in time, can you
21 tell us whether or not you had the responsibility to
22 oversee violent crimes and homicides?

23 A. Yes, during that time, I oversaw violent crimes
24 and homicides.

25 Q. What was your involvement in the incident that

1 occurred at Marty Lane on or about October 1st,
2 2015?

3 A. I was the responding supervisor of the
4 detectives that responded to the scene.

5 Q. How many detectives would you estimate out
6 there that night after that initial 911 call?

7 A. Counting me, it was four. Four detectives and
8 a VA.

9 Q. And you were the sergeant at the scene?

10 A. Yes.

11 Q. So how do you go about -- if you can take us
12 through, if you have a situation such as this, a
13 homicide investigation, what is your initial action
14 upon arriving at the scene and securing that scene?

15 A. Initial action is actually to make contact with
16 the patrol element that's there, see what they have
17 done and what they've accomplished at that point in
18 time. And then from there, it's to start gathering
19 the facts, to start getting information that we can
20 have to start piecing together what actually
21 happened.

22 Q. All right. Can you estimate the time that you
23 arrived there at the scene?

24 A. It had to be 10 minutes after the 911 call --
25 actually, five minutes after Sergeant Black got

1 there. We actually just got done eating. The call
2 came out over the radio and we just showed up at
3 headquarters and we just turned and went straight
4 down there.

5 Q. What were your initial observations after you
6 arrived there at Marty Lane?

7 A. Initial observations is there was a lot of
8 people; that means a lot of people to interview.
9 And I don't want to call it chaos because it's not
10 chaos; it's just uncertainty, a lot of things
11 happening at once that you have to settle down and
12 get to a situation where you can start asking
13 questions and dealing with what has happened.

14 Q. In conjunction with your role as an
15 investigator and the role of other detectives at the
16 scene investigating the crime, who actually is
17 responsible for collecting evidence at the scene?

18 A. Evidence collection at the scene is done by our
19 CSI Unit. They are trained and know how to do it
20 correctly, the right way, and they collect all the
21 evidence.

22 Q. And what action do you take to make sure that
23 the scene was processed by the Crime Scene
24 Investigation Unit?

25 A. When we got the call, we knew what it was right

1 away. I called CSI on the drive down there and then
2 I also called and asked them to bring their backup
3 CSI. So, essentially, what we do for CSI is to call
4 them to the scene. If they have any questions,
5 problems or any issues that arise, essentially, I'm
6 the one that has to make the decision of that, but
7 they are the ones that know how to do that best.

8 Q. Now, what do you do when you arrive at the
9 scene to develop a suspect?

10 A. You want to start talking to any witnesses that
11 you have. The people that were there are the ones
12 that can give you the information of what happened.
13 So what we would do is -- in a scene like this is
14 find out who the people are from patrol, that's who
15 we originally talk to, and then start assigning a
16 detective to talk to each of those individuals that
17 are involved.

18 Q. And, ultimately, was a suspect developed based
19 on the information available there at the scene?

20 A. Yes, there was.

21 Q. And who was that suspect?

22 A. Marion Wade Frye.

23 Q. Was he at the scene?

24 A. He was not.

25 Q. So what efforts does a detective take to track

1 down a suspect who is now no longer at a crime scene
2 fresh after a homicide?

3 A. There's a lot of things that we can do.
4 Sometimes, depending on the circumstances, if
5 there's a threat at another location or something
6 like that, we can actually do a reverse ping on the
7 phone to try to find out where that phone is at. We
8 have extensive databases that we can pull up that
9 have family, friends, prior reports that we can look
10 at that give us addresses to go check and look for
11 somebody.

12 Q. And, ultimately, was an attempt made in the
13 early part of the investigation to track a phone for
14 Mr. Wade?

15 A. Yes.

16 Q. Mr. Frye. And was that successful?

17 A. It was not. The answer that we got back, if I
18 remember correctly, is that the phone was off. If
19 the phone is off, you can't get a location of the
20 phone.

21 Q. So not being able to track him by GPS, what is
22 the next step in trying to locate the suspect?

23 A. Knocking on doors.

24 Q. All right. And can you tell us approximately
25 how many residences law enforcement officers went to

1 in search of Mr. Frye?

2 A. I know of, at least, five, and I'm sure it was
3 more than that.

4 Q. And does that include yourself among the people
5 going and knocking on doors?

6 A. Yes, it does.

7 Q. What are some of the residences that you recall
8 officers going to in an attempt to locate the
9 defendant?

10 A. I remember asking Sergeant Black to go to the
11 address on Kitty Drive; it was an address that was
12 familiar with the defendant. And then also, the
13 defendant's girlfriend's mother's house, the
14 defendant's father's house. We got a call of, I
15 don't want to call it a sighting, somebody, this
16 vehicle we're looking for is at this location and
17 that something was said on Eargle Drive; I think are
18 the ones I can remember. During a situation like
19 that, what we essentially do is divide up. Instead
20 of four investigators going from one place to each
21 place, it is hey, here's some addresses, former
22 reports, stuff like that; you guys go this way; we
23 go this way and we go check all the addresses we
24 can.

25 Q. All right. Now, you mentioned a girlfriend.

1 Does part of your investigation also include
2 tracking down family members or affiliates of a
3 suspect?

4 A. Yes, ma'am. Usually when people run, that's
5 where they go: People they know.

6 Q. And in this case in particular, had you
7 developed a vehicle description that he was in?

8 A. Yes, ma'am.

9 Q. And what was that vehicle description?

10 A. It was a white Cadillac Escalade. There was
11 a -- I don't know what to call them, a stick figure
12 family or whatever it is, on the back window of that
13 Escalade and there was actually a license plate that
14 we had, too.

15 Q. And then you mentioned a girlfriend. What is
16 her name?

17 A. Katelyn Turner is the name that we had.

18 Q. And Katelyn Turner, can you tell us whether or
19 not she has a maiden name or known by a maiden name
20 as well?

21 A. The other name that I heard was Katelyn Turner
22 and Katie Campbell.

23 Q. So Katelyn Turner is Katie Campbell; is that
24 correct?

25 A. To the best of my knowledge, yes.

1 Q. Now, why did she figure into your investigation
2 at this stage?

3 A. The girlfriend of the suspect. And I actually
4 was able to have phone conversations with her.

5 Q. All right. Can you tell us whether or not you
6 had developed information that she accompanied him
7 as he left the scene at Marty Lane?

8 A. Through our interviews, we were able to
9 determine that there was a female with him that was
10 in that white Escalade.

11 Q. And do you know who that white Escalade is
12 actually registered to, who has the title to that
13 white Escalade?

14 A. The Escalade is registered to a Katelyn Turner.

15 Q. So at this point in time, you're looking both
16 for the defendant, Wade Frye, and also Katelyn
17 Turner, also known as Katie Campbell?

18 A. Yes, ma'am.

19 Q. Now, ultimately, you mentioned that you had a
20 phone conversation with Ms. Campbell?

21 A. Yes, ma'am.

22 Q. Ms. Turner?

23 A. Yes.

24 Q. How many such times do you estimate you made
25 phone contact with Katelyn Turner throughout that

1 night? And we're talking about the night of October
2 1st, 2015, in the hours following the homicide at
3 Marty Lane.

4 A. It actually started that night and it went into
5 the next morning all the way to 03, and there was a
6 total of nine phone calls.

7 Q. And each time, who was on the phone with Ms.
8 Turner?

9 A. It was me.

10 Q. How many of those phone calls were you placing
11 to her?

12 A. I'm pretty sure all of those were me trying to
13 contact her. I'm not a hundred percent sure about
14 that. I don't remember receiving any phone calls.
15 I think that was me dialing every one of those.

16 Q. Okay. And what phone number did you have for
17 her?

18 A. [REDACTED]-5876.

19 Q. So throughout that night when you dialed that
20 number, you were speaking with Katelyn Turner?

21 A. That's correct.

22 Q. What, if anything, did you speak with her about
23 or encourage her to do?

24 A. We needed to talk to her. I asked her to meet
25 us at the Sheriff's Department. I asked her to meet

1 us anywhere; we just needed to talk to her.

2 Q. Did you make any attempts to locate the
3 whereabouts of her boyfriend, Marion Wade Frye, Jr.?

4 A. Yes, the conversations were about talking to
5 her and talking to him.

6 Q. What about having her turn him in?

7 A. Yes. There was conversations of he needs to
8 come talk to us and he needs to go ahead and turn
9 himself in to law enforcement.

10 Q. Ultimately, did she ever bring him into the
11 Sheriff's Department?

12 A. No, she did not.

13 Q. And you said the last contact with her was at
14 what time?

15 A. 0322, so 3:22 in the morning, which would have
16 actually been the 2nd at that time.

17 Q. That would be 3 -- I'm sorry. Say that again,
18 please.

19 A. 0322 hours, so 3:22 a.m.

20 Q. Okay. On the 2nd?

21 A. Yes, ma'am, that would have rolled into the
22 2nd.

23 Q. All right. And, ultimately, with him not being
24 and her not being located, what efforts were made to
25 have law enforcement agencies beyond just the

1 Sheriff's Department locate these individuals or the
2 white Escalade?

3 A. There was the radio BOLO that was given out
4 that night. It is this BOLO, be on the lookout for
5 this information, that we're looking for this
6 vehicle; we're looking for this person. The next
7 day, a paper BOLO was sent out, and that is
8 something that is released to, it could be the media
9 or surrounding agencies, that has actual pictures on
10 it. So that BOLO was sent out and it's wanted.

11 Q. It's a wanted poster?

12 A. Correct.

13 Q. In this case, who was the wanted poster for?

14 A. The wanted poster was for Katelyn Turner and
15 Marion Wade Frye.

16 Q. And any type of vehicle?

17 A. And a white Cadillac Escalade.

18 Q. Let me show you this document and ask you if
19 you recognize it.

20 A. Yes, ma'am.

21 Q. How so?

22 A. This was the document that was created as the
23 wanted poster, if you will.

24 Q. This goes out to multiple law enforcement
25 agencies beyond the Sheriff's Department?

1 A. It goes to surrounding agencies. We send it to
2 the SLED Fusion Center, which can send it out to
3 connecting states as well.

4 Q. And in terms of the media, does it go to radio
5 and television in attempts to locate them?

6 A. And we will give it to our PIO, or public
7 information officer, and our public information
8 officer will do any contact like that.

9 MS. MAYES: This would be State's Exhibit 34
10 for evidence, Your Honor.

11 MR. MAULDIN: Your Honor, may we approach?

12 THE COURT: Yes, sir.

13 (Sidebar conference.)

14 THE COURT: State's 34 is in evidence, subject
15 to defense objection.

16 (State's Exhibit No. 34 admitted into
17 evidence.)

18 MS. MAYES: Permission to publish, Your Honor?

19 THE COURT: Yes, ma'am, you may publish.

20 (State's Exhibit No. 34 published to the jury
21 and his Honor.)

22 BY MS. MAYES:

23 Q. So State's Exhibit 34 is now a wanted poster
24 for the defendant, Marion Wade Frye, the girlfriend,
25 Katelyn Turner, also known as Katie Campbell, and

1 the white Escalade, correct?

2 A. That is correct.

3 Q. And, ultimately, did you determine or were you
4 notified by any law enforcement agencies that they
5 had been apprehended?

6 A. Yes, later that day, which is the 2nd now, we
7 were notified by Richland County that the vehicle
8 and the two -- Katelyn Turner and Wade Frye had both
9 been apprehended in Richland County.

10 Q. Richland County one of the agencies that you
11 had notified of that BOLO?

12 A. Yes, absolutely.

13 Q. And when you say that you were notified --
14 you're the sergeant over Major Crimes working this
15 particular case -- did you receive specific
16 notification?

17 A. Yes, we received notification through the front
18 desk.

19 Q. What did you do in response?

20 A. After receiving that information, it was
21 gathering people to go to Richland County to get the
22 two individuals and to also collect our car.

23 Q. And was that done immediately after that
24 notification?

25 A. It was.

1 Q. And when you say collect the car, you're
2 referring to?

3 A. To seize the car as evidence.

4 Q. And that would be the white Escalade?

5 A. Correct.

6 Q. All right. So that's considered evidence as
7 well?

8 A. Yes, ma'am.

9 Q. So what time is it that you actually arrived in
10 Richland County?

11 A. 1707, which is 5:07 p.m.

12 Q. All right. What was the location in Richland
13 County in which they were apprehended?

14 A. It was a Stop and Go and it was Kay Street and
15 Beatty Road, B-E-A-T-T-Y Road.

16 Q. And just to clarify, Stop and Go is a
17 convenience store?

18 A. It's a 7-Eleven-type convenience store.

19 Q. And you actually arrived there at that
20 location?

21 A. Yes, ma'am.

22 Q. Can you tell us whether or not the individuals
23 were actually in the Escalade when they were
24 apprehended?

25 A. Yes, they were.

1 Q. What action did you take next?

2 A. At that point, I called patrol deputies who
3 have the proper ability to transport individuals to
4 the scene, asked them to come so we could have both
5 Marion Wade Frye and Katelyn Turner transported to
6 the Sheriff's Department, and also another unit to
7 follow the vehicle that was going to be towed back
8 to the Sheriff's Department as well.

9 Q. Now, we've heard previously the testimony of
10 Tom Smith with the Sheriff's Department about the
11 search of Mr. --

12 MR. MAULDIN: Objection; pitting, Your Honor.

13 THE COURT: Restate your question.

14 MS. MAYES: Yes, sir, Your Honor.

15 BY MR. MAYES:

16 Q. The individual, Tom Smith, who testified
17 previously, what role did he play in this?

18 A. At that time, it was -- Deputy Smith came to
19 the scene to transport one of the individuals back
20 to the Sheriff's Department.

21 Q. Is that routine procedure?

22 A. Yes, it is.

23 Q. All right. Now, let's go back to the scene.
24 What can you tell us about actual interviews being
25 conducted there at the scene on this night of

1 October 1st, 2015, following your arrival?

2 A. When we arrive on scene, it was the -- the
3 patrol deputies did a very good job because there
4 was a deputy sitting with all the witnesses and they
5 weren't allowed to talk about the incident that
6 happened. So at that point, it was being an
7 offensive coordinator in football and just saying
8 you go here, you go here, you go here and it was
9 getting those people interviewed at this point in
10 time. That's when our victim assistance officer,
11 Tim Parchetta, was helpful because he came down and
12 he was able to interview people as well.

13 Q. And then if an individual isn't -- due to the
14 circumstances or emotional condition isn't able to
15 actually write a statement of their own, what's the
16 next course of action?

17 A. The officer will write the statement for them.

18 Q. Now, ultimately, on the night of October 1st,
19 2015, what individuals were determined to have been
20 present during the shooting? And I'm not including
21 people that might have come up on the scene after
22 the fact, but based upon your investigation, who was
23 determined to be present --

24 MR. MAULDIN: Objection; 803, Your Honor.

25 MS. MAYES: I can rephrase it.

1 THE COURT: All right.

2

3 BY MS. MAYES:

4 Q. As the sergeant at the scene, can you tell us
5 whether or not you make any attempt to determine
6 who's actually present or a witness to the events?

7 A. Yes, we do.

8 Q. What subjects, ultimately, provided a statement
9 in regard to actually witnessing the events, meaning
10 the actual shooting or hearing gunshots?

11 A. I have a Katie Vinson, a Raymond Boyer, a
12 Jeffrey Behymer, Aaron, that's actually Gwilliam,
13 his last name. And those are the statements that I
14 have that were given.

15 Q. All right. You mentioned Jeffrey Behymer?

16 A. Correct.

17 Q. All right. Then do you have any information as
18 to whether or not Mr. Boulware provided a statement
19 as well?

20 A. He did.

21 Q. All right. And then where Mr. Gwilliam is
22 concerned, what continent does he currently reside
23 in?

24 A. Aaron, who actually goes by A.J., talking to
25 him there, it was obvious he was from Australia. He

1 is in Australia now.

2 Q. And can you tell us whether all of these
3 statements were obtained there at the scene on the
4 night of October 1st, 2015?

5 A. They were.

6 Q. Okay. Now, following that investigation and
7 the contact with the people there at the scene,
8 Lieutenant Laintz, when were warrants obtained?

9 A. Warrants were written up that night. Detective
10 Booth typed up the warrants for probable cause and
11 they were obtained the next morning when they were
12 presented to the judge around 10:00.

13 Q. Can you tell us whether or not that included
14 the warrant for murder?

15 A. Yes.

16 Q. So that was already active and in the system
17 even before Mr. Frye was apprehended?

18 A. That is correct.

19 Q. Now, you mentioned also Ms. Turner. Was she
20 booked as well?

21 A. She was.

22 Q. What warrants had been obtained for Ms. Turner?

23 A. The warrants that we had gotten that day were
24 for accessory after the fact.

25 Q. Okay. Accessory after the fact of murder?

1 A. Yes, correct.

2 Q. And had that warrant also been entered into the
3 system prior to their apprehension in Richland
4 County?

5 A. It was.

6 Q. And I'm just going to have you elaborate a
7 little bit more. Accessory after the fact, can you
8 tell us what your understanding of her role was?

9 A. Accessory after the fact is after an incident
10 has occurred. It can be --

11 MR. MAULDIN: Objection, Your Honor; stating
12 the law.

13 MS. MAYES: I can rephrase that as well, Your
14 Honor.

15 THE COURT: Sustained. That objection is
16 sustained.

17 BY MS. MAYES:

18 Q. Based upon your conversations with Ms. Turner
19 and everything that you had developed during the
20 course of your investigation, was he with anyone?

21 A. Yes.

22 Q. Who was that person?

23 A. Ms. Turner.

24 Q. And, ultimately, they were apprehended
25 together?

1 A. That is correct.

2 Q. Now, while you were at the scene that night,
3 was there any evidence of a blood trail outdoors,
4 such as in the area where the Escalade would have
5 been parked?

6 A. There was not. At the rear door or at the
7 front door, there was not blood trails coming. The
8 only blood I saw outside the residence was on the
9 people who were outside the residence.

10 Q. I'm going to show you some photographs, 35, 36
11 and 37, and just ask you to take a look at them.

12 A. Yes, ma'am.

13 Q. Does 35 accurately represent the scene as you
14 recall it on that night?

15 A. Yes, ma'am.

16 MS. MAYES: 35, 36 and 37 for evidence.

17 MR. MAULDIN: No objection, Your Honor.

18 THE COURT: State's 35, 36, 37 in evidence
19 without objection.

20 (State's Exhibit Nos. 35, 36, and 37 admitted
21 into evidence.)

22 BY MS. MAYES:

23 Q. Sergeant Laintz, we're looking at 35 right
24 here. Looking at this photo, what area of the home
25 are we looking at?

1 A. We would call that the side three, but it's the
2 back of the residence.

3 Q. Okay. And is there a window there at the area
4 in relation to where the victim's body would have
5 been found in the kitchen?

6 A. That window is almost right in the middle of
7 the kitchen.

8 Q. Okay. 36?

9 A. That is the interior of that same window that
10 was above the AC unit.

11 Q. 37, here, where we see Joshua Prine on the
12 floor, what else is visible in this photograph?

13 A. That is the same window, just farther back.

14 Q. Okay. So 36, 37, 35, this is the same
15 location?

16 A. Yes, ma'am.

17 Q. Based on your familiarity with the scene that
18 night and your observations at the scene that night,
19 Lieutenant Laintz, from the outside here, can you
20 clearly view through that window into the kitchen?

21 A. No, you cannot.

22 Q. When Mr. Frye was, ultimately, apprehended in
23 Richland County and transported back to Lexington
24 County, did you have the chance to observe him in
25 person?

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

2 Q. See him face to face?

3 A. Yes.

4 Q. Speak with him while he was -- let me rephrase
5 that. Actually view him while he was still in
6 street clothes?

7 A. Correct.

8 Q. I'm going to show you 33, 12, 32, 31, 30, 29,
9 28, 27, 26, 25, ask you to take a look at those.
10 Also, 21, 24, 23, and 22. Lieutenant Laintz, do
11 these photographs appear to be a fair and accurate
12 reflection of how you saw Mr. Frye?

13 A. Yes.

14 Q. Other than the clothing?

15 A. Correct.

16 Q. Now, during your observation of him, did you
17 note any indications that he appeared to be visibly
18 injured?

19 A. No, the only injuries I saw were the marks on
20 his face here and here and they -- it seemed to be a
21 scab that was picked at and re-scabbed and then
22 picked at again is what it looked like.

23 Q. Let me back up a little bit. You right now are
24 lieutenant over what region?

25 A. The south region.

1 Q. That includes what areas?

2 A. That includes parts of Red Bank, Pelion,
3 Gaston, Swansea, Pine Ridge and going into West
4 Columbia and Cayce areas.

5 Q. And in addition to that, what other role do you
6 play in law enforcement?

7 A. I'm also the assistant commander for our SWAT
8 team. I've been on the SWAT team for 10 years now
9 and I'm also a hazardous device technician, which
10 is, essentially, a bomb tech that deals with
11 explosives and IEDs.

12 Q. Based upon your experience as a detective in
13 the field as well as your SWAT experience, have you
14 seen people freshly injured from a fistfight?

15 A. Absolutely.

16 Q. Do you see any injuries consistent with a
17 fistfight on Mr. Frye?

18 A. None at all.

19 Q. State's Exhibit 21, do you see any visible
20 injuries there to the face?

21 A. It's hard to see from that distance, but you
22 can see the scabbed-over and repeatedly picked marks
23 on the cheek.

24 Q. I show you 12.

25 A. On his right, which would be our left, you can

1 see the -- it looks like it was picked at,
2 re-scabbed, picked at, re-scabbed, picked at,
3 re-scabbed, picked at, re-scabbed. And then it
4 looks like there's another one right there.

5 Q. I'm going to show you what is State's Exhibit
6 33. What, if anything, is significant about what is
7 depicted in that photograph, Lieutenant Laintz?

8 A. You see other marks that appear to be picked
9 at, re-scabbed, picked at, re-scabbed, and then it
10 also looks like there are marks of being grabbed,
11 finger indentations that is bruised.

12 Q. Is that something you've seen throughout your
13 career as well?

14 A. Yes, ma'am.

15 Q. I'm going to ask you to show us where that
16 would be in this photograph. And this would be
17 State's Exhibit 33, the bottom of the hand, all the
18 way up to the forearm here. What area were you
19 referring to as what appeared to you to be a grab
20 mark?

21 A. It looks like a finger there, there, and there.
22 Those look like grab marks, that's bruising. Not
23 that, those.

24 Q. Lieutenant Laintz, ultimately, the firearm that
25 was used in commission of this crime, was it

1 recovered by law enforcement?

2 A. It was not.

3 Q. That vehicle that belongs to Mr. Frye, or
4 Ms. Turner and Mr. Frye was in the Escalade,
5 ultimately, was it searched?

6 A. It was searched. A search warrant was obtained
7 and searched.

8 Q. And that weapon was not recovered?

9 A. It was not.

10 MS. MAYES: Your Honor, may we approach?

11 THE COURT: Yes, ma'am.

12 (Sidebar conference.)

13 THE COURT: You may ask your next question,
14 Solicitor, subject to defense objection.

15 MR. MAULDIN: 403, 404(b), and Lyle, Your
16 Honor.

17 THE COURT: All right. Thank you.

18 BY MS. MAYES:

19 Q. Lieutenant Laintz, based upon your
20 investigation of this case, does Mr. Frye possess a
21 concealed weapons permit?

22 A. No.

23 Q. It's a question I have to ask, although it may
24 appear obvious, but that location at [REDACTED] Marty
25 Lane, what county is that?

1 A. Lexington County.

2 Q. Within the jurisdiction of Lexington County?

3 A. That is correct.

4 Q. Lieutenant Laintz, if you had observed any
5 obvious injuries to Mr. Frye, would you have noted
6 that?

7 A. Yes, I would have.

8 MS. MAYES: Nothing further at this time, Your
9 Honor.

10 THE COURT: Thank you, Solicitor.

11 Mr. Mauldin?

12 CROSS-EXAMINATION

13 BY MR. MAULDIN:

14 Q. You were not the lead detective on this case,
15 were you?

16 A. I was the supervisor. I was not the lead
17 detective.

18 Q. That was Detective Booth?

19 A. That is correct.

20 Q. Now, when you arrived on scene, the witnesses
21 that were there were indicating to you and you
22 indicated them in your report --

23 MR. MAULDIN: I beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 BY MR. MAULDIN:

1 Q. -- as Katie Vinson, Raymond Boyer, Jeffrey
2 Behymer, Matthew Harley, and Aaron Gwilliam; is that
3 right?

4 A. Correct.

5 THE COURT: Just a moment, Mr. Mauldin.

6 THE FOREPERSON: We're having a hard time
7 hearing.

8 THE COURT: Speak up, please, Mr. Mauldin.

9 MR. MAULDIN: Thank you, Your Honor. I will.

10 BY MR. MAULDIN:

11 Q. They were Katie Vinson, Raymond Boyer, Jeffrey
12 Behymer, Matthew Harley, and Aaron Gwilliam; is that
13 right?

14 A. That is correct.

15 Q. Anthony Ryan Boulware was not there?

16 A. He was not. He was three houses down, I
17 believe, on the left-hand side. I think it's his
18 parents' house. But he wasn't there on the scene.

19 Q. Are you sure that's not Mr. Boyer's parents'
20 house you're talking about?

21 A. No, I'm not sure.

22 Q. You're not sure?

23 A. It was reported back to me that Ryan was
24 interviewed and an interview statement was obtained.

25 Q. But he wasn't on scene when you arrived shortly

1 after the 911 call; is that right?

2 A. Correct. I was not indicated from Sergeant
3 Black that that was one of them.

4 Q. Now, you talked about having phone contact with
5 Katie Campbell; is that right?

6 A. Yes, I did.

7 Q. And her number was given to you by dispatch
8 because she had called into dispatch; is that right?

9 A. That is correct.

10 MR. MAULDIN: No further questions, Your Honor.

11 THE COURT: Redirect?

12 MS. MAYES: Yes, sir, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. After you obtained that phone number for Katie
16 Campbell, Katelyn Turner, you made -- how many of
17 those attempts would you have made to communicate
18 with Ms. Turner --

19 MR. MAULDIN: Objection, Your Honor; asked and
20 answered and beyond the scope.

21 THE COURT: I haven't heard all the question
22 yet.

23 Let me hear the entire question before I rule
24 on it. Thank you, Mr. Mauldin.

25 Solicitor?

1 BY MS. MAYES:

2 Q. Mr. Mauldin was asking you about Katie Campbell
3 making a call to dispatch.

4 A. Correct.

5 Q. And that, ultimately, a phone number for her
6 was obtained?

7 A. That is correct.

8 Q. How many of the calls or communications that
9 you had with her would have occurred after she
10 called dispatch?

11 A. All of them.

12 MR. MAULDIN: No objection.

13 THE COURT: Thank you, Mr. Mauldin.

14 BY MS. MAYES:

15 Q. Now, Mr. Mauldin was asking you about
16 Mr. Boulware, so let me go back to that.
17 Mr. Boulware, do you know his actual given name in
18 addition to Ryan?

19 A. I believe it's Anthony.

20 Q. So Anthony is Ryan Boulware; is that your
21 understanding?

22 A. That is.

23 Q. The interview with him that Mr. Mauldin was
24 asking you about occurred when?

25 A. Occurred that night while we were at the scene.

1 Q. All right. October 1st, 2015?

2 A. Correct.

3 Q. It's your understanding -- do you have an
4 understanding as to when all of these witnesses were
5 interviewed, including Boyer, Vinson, Boulware,
6 Gwilliam and Behymer?

7 A. Yes, all at the scene on the 1st.

8 Q. Okay. So they were all interviewed prior to
9 warrants being obtained?

10 A. Yes, they were.

11 MS. MAYES: Nothing further.

12 THE COURT: Recross, Mr. Mauldin?

13 RE CROSS-EXAMINATION

14 BY MR. MAULDIN:

15 Q. Mr. Boulware was interviewed later on in the
16 evening from the other witnesses, wasn't he?

17 A. Yes.

18 MR. MAULDIN: No further questions.

19 THE COURT: Thank you very much, Lieutenant.

20 You may step down.

21 All right. I understand lunch is here.

22 Mr. Foreman, ladies and gentlemen of the jury, we'll
23 take our luncheon recess until, say, 1400 hours,
24 2:00. You're welcome to take a walk about if you
25 don't want to be held captive. I'm not holding you

1 captive. I would advise -- you realize this
2 courthouse is very similar to many of the others in
3 South Carolina. You may see some of the parties,
4 some of the witnesses, some folks, perhaps, that
5 have been out in the gallery, the attorneys and the
6 like. I would advise you to not have any
7 conversation with anyone whatsoever, not even say
8 hello. Again, that's to protect the process. If
9 anyone tries to talk with you, please report that to
10 me. Thank you very much. Do not discuss the case.
11 I hope you have a pleasant lunch.

12 (The jury exits the courtroom at 12:51 PM.)

13 THE COURT: I want to revisit the testimony of
14 Ms. Slusher and Mr. KM. Although I may not
15 view the substance of that -- or the observations as
16 being evidence of other crimes, wrongs or acts,
17 given the strict reading of the rule, it just
18 indicates other crimes, wrongs or acts. It is an
19 act.

20 So looking at the cases for guidance, State vs.
21 Huckabee, 419 S.C. 414, indicates relevant evidence
22 means evidence having any tendency to make the
23 existence of any fact that is of consequence to the
24 determination of the action more probable or less
25 probable than it would be without the evidence, Rule

1 401 South Carolina Rules of Evidence.

2 Rule 403 states in pertinent parts, although
3 relevant, evidence may be excluded if its probative
4 value is substantially outweighed by the danger of
5 unfair prejudice. Unfair prejudice means an undue
6 tendency to suggest a decision on an improper basis.
7 State vs. Lyle, 379 S.C. 328, Court of Appeals 2008
8 quoting State vs. Gilchrist, 329 S.C. 621, Court of
9 Appeals 1998. When just proposing the prejudicial
10 effect against the probative value, the
11 determination must be based on the entire record and
12 will turn on the facts of each case.

13 Also, citing some of the notes from Rule
14 404(b), in looking at State vs. Hagen, under
15 headnote 12 and 13 of Hagen, 591 S.E.2d 646, January
16 2004 case, generally South Carolina law precludes
17 evidence of the defendant's prior crimes or other
18 bad acts to prove the defendant's guilt for the
19 crime charged. Again, I asterisk that by not an
20 opinion that it is not a prior bad act. However, if
21 it were found to be so, State vs. Weaverling
22 indicates finding that evidence of prior crimes or
23 bad acts is admissible to prove bad character of the
24 defendant or that he acted in conformity therewith.

25 Citing State vs. Beck, 342 S.C. 129, 2000 case.

1 Such evidence is admissible, however, when it tends
2 to establish according to Rule 404(b) and the
3 historic State vs. Lyle, 1923 case, when it
4 establishes identity among the other exceptions,
5 lack of action or mistake and others. The modern
6 Lyle rule excludes evidence of other crimes, wrongs
7 or acts offered to prove character of a person in
8 order to show action and conformity therewith.

9 That testimony of Ms. Slusher and Mr. KM
10 clearly was not offered to prove character testimony
11 of the person nor to show action and conformity
12 therewith. The rule does create an exception when
13 the testimony is offered to show identity or absent
14 a mistake, accident or intent. The bad act must
15 logically relate to the crime with which the
16 defendant has been charged, which clearly it does
17 showing the possession of a weapon approximately
18 three hours before the 911 call was made concerning
19 the homicide, the identity, and as to the identity
20 of the vehicle and the like; that's circumstantial
21 evidence. Further, the identification by
22 Ms. Slusher from the photograph or the news viewing
23 of Mr. Frye upon its distribution. I would exclude
24 the evidence if its probative value were
25 substantially outweighed by the danger of unfair

1 prejudice. I do not find that there is such danger
2 of unfair prejudice in this matter.

3 Therefore, on both the 404(b) analysis and 403
4 analysis, I would confirm my previous ruling that
5 that testimony of both Ms. Slusher and Mr. KM
6 is admissible.

7 Anything before we take our luncheon recess,
8 Solicitor?

9 MS. MAYES: Nothing from the State, Your Honor.

10 THE COURT: Mr. Mauldin?

11 MR. MAULDIN: No, Your Honor.

12 THE COURT: We'll be in recess until 2:00.

13 (Luncheon recess 1:03 PM - 2:02 PM.)

14 THE COURT: Anything before we bring in our
15 jury, Solicitor?

16 MS. MAYES: Yes, sir, Your Honor. We do have
17 here Matthew Bowers. He is a federal inmate. He is
18 the person who is familiar with the defendant. He's
19 seen him in the past. He knows how he normally
20 appears. He has pled guilty to a drug charge. We
21 just plan to elicit that he is a federal inmate and
22 leave it at that. He also is aware the defendant
23 was missing money and the defendant's demeanor
24 regarding his missing money. So that's what we
25 intend to offer at this time. However, we can

1 proffer it, if the Court deems necessary.

2 THE COURT: Thank you, Solicitor.

3 Mr. Mauldin?

4 MR. MAULDIN: Is it my understanding that
5 they're limiting any mention of drug issues in this
6 testimony?

7 MS. MAYES: If you want to bring that out -- we
8 certainly don't object to the defendant --

9 MR. MAULDIN: No, I'm asking --

10 MS. MAYES: -- doing what they feel --

11 THE COURT: I can't hear you both.

12 I'm sorry, Mr. Mauldin, I do the same thing. I
13 wasn't barking at you.

14 MS. MAYES: To answer Mr. Mauldin's question,
15 that is not something that we intend to elicit, but
16 by the same token, we're not trying to prohibit his
17 ability to cross-examine him however he sees fit
18 regarding why he's in jail or in prison.

19 THE COURT: All right. Mr. Mauldin.

20 MR. MAULDIN: If they're limiting the testimony
21 to avoid the drugs, I don't see a 404(b) issue or
22 403 issue; however, it's my understanding Mr. Bowers
23 has pled to some charges and is awaiting sentencing.
24 I was provided with his interview I think the middle
25 to late last week and I requested from the

1 solicitor's office a copy of his federal plea
2 agreement and I have not received a copy of that.

3 THE COURT: And what?

4 MR. MAULDIN: I have not received a copy of
5 that to be able to impeach him on, Your Honor.

6 THE COURT: Do you have that?

7 MS. MAYES: Your Honor, we do not have that.
8 He is under federal proffer from what we understand.
9 I mean, he would be entitled to downward departure,
10 but I can't speak beyond that as to the contents of
11 his federal plea agreement. Now, we have been in
12 touch with his attorney. She has met with us
13 previously on this case. She knows that Mr. Bowers
14 is here today. If it's necessary, we can ask her to
15 provide that, but it's something that we don't have.

16 THE COURT: Well, you can question him about
17 it.

18 MR. MAULDIN: Yes, sir, Your Honor. But as far
19 as what charges he pled to and how much time he's
20 looking at and the fact that he could be seeking a
21 downward departure would be relevant to --

22 THE COURT: Well, you can question him about
23 it.

24 MR. MAULDIN: Yes, sir.

25 MS. MAYES: And I can state for the record, he

1 has pled to conspiracy, to possession with intent to
2 distribute methamphetamine.

3 MR. MAULDIN: In addition, Your Honor, Mr.
4 Bowers does have a prior State record. He has
5 attempted robbery and a burglary second from 2006,
6 which he received 10 years suspended to five years
7 probation. It's our contention that the sentence
8 would extend into the 10-year time limit. I believe
9 it's 409 -- 609.

10 THE COURT: I believe it's 609.

11 MR. MAULDIN: 609. The sentence 10 years
12 suspended to five years probation, the probationary
13 sentence would extend into 2011, and then actually
14 be able to impeach him with those convictions of
15 attempted robbery and burglary second.

16 THE COURT: You agree with that, don't you,
17 Solicitor?

18 MS. MAYES: Yes, sir, Your Honor.

19 THE COURT: And if his testimony should be such
20 -- if you get the offer, the written offer and if
21 his testimony is such that it's not consistent with
22 what he did testify to, I'll recall him.

23 MS. MAYES: And again, we anticipate he will
24 testify that he's familiar with the missing money
25 because it was a conversation and it was money owed

1 to him. We are not going to elicit that that was
2 drug related.

3 THE COURT: All right. Anything further before
4 we bring in our jury, Solicitor?

5 MS. MAYES: Nothing from the State, Your Honor.

6 THE COURT: Mr. Mauldin?

7 MR. MAULDIN: No, Your Honor.

8 (The jury enters the courtroom at 2:07 PM.)

9 THE COURT: Welcome back, ladies and gentlemen.
10 I hope y'all had a pleasant lunch. We'll continue
11 the trial of the case by the presentation of
12 evidence and testimony by the State in their case in
13 chief. Please continue to give the parties your
14 complete and undivided attention as you have done
15 throughout the trial of the case.

16 Solicitor, you may call your next witness.

17 MR. BELL: Thank you, Judge. The State calls
18 Matthew Bowers.

19 THE COURT: Mr. Bowers, come around and be
20 sworn for us, please.

21 MATTHEW BOWERS

22 being first duly sworn, testified as follows:

23 THE WITNESS: I do.

24 THE CLERK: Have a seat right up there, please,
25 sir. Once you're seated, speak up loud and clear,

1 state your name and spell your last.

2 THE WITNESS: My name is Matthew Robert Bowers.

3 THE COURT: All right, Solicitor.

4 MR. BELL: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. BELL:

7 Q. Mr. Bowers, let's go ahead and address the
8 obvious. Why are you currently in a jumpsuit?

9 A. I pleaded guilty to federal charges.

10 Q. Are you currently incarcerated on those
11 charges?

12 A. Yes, sir.

13 Q. Do you know Marion Wade Frye?

14 A. Yes, sir.

15 Q. And how long have you known Mr. Frye?

16 A. I'd say since 2009, we started hanging around
17 each other.

18 Q. And is that a friendship or a family
19 connection?

20 A. A family connection.

21 Q. Leading up to October 1st of 2015, how often
22 were you talking to Mr. Frye?

23 A. I'd say approximately five times a week.

24 Q. How often were you seeing Mr. Frye?

25 A. Around the same, sir.

1 Q. And when you say around the same, you mean five
2 times a week?

3 A. Yes, I do.

4 Q. Also, leading up to October 1st, 2016, and
5 immediately before that, did Mr. Frye ever contact
6 you?

7 A. Yes, sir.

8 Q. And what was the nature of that conversation?

9 A. He was just stressed because he was missing
10 money.

11 Q. How much money?

12 A. Approximately \$500.

13 Q. And do you know who he ultimately -- or where
14 that money ultimately was supposed to go to?

15 A. To me.

16 Q. So did he owe you \$500?

17 A. Yes, sir.

18 Q. What was his demeanor like when he was talking
19 about missing the \$500?

20 A. You know, he was worried, a little stressed.

21 Q. Is \$500 something based on you knowing him
22 since 2009 that he would have just been able to
23 write off?

24 A. Yes, usually.

25 Q. How about on this particular occasion? Did he

1 indicate he was willing to let it go?

2 A. No, sir.

3 Q. Did he indicate to you who he thought had taken
4 it?

5 A. Yes, sir.

6 Q. Who was he accusing of taking it?

7 A. Katie.

8 Q. Do you know her last name?

9 A. Vinson.

10 Q. Do you know who took it?

11 A. No, sir.

12 Q. Did Wade indicate that he was going to try to
13 find the person that had taken the \$500?

14 A. Yes, sir.

15 Q. Was he acting calm about those accusations?

16 A. Not this time.

17 Q. You mentioned that you were seeing or talking
18 to him about five times per week leading up to
19 October 1st of 2015. Had you seen him immediately
20 prior in the days before October 1st?

21 A. Yes, I have.

22 Q. And was there anything about his appearance
23 that stood out to you or that you can describe from
24 that period of time?

25 A. He was losing weight, sweating a lot. He had

1 sores on his hands and on his face.

2 MR. MAULDIN: Objection, Your Honor; relevance.

3 THE COURT: Overruled.

4 BY MR. BELL:

5 Q. And during any of the times where you were with
6 him while he had those marks that you just
7 described, did he typically just leave them alone?

8 A. No, sir.

9 Q. What would he do?

10 A. He was picking at them.

11 Q. Did you ever see them bleeding?

12 A. Yes, sir.

13 MR. BELL: Permission to approach the witness,
14 Your Honor?

15 THE COURT: Yes, sir.

16 BY MR. BELL:

17 Q. Mr. Bowers, I'm going to show you what's been
18 entered as State's 12. Do you recognize that
19 individual?

20 A. Yes, sir.

21 Q. And do you recognize any of the markings that
22 you see on his face?

23 A. Yes, I do.

24 Q. Were those markings present when you had seen
25 him immediately prior to October 1st?

1 A. No, sir -- oh, yes, sir. I'm sorry.

2 Q. Go ahead and clarify.

3 A. Yes, sir. I answered too fast.

4 Q. Are these the kinds of sores you indicated
5 you'd seen on him before?

6 A. Yes, sir.

7 Q. And are those the same kind of sores you
8 indicated you had seen him pick at?

9 A. Yes.

10 Q. And occasionally bleed?

11 A. Yes, sir.

12 Q. Referring to State's 23, anything stand out to
13 you in that picture?

14 A. The sores.

15 Q. Is that of the same nature that you just
16 described?

17 A. Yes, it is.

18 Q. Had you seen those on Mr. Frye's arms before?

19 A. Yes, sir.

20 Q. Based on your conversations in the week leading
21 up to October 1st with Mr. Frye, did he seem
22 stressed about the missing \$500 that he owed you?

23 A. Yes, sir.

24 MR. BELL: No further questions.

25 THE COURT: Thank you, Solicitor.

1 Mr. Mauldin?

2 MR. MAULDIN: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. MAULDIN:

5 Q. Mr. Bowers, you were convicted March 16th of
6 2006 of attempted robbery and burglary second
7 degree; is that correct?

8 A. Yes, sir.

9 Q. And you said that you've pled to a charge in
10 federal court; is that right?

11 A. Yes, sir.

12 Q. But you have not been sentenced yet?

13 A. No, sir.

14 Q. How much time are you looking at?

15 A. I signed a 20-to-life.

16 THE COURT: Say that again for me.

17 THE WITNESS: A 20-to-life-year plea.

18 BY MR. BELL:

19 Q. And you're hoping that your cooperation today
20 would lead to a downward departure on your
21 sentencing; is that right?

22 A. It hasn't been discussed, but the Government is
23 able to do whatever it's able to do.

24 Q. And you're hoping it will happen, right?

25 A. Of course.

1 Q. I'm going to show you State's Exhibit 23 again.
2 So the sores that you're talking about are these
3 marks and this mark and that mark?

4 A. Yes, sir.

5 Q. And you met with the Solicitor's Office and
6 investigators about this case last week; is that
7 correct?

8 A. Will you repeat that question one more time,
9 please?

10 Q. You met with the Solicitor's Office and
11 investigators last week regarding this case; is that
12 right?

13 A. Yes, sir.

14 Q. And that's the first time you met with them?

15 A. Yes, sir.

16 MR. MAULDIN: No further questions.

17 THE COURT: Redirect, Solicitor?

18 MR. BELL: Very briefly.

19 REDIRECT EXAMINATION

20 BY MR. BELL:

21 Q. At any point in time, have you ever been told
22 what to say here to this jury?

23 A. No, sir.

24 Q. And when Mr. Mauldin uses the term cooperate
25 with the government, what does the term cooperate

1 with the government mean to you?

2 A. Just to tell the truth.

3 MR. BELL: Thank you.

4 THE COURT: Recross?

5 MR. MAULDIN: No, Your Honor.

6 THE COURT: Thank you, Mr. Bowers. You may
7 step down.

8 THE WITNESS: Yes, sir.

9 THE COURT: You may call your next witness,
10 Solicitor.

11 MR. BELL: The State calls Glenn Ross to the
12 stand.

13 GLENN ROSS

14 being first duly sworn, testified as follows:

15 THE WITNESS: I do.

16 THE CLERK: Have a seat, sir. Once you're
17 seated, state your full name, spelling your last,
18 please.

19 THE WITNESS: Glenn Ross, R-O-S-S.

20 DIRECT EXAMINATION

21 BY MR. BELL:

22 Q. Sir, who are you currently employed by?

23 A. FJC Security, that is contracted under Homeland
24 Security, work in federal installations.

25 Q. How long have you been with that group?

1 A. About a year and a half.

2 Q. What were you doing prior to that?

3 A. I was a crime scene investigator for Lexington
4 County.

5 Q. How long were you with the Lexington County
6 Sheriff's Department?

7 A. Nine or ten years.

8 Q. And would that include back in October of 2015,
9 you were working in that capacity?

10 A. Yes, sir.

11 Q. Tell us a little about CSI. What exactly does
12 that entail?

13 A. Well, it's nothing like TV. You, basically,
14 show up to a crime scene and you're there to
15 document every possible thing you can in order to
16 make the case much later, is basically what you're
17 there for, documentation.

18 Q. And does that job require -- or did that job
19 require you to respond to crime scenes?

20 A. Yes, sir.

21 Q. And what sort of crimes did you respond to?

22 A. This particular one?

23 Q. In general.

24 A. You could respond to homicides; you could
25 respond to home invasions, any type of shootings,

1 child deaths. Anything you could possibly imagine,
2 I could probably tell you I've responded to it.

3 Q. What sort of training and experience goes into
4 having a job with CSI?

5 A. Depending on your particular discipline, you
6 can have training in fingerprints, blood spatter,
7 shoe impressions. There's several different
8 disciplines you can be trained in.

9 Q. And did you maintain continuing education in
10 the field of CSI while you were still employed in
11 that capacity?

12 A. Yes, sir, I did.

13 Q. Did you have reason to respond to [REDACTED] Marty
14 Lane on October 1st, 2015?

15 A. Yes, sir.

16 Q. And what was that response in reference to?

17 A. At the time, I was told it was a homicide.

18 Q. Did you actually respond?

19 A. Yes, sir.

20 Q. And what time were you requested to that
21 location?

22 A. Make reference to my report, I was called at
23 8:00 and arrived about 8:30.

24 Q. Is that a.m. or p.m.?

25 A. P.m.

1 Q. Upon your arrival, were officials already on
2 scene?

3 A. Yes, sir.

4 Q. Was the scene secured?

5 A. Yes, sir.

6 Q. And did you arrive alone or did anybody go with
7 you?

8 A. CSI Heather Clary responded, also. I believe
9 we had also a trainee, I believe, Brenda, also
10 responded.

11 Q. Sir, are you able to see where this is
12 positioned right now?

13 A. Yes, sir.

14 Q. Are you aware of what county [REDACTED] Marty Lane is
15 located in?

16 A. Lexington County.

17 Q. Referring to State's 10, do you see the
18 location that you responded to on that map?

19 A. Yes, sir.

20 MR. BELL: Permission to approach the witness?

21 THE COURT: Yes, sir.

22 BY MR. BELL:

23 Q. Use the laser pointer and indicate where you're
24 referencing.

25 A. Right there.

1 Q. When you come to a crime scene like one that's
2 indicated as a homicide and the scene is secured,
3 generally speaking, how do you go about conducting
4 your business?

5 A. The basic way, when I show up on something of
6 this magnitude, is you do a general walk-through.
7 So me and Heather would have done a general
8 walk-through to see what we have. Then from
9 there -- of course, that's after the search warrant
10 has been obtained. Once that's obtained, you do a
11 general walk-through. And you get a camera and I
12 start working myself from outside in. It's kind of
13 like an onion and you peel back the layers. So I
14 work from the outside of the residence to the inside
15 to where we need evidentiary stuff on the inside.
16 So that's kind of how I work outside in.

17 Q. And you mentioned a search warrant -- at the
18 time you arrived at 8:30 p.m. that night, are you
19 aware whether or not a search warrant had been
20 obtained?

21 A. I don't know whether it had been obtained at
22 the time I arrived, but it's in my report that we
23 had it before we went forward. We would not have
24 gone in the house without it.

25 Q. As it relates to this particular residence and

1 this particular crime scene, how did you begin your
2 procedure?

3 A. Started -- after the general walk-through, got
4 my camera and started taking photographs of the
5 exterior of the residence. Then after taking
6 exterior photographs, I started working my way in
7 through the front and taking photographs throughout
8 the residence on the inside. You do general
9 photographs first. Then after you do general
10 photographs, you start prioritizing what you have as
11 far as evidence that you need. And you photograph
12 that and then you start scaling it, numbering it,
13 and collecting it.

14 Q. Once you go into the interior of the house, do
15 you go straight to where you believe the victim is
16 located and start there?

17 A. No.

18 Q. Did you do that in this case?

19 A. No, I did not.

20 Q. You ever heard of the term pieing?

21 A. Slicing the pie?

22 Q. There you go.

23 A. That's what we call it.

24 Q. What does that mean?

25 A. Slicing the pie -- most of the time when you

1 take a photograph -- now, this is old school because
2 most do it with a cell phone now and I can't stand
3 it. But an old camera, most folks will take it wide
4 angle. When we take photographs, we shoot this way.
5 Almost all of our photographs -- you'll see some
6 wide angle. The majority of them are that way
7 because they shoot from ceiling to floor. And then
8 what we do is I go through a room and I'll shoot
9 each layer of the room. And so I'm slicing the pie
10 so you can take those photographs and lay them next
11 to one other and get an entire picture of the room,
12 ceiling to floor, instead of just one shot.

13 Q. Is it fair to say you take a of lot pictures?

14 A. It goes into the hundreds most of the time.

15 Q. I'm going to show you a series of pictures.

16 Let me know when you've had a moment to look through
17 those.

18 A. Okay.

19 Q. Do you recognize the contents of those photos?

20 A. It's the exterior of the residence.

21 Q. That you responded to that night?

22 A. Yes, sir.

23 Q. Do the contents of these photos fairly and
24 accurately reflect what you saw that night when you
25 responded?

1 A. Yes, sir.

2 MR. BELL: Your Honor, at this time, the State
3 would seek to enter State's 40 through 45.

4 MR. MAULDIN: No objection, Your Honor.

5 THE COURT: State's 40 through 45 in evidence
6 without objection.

7 MR. BELL: Additionally, Your Honor, State's
8 49, 50 and 51 and 52.

9 THE COURT: 49 through 52?

10 MR. BELL: Yes, Your Honor.

11 THE COURT: Any objection?

12 MR. MAULDIN: No, Your Honor.

13 THE COURT: State's 49 through 52 is in
14 evidence without objection.

15 (State's Exhibit Nos. 40 through 45 admitted
16 into evidence.)

17 (State's Exhibit Nos. 49 through 52 admitted
18 into evidence.)

19 MR. BELL: Permission to publish?

20 THE COURT: Yes, sir, you may publish.

21 BY MR. BELL:

22 Q. Referring to State's 40, what area of 125 Marty
23 Lane was this?

24 A. I believe that's the back porch, back deck.

25 Q. And in State's 44, what are we looking at here?

1 A. The back of the mobile home.

2 Q. And is the front porch that was zoomed in on in
3 the prior picture visible here?

4 A. You mean the back deck?

5 Q. Yes, sir.

6 A. Yes.

7 Q. The window that we see in the center of the
8 picture, do you know where that window leads to?

9 A. I believe that's the window that's right there
10 in the kitchen next to the den.

11 Q. And using your laser pointer, will you indicate
12 the window that you're referring to?

13 A. (Complies.)

14 Q. Now, were the blinds as we see in this picture
15 the same way when you arrived?

16 A. They were not manipulated by us whatsoever.
17 When we arrive on a scene, we take things just as
18 they are. Now, how they were possibly manipulated
19 before we got there, I can't speak to.

20 Q. When you were on scene, were you able to
21 clearly see inside of that room through that
22 particular window?

23 A. No, sir.

24 Q. Why was that?

25 A. It's partially closed. I couldn't really see

1 through it.

2 Q. Referring to State's 52, is this the same
3 residence?

4 A. Yes, sir.

5 Q. And does the residence sit flush with the
6 ground?

7 A. No, sir, it's built up at an angle. It's got
8 like a crawl space with some height to it on that
9 end.

10 Q. So when we refer back to State's 44, is the
11 base of that window there where the ground is or is
12 that elevated off the ground? In other words, is
13 that window elevated higher than the floor would be
14 in that residence?

15 A. I mean, it's underpinned. It's a gradual --
16 it's not directly on the ground, the trailer is not
17 at that point, if that's what you're asking.

18 Q. And State's 42, what side of the residence is
19 that?

20 A. I believe that's the other end that's flush
21 with the ground -- or underpin flush.

22 Q. And is that draping or carpet, was that there
23 the night you were taking pictures?

24 A. That's the way I found it.

25 Q. Were most of the windows covered or open?

1 A. I'd have to look at individual photographs, but
2 I believe most of them were probably covered.

3 Q. Referring to State's 43, the two windows side
4 by side, did they appear to be closed or open?

5 A. Mostly closed.

6 Q. Did they have blinds or curtains that closed
7 them?

8 A. Looks like blinds to me.

9 Q. State's 51, are all of the windows in that
10 picture either closed or have blinds that are
11 closed?

12 A. I think the one on the far left looks like it
13 might be a bathroom it's so small, so it's probably
14 sloped. The one that's dark, I can't really tell.
15 The one that's lit has got blinds and the other one
16 has blinds.

17 Q. Was there a lot of visibility into the house
18 that night from outside?

19 A. No, it was cold and rainy. There wasn't a lot
20 of good visibility in general.

21 Q. After you take pictures of the exterior of the
22 residence, where did you begin your interior?

23 A. Through the front door.

24 Q. And if I refer you to State's 4, can you
25 indicate using that laser pointer where you're

1 talking about when you say the front door?

2 A. Front door is going to be right in here.

3 Q. Okay. As you progress through the house, did
4 you take pictures of the living room and the kitchen
5 bar area?

6 A. Yes, sir, I did.

7 Q. Do you recall anything standing out about that
8 area?

9 A. I believe there were some items that were broke
10 up on -- in the kitchen area and stuff had been
11 knocked off.

12 Q. If I refer you to State's 14, do you know what
13 we're looking at here?

14 A. That was a shelf that had been knocked loose,
15 partially down.

16 Q. Did it appear anything fell off the shelf?

17 A. I believe those items fell down from the shelf
18 is what it appeared.

19 Q. And using your laser pointer, will you indicate
20 on State's 4 where the shelf is located?

21 A. Right here.

22 Q. On State's 4, the diagram.

23 A. Oh, I'm sorry. Right here.

24 Q. Do you recall seeing electronics on the floor
25 below that shelf?

1 A. Yes, sir.

2 Q. Do you recognize the contents of those
3 pictures?

4 A. Yes, sir. It looks like the items that were on
5 the shelf.

6 Q. Do the contents of those pictures fairly and
7 accurately reflect what you saw that night?

8 A. Yes, sir.

9 Q. Do you recall seeing a baby monitor hooked up?

10 A. I believe that was it on the counter below the
11 white mechanism.

12 Q. Do you recall checking to see if that item was
13 recording?

14 A. No, I did not.

15 MR. BELL: Your Honor, at this time, the State
16 would seek to admit 53, 54 and 55.

17 MR. MAULDIN: No objection, Your Honor.

18 THE COURT: State's 53, 54, and 55 admitted
19 without objection.

20 (State's Exhibit Nos. 53 through 55 admitted
21 into evidence.)

22 BY MR. BELL:

23 Q. Referring you to 53, what are we looking at
24 here?

25 A. Electronic equipment.

1 Q. Where are some of the cords leading hooked up
2 to those electronics?

3 A. Over the shelf and onto -- looks like it may go
4 into the kitchen.

5 Q. And in State's 54, is this a different angle of
6 the same items?

7 A. Yes, sir.

8 Q. And in State's 55, what is that item?

9 A. I believe that's the monitor you're speaking
10 of.

11 Q. And aside from the power cord, did you see any
12 other cords running from it?

13 A. No, sir.

14 Q. Did you eventually move into the kitchen?

15 A. Yes, sir.

16 Q. And what was the general condition of the
17 kitchen?

18 A. Looked like there had been some type of
19 altercation.

20 Q. Did it appear -- aside from the obvious victim,
21 did it appear to be tidy?

22 A. No.

23 Q. Were there items turned over or spilled about?

24 A. Yes, sir, there was.

25 Q. Do the following items fairly and accurately

1 reflect what you saw that night?

2 A. Yes, sir.

3 Q. Did you see any items that were broken in the
4 kitchen?

5 A. Yeah. There were several broken -- it's red.
6 I can't remember exactly what it was. You could
7 tell that there was an altercation that went on
8 there. There was items that were broke, pieces on
9 the floor and pieces on the countertop, beer bottles
10 knocked over and things such as that.

11 MR. BELL: Your Honor, State would seek to
12 admit 57, 58 and 59.

13 MR. MAULDIN: No objection, Your Honor.

14 THE COURT: State's 57, 58, and 59 in evidence
15 without objection.

16 (State's Exhibit Nos. 57 through 59 admitted in
17 evidence.)

18 BY MR. BELL:

19 Q. Referring to State's 59, can you tell us what
20 we're looking at here?

21 A. That's the kitchen counter.

22 Q. Using the laser pointer, will you indicate the
23 items that you said were broken or turned over?

24 A. You have some items right up here and some
25 items down along here.

1 Q. What is on the far side of that shelf that
2 we're looking at?

3 A. The shelf that you had in the photographs a few
4 minutes ago where the electronic equipment was at.

5 Q. And is the room beyond that picture, the living
6 room?

7 A. The den, yes, sir.

8 Q. State's 58, is that another angle of what we
9 just looked at?

10 A. Yes, sir.

11 Q. Do you see the same broken items you mentioned
12 earlier?

13 A. Yes, sir.

14 Q. State's 57, is that how you located the victim?

15 A. Yes, sir.

16 Q. I don't mean to make light of it, but was there
17 any sign of life while you were there?

18 A. No, sir.

19 Q. Was there anybody else inside the house at that
20 time?

21 A. No, sir.

22 Q. Any of the other CSI team members, were they
23 with you at the time?

24 A. I believe Heather Clary -- when you're taking
25 photographs such as this, you want to have usually

1 one following behind to where if there's anything in
2 particular we need to make note of, she will make
3 note of it if we find something that we may come
4 back to. So she was probably right behind me to
5 stay out of the photographs.

6 Q. Did you manipulate the victim at all?

7 A. Not until our measurements and things are done
8 in order to place him back where he is, no, sir.

9 Q. When you say measurements, what are you
10 referring to measuring?

11 A. We measure where we find the victim, so at a
12 later time, if it becomes in question, you can place
13 the victim back there. We usually measure -- try to
14 triangulate it and we measure the head and the hands
15 and the feet.

16 Q. And where do you measure those items that you
17 just mentioned from? What are you measuring them
18 to?

19 A. You pick a stationary place that you know will
20 be there in the future, if at all possible. We
21 choose two different corners in that room to measure
22 off of.

23 Q. Before we talk more about that, looking at
24 State's 11 already in evidence, are you able to see
25 from there what angle that picture was taken from?

1 A. Looking at it, I believe I'm standing at the
2 back door shooting back across the kitchen.

3 Q. If you'd use your laser pointer and reference
4 on State's 4 where you're indicating?

5 A. Right here.

6 Q. And State's 5, what are we looking at here?

7 A. I believe I'm standing in the same general
8 location shooting back at the other end of the
9 mobile home.

10 Q. Are you aware of where the door that we see on
11 the right side of the frame where that leads to?

12 A. I believe that's the exit, the rear of the
13 mobile home.

14 Q. Did you have an opportunity to examine that
15 rear exit that heads outside the back?

16 A. Yes, sir.

17 Q. Did you see anything of note on the doorknob or
18 the door frame or the floor around the door?

19 A. No, sir.

20 Q. What sort of things would you have been looking
21 for around the potential exit?

22 A. Be looking for possible blood transfer, things
23 such as that. Somebody that had crossed over a
24 scene such as that possibly would have left some,
25 but I did not find any. Or torn clothing, things

1 such as that.

2 MR. BELL: Beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 BY MR. BELL:

5 Q. Do the contents of that picture fairly and

6 accurately depict what you saw?

7 A. Yes, sir.

8 MR. BELL: Your Honor, the State seeks to enter

9 State's 60.

10 MR. MAULDIN: No objection, Your Honor.

11 THE COURT: In evidence without objection.

12 (State's Exhibit No. 60 admitted into

13 evidence.)

14 BY MR. BELL:

15 Q. Again, what are we looking at in State's 60?

16 A. I'm photographing down the hall towards the

17 other end of the trailer from the kitchen. And

18 there looks like a floor mat and maybe a shirt,

19 blouse on the floor.

20 Q. So would your back be facing the kitchen from

21 that angle?

22 A. Yes, sir.

23 Q. Would you indicate with your laser pointer on

24 State's 60 where the exit would be?

25 A. I believe the door is right there.

1 Q. When you were in that hallway, did you make any
2 notes that you found a blood trail?

3 A. I didn't see anything.

4 Q. And when we say blood trail, what does that
5 typically refer to in CSI terms?

6 A. Well, depending on if a suspect is bleeding
7 themselves or they have bloodletting themselves or
8 they have transferred it from somewhere else and
9 it's enough to where it's in liquid form and it's
10 going to either rub against something or drip and
11 you'll have a trail that you can visually track
12 with. But we had nothing like that.

13 Q. When you were on the back porch, as shown in
14 State's Exhibit 49, was there any indication of
15 blood trail there?

16 A. No, there was not.

17 Q. Was there any indication of blood trail on the
18 stairs leading up to the porch?

19 A. No, sir.

20 Q. And in State's 7, is that the doorknob attached
21 to the back door?

22 A. Yes, sir.

23 Q. Did you see any signs of blood on it?

24 A. No, sir, I did not.

25 Q. Do the contents of those photos fairly and

1 accurately reflect what you saw?

2 A. Yes, sir.

3 Q. And what are those pictures of?

4 A. The window and then one of the projectiles.

5 Q. When you say the window, what window are you
6 referring to?

7 A. Window in the kitchen.

8 Q. Is that the window you said was hard to see
9 through from the outside?

10 A. Yes, sir.

11 MR. BELL: Your Honor, at this time, the State
12 would seek to admit 46, 47 and 48.

13 MR. MAULDIN: No objection, Your Honor.

14 THE COURT: State's 46, 47, and 48 in evidence
15 without objection.

16 (State's Exhibit Nos. 46 through 48 admitted
17 into evidence.)

18 BY MR. BELL:

19 Q. After you've taken your thorough set of photos,
20 do you then begin to collect physical evidence?

21 A. Yes, sir, we do.

22 Q. Was any physical evidence collected in this
23 particular case?

24 A. Yes, sir.

25 Q. Did you find any physical evidence that

1 indicated a firearm had been discharged?

2 A. Yes, sir, we did.

3 Q. What sort of evidence did you locate?

4 A. We found two projectiles and we found two shell
5 casings.

6 Q. Were you able to determine on scene what
7 caliber the shell casings belonged to?

8 A. The shell casings were nine millimeter
9 Winchester Luger on the headstamp of the shell
10 casing.

11 Q. Referring to the casings, where did you locate
12 those?

13 A. Number 5 was underneath the victim's -- no,
14 excuse me. You're talking about the cartridge? The
15 shell casings, sir?

16 Q. Yes, sir.

17 A. Number 1 was found under the office coffee
18 chair -- or under the office chair in the den, and
19 then number 2 was found under a black end table
20 there next to the couch.

21 Q. Do you recall the location of that chair that
22 you referenced?

23 A. I'll make reference to my diagram here to make
24 sure. Yes, sir.

25 Q. Using your laser pointer on State's 4, will you

1 indicate where that was?

2 A. It's right there.

3 Q. And then with reference to the second casing?

4 A. Well, that's the second casing. That's number
5 two. Number one was right here.

6 Q. Take a moment to look through those and
7 determine whether they fairly and accurately depict
8 the photos you took that night.

9 A. Yes, sir.

10 MR. BELL: Your Honor, at this time, the State
11 would seek to admit State's 61 through 64 as well as
12 State's 86 through 89 as well as State's 65 through
13 67, and 70.

14 MR. MAULDIN: No objection, Your Honor.

15 THE COURT: All right. Let's see, Solicitor.
16 That was 61 through 64?

17 MR. BELL: Yes, sir, Judge.

18 THE COURT: And then 66 through 89?

19 MR. BELL: No, Your Honor, that would be 65
20 through 67, 70, and then 86 through 89.

21 THE COURT: Thank you, Solicitor.

22 Those are in evidence without objection.

23 (State's Exhibit Nos. 61 through 67, 70, 86
24 through 89 admitted into evidence.)

25 BY MR. BELL:

1 Q. Now, you reference that the two shell casings
2 you found were located roughly in the living room
3 area. Is that accurate?

4 A. It's going to be this area right here.

5 Q. Now, just because casings were found in the
6 living room, does that necessarily mean that's where
7 the shooter was located?

8 A. Not necessarily. There were several people
9 that were in the residence after the shooting took
10 place and items can be moved and kicked and things
11 such as that when you have an event such as this
12 with emotions running high. So we photograph and
13 collect it from where we find them. Once our people
14 get there and secure the scene, it's not touched
15 anymore, but I can't testify to before then.

16 Q. Based on your experience with firearms in law
17 enforcement and your work in CSI, when a firearm is
18 fired that is a semiautomatic, does the casing
19 simply fall right at the shooter's feet?

20 A. No, sir. It will eject and arch, usually go --
21 it depends on which side. If it's on the right
22 side, it will eject and go a pretty good ways over
23 this way. And the same thing on the left if it's a
24 left-handed gun.

25 Q. Referring to State's 63, are you able to see

1 anything of -- not in this picture?

2 A. I believe that's a photograph of one of the
3 projectiles.

4 Q. Are you able to identify where it is now?

5 A. Yes, sir. Item number 6.

6 Q. Would you use your laser pointer to circle it?

7 A. (Complies.)

8 Q. And in relation to where the victim was
9 located, where is that projectile?

10 A. That is -- on this diagram, it's over in here.

11 Q. Where was the second projectile located?

12 A. Around his feet, the victim's feet.

13 Q. Referring to State's 62, is that the projectile
14 you're talking about?

15 A. Yes, sir.

16 Q. Do you recall if it was in the open or was it
17 actually under the victim?

18 A. We didn't find it until we moved him.

19 Q. And State's 61, is that a closer shot of the
20 same projectile?

21 A. Yes, sir, it is.

22 Q. I want to talk more about the measurements that
23 you were referencing.

24 Let me refer you to what's marked for ID
25 purposes only 123. Do you recognize this diagram?

1 A. Yes, sir, I do.

2 Q. And did you take part in the creation of this
3 diagram?

4 A. I did.

5 Q. Was it based on your notes and observations
6 from the night of October 1st?

7 A. It is.

8 MR. BELL: Beg the Court's indulgence.

9 THE COURT: Yes, sir.

10 (Pause.)

11 MR. BELL: Your Honor, permission for the
12 witness to step down.

13 THE COURT: Yes, sir, you may step down.

14 MR. BELL: Your Honor, at this time, the State
15 would seek to admit State's 123.

16 MR. MAULDIN: No objection, Your Honor.

17 (State's Exhibit No. 123 admitted into
18 evidence.)

19 (State's Exhibit No. 124 marked for
20 identification.)

21 MR. BELL: Permission to publish, Your Honor.

22 THE COURT: Yes, sir, of course.

23 BY MR. BELL:

24 Q. Sir, if you would step on the far side of this
25 easel and talk nice and loud for the court reporter.

1 You mentioned that you had taken measurements. Did
2 you record those measurements in your report?

3 A. I did.

4 Q. Do you have your report with you today?

5 A. I do.

6 Q. Referring to your report, can you recreate your
7 measurements on the diagram you created here in 123?

8 A. I can, and I won't say anything about the
9 artwork. That's it.

10 Q. And the drawings that you've placed on here
11 now, do those fairly and accurately reflect the
12 drawings you had on your report from that night?

13 A. Yes, sir, with an explanation: All these are
14 straight to the head, hand on the right side, left
15 side, foot and hand. The reason this is out and in
16 is just for diagram purposes. Because if you try to
17 run all this together, it's very confusing for a
18 jury or anybody else to look at, so we do that
19 simply so you can understand it. So it would have
20 went straight from here to there.

21 Q. Now that you've made those lines with those
22 measurements, would you walk us through each point
23 that you measured and what those measurements were?

24 A. From the head to the corner is nine foot, 10.1
25 inches.

1 Q. When you say the corner, the corner of what?

2 A. The kitchen, right here. It's where the stuff
3 was broken in this area here. At nine foot, 10.1
4 inches here to the head; seven foot, one inch here
5 to the right hand; seven foot, 3.8 on the right
6 foot; left foot is four foot, 1.2, from this corner.
7 This is the other corner across from the kitchen.
8 Five foot, seven inches, and then eight foot, two
9 inches to the head.

10 Q. Thank you, sir. If you'd take a seat.

11 A. (Complies.)

12 Q. Referencing State's 3, based on what you just
13 told us about your diagram, how far was it from the
14 victim's right foot to the top right where the
15 corner of the kitchen is in that picture?

16 A. His right foot to where?

17 Q. To the top right of this picture, which would
18 be the corner of the kitchen as you indicated on
19 your diagram.

20 A. Seven foot, 3.8 inches.

21 Q. And in the space between the right of the
22 victim's body in that corner, do you see any blood
23 trail in that area?

24 A. No, sir. Other than the area that was around
25 the victim's body that folks had been in there with

1 him, we did not.

2 Q. So there was no blood except in the immediate
3 vicinity of the victim?

4 A. Yes, sir.

5 Q. Did it appear that anybody had been bleeding in
6 that corner and then moved to where the victim was?

7 A. No, sir.

8 Q. And, again, when I reference State's 2, which
9 is a slightly different angle, you still agree with
10 your testimony?

11 A. Yes, sir. You have some that has gone a little
12 bit down the hall there; that's going to be from the
13 folks that were there. But there's none towards the
14 kitchen other than right there, under his arm and to
15 the left.

16 Q. Referencing your diagram, State's 123, will you
17 point out where this center window would be located
18 on that diagram?

19 A. Right in here.

20 Q. And in State's 37, is that the same window?

21 A. Yes, sir.

22 Q. And is that the window you testified was
23 difficult to see through, to say the least?

24 A. Yes, sir.

25 Q. After locating the projectiles and the casings

1 you testified to, how did you go about securing
2 those?

3 A. What we'd do is after you photograph and do the
4 generals, you do the close-ups of the item and you
5 put a scale by it, you number it and give it some
6 general measurement, and then do close-ups and then
7 we collect it. I had other CSIs there with me, as I
8 directed to where we went ahead and bagged and
9 tagged, is what we call it, the item and go ahead
10 and give it a number and it has that number
11 throughout after you collect it. It's put in a bag
12 or a box or something to protect it and then it's
13 taken back to the crime lab after it's collected.

14 Q. It's been marked for ID as State's Exhibit 124.
15 Do you know what the contents of that item is?

16 A. States the shell casings and projectiles.

17 Q. Would you open that item and identify the
18 contents?

19 A. This is Item No. 1, the shell casing; Item
20 No. 2, shell casing; Item No. 5, projectile; and
21 this is Item No. 6, the projectile.

22 Q. Do those appear to be the items you secured
23 that night?

24 A. Yes, sir.

25 Q. What do you do with those items once you secure

1 them?

2 A. We collected them and took them to the crime
3 lab.

4 Q. Where do you take them to the crime lab?

5 A. There at the Lexington County headquarters.

6 Q. What do you do with them when you're there?

7 A. I secured them in there and, at a later date,
8 they were put into evidence.

9 Q. Did you have any further interaction with these
10 items?

11 A. No, sir.

12 Q. Would you take those items and put them back in
13 that bag for me?

14 A. (Complies.)

15 Q. Were you ever called out to execute a search
16 warrant at a later date in reference to this case?

17 A. Yes, sir, I was.

18 Q. What was that in reference to?

19 A. It was in reference to a vehicle.

20 Q. What kind of vehicle?

21 A. A 2002 Cadillac Escalade.

22 Q. And are you aware of who owns that vehicle?

23 A. No, sir, I was not at the time.

24 Q. Does your report reflect who owned it?

25 A. No, sir.

1 Q. Do you have the tag number associated with that
2 vehicle?

3 A. I do.

4 Q. And what is that tag number?

5 A. South Carolina tag [REDACTED].

6 Q. And where did you respond to execute that
7 search warrant?

8 A. Headquarters.

9 Q. Is that where the vehicle was located?

10 A. Yes, sir.

11 Q. How do you go about documenting a vehicle?

12 A. The vehicle was in evidence in the back lot
13 where it was secured there and they obtained the
14 search warrant for the vehicle. And procedure
15 that's followed in the residence, the same way I do
16 vehicles. Started working from the outside
17 photographing and work my way in and collect
18 whatever evidence we need at that time.

19 Q. When you're dealing with a homicide, what are a
20 few key things that you might be looking for inside
21 of a vehicle?

22 A. Well, it would depend. You may have weapons
23 that were used, blood that may have been left by
24 someone that was riding in a vehicle, clothing,
25 different -- any kind of item that could have been

1 used in something like that that would identify
2 somebody and tie them to that particular crime.

3 Q. Is blood one of those things that may be
4 relevant?

5 A. Yes, sir, it is.

6 Q. Did you examine the vehicle for any traces of
7 blood?

8 A. Yes, sir. We did not visibly see anything that
9 looked in any way to be blood.

10 Q. Did the vehicle appear that it was clean such
11 that if it was blood, it would be gone?

12 A. Yes, that -- well, I guess clean. The vehicle,
13 it -- I didn't see any blood in it.

14 Q. I'll show you these pictures to refresh your
15 memory. If you'd look through all of those and tell
16 me if they fairly and accurately reflect what you
17 saw in that vehicle.

18 A. Yes, sir.

19 Q. When you say yes, sir, they do fairly and
20 accurately reflect what you saw?

21 A. They do.

22 MR. BELL: Beg the Court's indulgence while I
23 organize these?

24 THE COURT: Yes, sir.

25 MR. BELL: Your Honor, at this time, State

1 would seek to admit State's 91, 92, 95, 96, 97, 75,
2 71, 72, 73, 74 through 84, Your Honor.

3 MR. MAULDIN: No objection, Your Honor.

4 THE COURT: All right. Those State's Exhibits
5 as indicated by the Solicitor are in evidence.

6 (State's Exhibit Nos. 71 through 84, 91, 92, 95
7 through 97 admitted into evidence.)

8 BY MR. BELL:

9 Q. In State's 91, what side of the vehicle are we
10 looking at?

11 A. The passenger's side.

12 Q. Did you examine that side of the vehicle for
13 any traces of blood?

14 A. Yes, sir.

15 Q. Did you find any?

16 A. No, sir.

17 Q. And in State's 92, what door is that?

18 A. Front passenger door.

19 Q. And that's attached to the area we just looked
20 at?

21 A. Yes, sir.

22 Q. Any signs of blood in that area?

23 A. No, sir.

24 Q. State's 80. Did you see any blood in that part
25 of the vehicle?

1 A. No, sir.

2 Q. Any blood on the steering wheel?

3 A. No, sir.

4 Q. On the seat?

5 A. No, sir.

6 Q. On the door?

7 A. No, sir.

8 Q. State's 95, what is that item?

9 A. I believe that's a room key for a motel.

10 Q. Did you secure that item?

11 A. Yes, sir, I believe we did. It was Item No. 3.

12 Q. State's 73, do any items stand out to you here?

13 A. A pink ladies purse or wallet.

14 Q. Did you secure that item?

15 A. I did. It's Item No. 1.

16 Q. Would you open that item and tell me if you
17 recognize the contents?

18 A. It's a wallet.

19 Q. Is that the same wallet you retrieved from that
20 vehicle?

21 A. Yes, sir.

22 MR. BELL: Your Honor, at this time, the State
23 would seek to admit State's 125.

24 MR. MAULDIN: No objection, Your Honor.

25 (State's Exhibit No. 125 admitted into

1 evidence.)

2 BY MR. BELL:

3 Q. I'd like you to open the pink wallet and tell
4 me the contents.

5 A. Several lottery tickets, scratch-offs,
6 Mastercard, and a members only card at Speedway.

7 Q. And is there a name associated with those debit
8 or credit cards you just referenced?

9 A. Kathleen Turner. There's none on the Speedway.

10 Q. Did you take the following pictures I'm handing
11 you?

12 A. Yes, sir, I did.

13 MR. BELL: Your Honor, at this time, we'd seek
14 to admit 98 through 102.

15 MR. MAULDIN: No objection, Your Honor.

16 THE COURT: State's 98 through 102 in evidence
17 without objection.

18 (State's Exhibit Nos. 98 through 102 admitted
19 into evidence.)

20 BY MR. BELL:

21 Q. In State's 98, is that the same wallet?

22 A. Yes, sir.

23 Q. And in a closer shot, are you able to see the
24 lottery tickets that you referenced?

25 A. Yes, sir.

1 Q. State's 100, what are we looking at here?

2 A. It's money that was found in the wallet.

3 Q. Do you recall the amount?

4 A. It was \$242 U.S. currency.

5 Q. And in State's 101, what are we looking at?

6 A. Lottery tickets.

7 Q. And in State's 102?

8 A. Just another angle, same thing.

9 Q. We're almost done with you, I promise. Did you
10 take these three pictures?

11 A. Yes, sir, I did.

12 Q. Do they fairly reflect what you saw that day?

13 A. They do.

14 MR. BELL: Your Honor, at this time, the State
15 would seek to admit State's 39, 93 and 94.

16 MR. MAULDIN: No objection, Your Honor.

17 THE COURT: In evidence without objection.

18 (State's Exhibit Nos. 39, 93, and 94 admitted
19 into evidence.)

20 BY MR. BELL:

21 Q. In 39, is this the vehicle that you searched?

22 A. Yes, sir, it is.

23 Q. Do you recall the make and model?

24 A. 2002 Cadillac Escalade, pearl in color.

25 Q. And in State's 94, is that the rear of the same

1 vehicle?

2 A. Yes, sir, it is.

3 Q. Was that decal on the left side of the
4 windshield present?

5 A. Yes, sir.

6 Q. And in 93, is that the license plate associated
7 with that vehicle?

8 A. It is.

9 Q. You testified earlier that when you were on
10 scene, aside from your CSI scribe, that no one else
11 was inside of the house. Is that accurate?

12 A. Yes, sir.

13 Q. Were you aware whether people were outside the
14 house?

15 A. There was quite a few people outside of the
16 house.

17 Q. And at any point in time, did you take
18 photographs of them?

19 A. When I first arrived, there were some folks
20 that the investigators -- this happens a great deal.
21 They want photographs of them if they have some
22 possible evidence on them so they can go ahead and
23 start getting statements. So even though it throws
24 me off what I want to do, we go and take pictures of
25 them. So there were some folks out there that had

1 blood on their clothing and we took pictures of them
2 first before we started anything else.

3 Q. Did you take those pictures?

4 A. I did.

5 MR. BELL: Your Honor, at this time, the State
6 would seek to admit State's 38, 108, 109 and 110.

7 MR. MAULDIN: No objection, Your Honor.

8 THE COURT: State's 38, 108, 109, and 110 in
9 evidence without objection.

10 (State's Exhibit Nos. 38, 108 through 110
11 admitted into evidence.)

12 BY MR. BELL:

13 Q. You reference taking pictures of some of the
14 individuals outside. In State's 108, did you take a
15 picture of that gentleman?

16 A. I did.

17 Q. Did he have any wounds on him that you could
18 see when taking those pictures?

19 A. Not in that picture.

20 Q. Whose blood did that appear to be?

21 A. I believe it was the victim's.

22 Q. State's 110, did you see any injuries on his
23 hands?

24 A. No, sir.

25 Q. On his forearms or his elbows?

1 A. No, sir.

2 Q. State's 109, did you see any injuries on his
3 hands?

4 A. No, sir.

5 Q. To be clear, the redness on the hands, what was
6 that from?

7 A. Transfer from the victim.

8 Q. When you say transfer, what does that mean?

9 A. He had come in contact with the victim and the
10 victim's blood.

11 Q. Were those bruises on his hand that we're
12 seeing?

13 A. I didn't see any bruising, no, sir.

14 MR. MAULDIN: Objection, Your Honor.

15 THE COURT: Basis?

16 MR. MAULDIN: 702.

17 THE COURT: Overruled.

18 BY MR. BELL:

19 Q. And State's 38, did you note any blood in that
20 picture?

21 A. I did not.

22 Q. And using your laser pointer, on your diagram,
23 will you again indicate where that picture is
24 located?

25 A. In the diagram?

1 Q. Yes, sir.

2 A. Right in here -- no, no, no, my mistake. Right
3 there.

4 Q. And that picture, is that indicating the angle
5 where you said there would be nine feet from that
6 corner to the victim's head?

7 A. That's more towards his right foot, and that
8 area there to the corner would be seven foot, 3.8
9 inches.

10 Q. And again, that corner to the victim's arm,
11 right arm?

12 A. Yes, sir, seven foot, 11 inches.

13 Q. And from that corner to the victim's head?

14 A. Nine foot, 10.1 inches.

15 Q. And in that nine feet, seven feet and seven
16 feet range to where the victim was located, was
17 there any blood located in that area?

18 A. We didn't see any. It was around the victim.

19 Q. Did you see any blood on the counter?

20 A. No, sir.

21 Q. On the knobs to the cabinets?

22 A. No, sir.

23 Q. On that microwave?

24 A. No, sir.

25 Q. On that door frame?

1 A. No, sir.

2 Q. Any blood except the blood you saw around the
3 victim?

4 A. No, sir.

5 MR. BELL: Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 BY MR. BELL:

8 Q. When you searched the white Escalade, did you
9 find a firearm inside of it?

10 A. Yes, sir, I did.

11 Q. Was it the firearm that you believe was
12 involved in this murder?

13 A. It was different. It was a Ruger model 1022,
14 it's a .22 caliber rifle.

15 Q. Were there any pistols inside of that vehicle?

16 A. We did not find any handguns, no, sir.

17 Q. If you would have found any sort of recording
18 devices in that house, would you have noted or
19 collected them?

20 A. Yes, sir.

21 Q. If you saw anything that you thought looked
22 like blood inside of that white Escalade, what would
23 you have done?

24 A. That looked like blood?

25 Q. Yes, sir.

1 A. We would have done a presumptive test,
2 possibly, and more than likely, we would have just
3 swabbed it and collected it. And if it needed to be
4 sent off and tested, we would have done that.

5 Q. Did you do any presumptive testing or swabs
6 inside that white Escalade?

7 A. No, sir, we did not.

8 MR. BELL: Thank you, sir. No further
9 questions.

10 THE COURT: Thank you, Solicitor.

11 Mr. Mauldin?

12 MR. MAULDIN: Your Honor, can we take a short
13 break?

14 THE COURT: Yes, sir.

15 Ladies and gentlemen, we'll take an afternoon
16 recess for about 15 minutes. Do not discuss the
17 case during this brief recess.

18 (The jury exits the courtroom at 3:31 PM.)

19 THE COURT: All right. Officer Ross, you may
20 step down and refresh yourself. Do not discuss your
21 testimony.

22 Court will be in recess 15 minutes.

23 (Short break.)

24 THE COURT: Anything from the State before we
25 bring in the jury, Solicitor?