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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the South Carolina Supreme Court

Appeal from Chesterfield County
The Honorable Paul M. Burch, Circuit Court Judge

Appellate Case No. 2022-000996

James David Busby, Petitioner,

v.

The State of South Carolina, Respondent.

**APPENDIX
VOLUME I OF II**

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IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of General Sessions

Appellate Case No. 2019-001274

The Honorable Paul M. Burch, Circuit Court Judge

The State of South Carolina Respondent,

v.

James David Busby.....Appellant.

RECORD ON APPEAL

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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

April 28, 2021

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State of South Carolina	)	Court of General Sessions
	)	Fourth Judicial Circuit
County of Chesterfield	)	Case No. 2018-GS-13-00408
	)	Case No. 2018-GS-13-00409
	)	Case No. 2018-GS-13-00410
	)	
	)	
The State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
James David Busby,	)	
	)	
Defendant.	)	
	)	

July 15-19, 2019
Chesterfield, South Carolina

B E F O R E:

The Honorable Paul M. Burch, Judge; and a jury

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Hattie O. Gordon
Official Circuit Court Reporter

Transcribed by:
Krystal J. Smith
Official Circuit Court Reporter

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18

19

20 COURT REPORTER LEGEND

21 dashes -- intentional or purposeful interruption

22 or change in thought

23 ellipses . . . trailing off

24 [ph] phonetically written

25 [sic] written as said

1 JULY 15, 2019

2 THE COURT: Any matters that we need to handle while the
3 jury panel is not present?

4 MS. JOHNSON-LEE: Nothing from the State.

5 MS. COPELAND-LITTLE: No, Your Honor.

6 THE COURT: I need an indictment so the Court can call
7 the case for trial. Give me a minute or two to look these
8 over.

9 The Court is going to be calling for trial indictments
10 2018-GS-13-408, 409, and 410, State versus James David Busby.
11 Do you have any voir dire that you would specifically request
12 from the State? The defense?

13 MS. JOHNSON-LEE: The deputy solicitor I think had a
14 couple of questions. He just stepped out to get our law
15 enforcement investigator. If I could have just a moment to
16 have him come back in the courtroom?

17 MS. COPELAND-LITTLE: I've handed mine to the clerk.

18 THE COURT REPORTER: And I'm going to need to get a copy
19 of her witness list.

20 THE COURT: The jury is going to take a few minutes.
21 I'm sure someone needed a restroom break. Can I talk to
22 counsel up here?

23 (WHEREUPON, a bench conference was held off the record,
24 after which the proceedings resumed as follows.)

25 (WHEREUPON, there was a break in the proceedings, during

1 which time the jury panel entered the courtroom.)

2 THE COURT: All right. If I could have your attention,

3 please. The Court is calling the following case for trial at

4 this time.

5 Indictment 2018-GS-13-408 is entitled the State versus

6 James David Busby, the charge of murder, true-billed by the

7 Grand Jury of Chesterfield County. Also, Indictment 2018-

8 409, armed robbery, true-billed by the Grand Jury of

9 Chesterfield County. Also, Indictment 2018-GS-13-410,

10 possession of a weapon during the commission of a violent

11 crime, true-billed by the Grand Jury of Chesterfield County.

12 Looking at the allegations in the indictment, it is

13 alleged that these offenses occurred in Chesterfield County

14 on or about June the 18th of 2017, the victim being Farris

15 Mickey Short, who died as a proximate result of -- on the

16 murder case, the murder allegations of on or about June the

17 18th, 2017, here in Chesterfield County.

18 Mr. Busby is present in the court, represented by Ms.

19 Tonya Little of the Fourth Circuit Bar. He has entered a

20 plea of not guilty. At this time, we will seat a jury.

21 Ladies and gentlemen of the jury, in turn I will have to

22 pose some additional questions to you, which we call case-

23 specific voir dire. You will pay attention and respond

24 accordingly as I pose the questions.

25 The first question I have, do I have anybody on the

1 panel who is related by blood or by marriage or has any
2 business, social, religious or fraternal relationship with
3 the defendant, James David Busby?

4 And I'm going to ask Mr. Busby if he would stand and
5 face the jury at this time to see if there's any
6 relationship. Thank you, sir. You may be seated.

7 If so, we need you to stand at this time.

8 (WHEREUPON, there was no response.)

9 THE COURT: All right. I have a rather extensive list
10 of potential witnesses. I ask that you pay attention as I
11 call these names and it's going to be the same question,
12 anybody related by blood or by marriage or have any business,
13 social, religious or fraternal relationship with any of these
14 individuals. If they are present in court, I'm going to ask
15 them to stand when their name is called so you can see them.

16 Wayne Jordan with the Sheriff's Department.

17 Graig Burns with the Sheriff's Department.

18 Grant Polson with the Sheriff's Department.

19 Joey Carnes with the Sheriff's Department.

20 David Lee with the Cheraw Police Department, formerly
21 with the Sheriff's Department.

22 Caroline Tyler with the Sheriff's Department.

23 Troy Ellerbe with the Sheriff's Department.

24 Dr. Janice Ross.

25 SLED Agent Anna Tankersley.

1 SLED Agent Dawn Claycomb. That's spelled C-l-a-y-c-o-m-
2 b.
3 Michelle Eichenmiller with SLED.
4 Tom Darnell with SLED.
5 Courtney Thompson with SLED.
6 Maryann --
7 MR. REDMOND: Boehm.
8 THE COURT: Boehm?
9 MR. REDMOND: Boehm, yes.
10 THE COURT: That's spelled B-o-e-h-m. She's with SLED.
11 Chris Johnson with SLED.
12 Kendall Chavez with DNR. That's the Department of
13 Natural Resources.
14 Also, Mike Norris with DNR.
15 Jason Catoe with the Lancaster County Sheriff's
16 Department.
17 Bryan Rivers.
18 Dwayne Moore.
19 Patricia Nicole Deese.
20 David Eddins.
21 Clint Gullledge.
22 Rachel Gullledge.
23 Kenneth Parker.
24 Randall Mullis.
25 Major Steve Brelin. That's B-r-e-l-i-n.

1 Deputy Coroner Angel Tubbs. Or is that Angel?

2 THE CLERK: Angel.

3 THE COURT: Angel Tubbs.

4 Sheriff J.D. Dixon.

5 Any further witnesses I overlooked from the defense or

6 the State?

7 MR. REDMOND: Your Honor, as it relates to Rachel

8 Gullledge and I meant to put out there, she's also known as

9 Rachel Hammond as well. Just for clarification for the jury.

10 THE COURT: All right. Rachel Hammond, also known as

11 Rachel Gullledge.

12 MS. COPELAND-LITTLE: Nothing from the defense.

13 THE COURT: If so, we need you to stand and tell us

14 whatever that relationship.

15 (WHEREUPON, two people stood.)

16 THE COURT: We need your name first and then tell us

17 that relationship and to who.

18 JUROR NUMBER 70: Amanda Gunter. Mr. Burns is the SRO

19 at Law Middle School where I work.

20 THE COURT: Thank you.

21 THE COURT REPORTER: What was her name?

22 THE CLERK: Amanda Gunter.

23 THE COURT: We need your name again?

24 THE CLERK: Amanda Gunter.

25 JUROR NUMBER 70: Amanda Gunter.

1 THE COURT: Gotcha.

2 JUROR NUMBER 71: Joshua Haire. I'm not aware if

3 there's any relation, but my younger brother, half-brother,

4 his name is Randy Parker. So I was wondering if he was

5 related to Kenneth Parker. I'm not aware of any relationship

6 at all, but I just wanted to disclose that.

7 THE COURT: Solicitor?

8 MR. REDMOND: He is from Lancaster County originally. I

9 don't think he has ties to -- not that I know of to

10 Chesterfield, but that witness is actually a resident and, I

11 think, a native of Lancaster County.

12 JUROR NUMBER 71: Okay. I'm not familiar with any

13 Parkers in Lancaster County.

14 THE COURT: Your name again?

15 JUROR NUMBER 71: Joshua Haire.

16 THE COURT: Thank you, sir.

17 Anyone else?

18 (WHEREUPON, there was no response.)

19 THE COURT: Does any juror have any bias, prejudice or

20 any reason why you could not be a fair and impartial juror if

21 seated on this jury? We need you to be recognized, but don't

22 make any comment until I instruct you to.

23 (WHEREUPON, there was no response.)

24 THE COURT: Does any juror know of any reason whatsoever

25 why you could not be a fair and impartial juror if seated on

1 this jury?

2 (WHEREUPON, there was no response.)

3 THE COURT: Do any of you have any knowledge of this
4 case, whether personal knowledge or through social media,
5 print or broadcast media?

6 (WHEREUPON, there was no response.)

7 THE COURT: Have any of you ever been represented in the
8 past or presently represented by any of these attorneys,
9 Kernard Redmond, Mary Thomas Johnson-Lee or Tonya Copeland-
10 Little?

11 (WHEREUPON, there was no response.)

12 THE COURT: Have you or an immediate family member or
13 very close personal friend ever been the victim of a violent
14 crime?

15 (WHEREUPON, there was no response.)

16 THE COURT: Have any of you or a member of your family
17 or very close personal friend ever been accused of,
18 investigated, targeted, arrested or charged with a criminal
19 offense?

20 (WHEREUPON, several people stood.)

21 JUROR NUMBER 20: My father.

22 THE COURT: Okay. And your name?

23 JUROR NUMBER 20: Ahmadrac Bracey.

24 THE COURT: Okay. And what was your father's name?

25 JUROR NUMBER 20: Normac [ph].

1 THE COURT: All right. Thank you, sir.

2 THE COURT REPORTER: What was his name?

3 THE CLERK: Bracey.

4 THE COURT: Yes?

5 JUROR NUMBER 71: The question was a family member

6 accused of any offense. I think both of my parents on drug-

7 related charges. My stepfather was a -- was a felon and I

8 think he had other family members that have been arrested on

9 drug charges.

10 THE COURT: Thank you, sir.

11 THE COURT REPORTER: What's his name?

12 THE COURT: We need your name again.

13 JUROR NUMBER 71: Joshua Haire.

14 THE COURT: Yes, sir?

15 JUROR NUMBER UNKNOWN: I believe my uncle, Wayne Bragg,

16 assault charge, I believe.

17 THE COURT: And your name?

18 JUROR NUMBER UNKNOWN: Tyler Bragg.

19 THE COURT: Thank you, Mr. Bragg.

20 THE COURT: Yes?

21 JUROR NUMBER 87: Does that include nephew? I have a

22 nephew that was charged and served time on breaking and

23 entering.

24 THE COURT: And your name?

25 JUROR NUMBER 87: Marcia Jones.

1 THE COURT: Thank you, Ms. Jones.
2 Yes, sir?
3 JUROR NUMBER 73: My fiancée was a victim of domestic
4 abuse by her prior boyfriend. He beat her up real bad and
5 broke her leg.
6 THE COURT: And your name?
7 JUROR NUMBER 73: Robert Hammond.
8 THE COURT: Okay. Now, immediate family member, that
9 would be -- I would say that would be somebody that lives in
10 your home. A lot of us have a lot of cousins and nephews and
11 nieces.
12 Yes, ma'am?
13 JUROR NUMBER 118: My name is Amanda Parker. My brother
14 is a convicted felon. He's had drug charges and violent
15 crime charges, and I've been a victim of domestic violence.
16 And also, I don't know if you asked the question or not, but
17 I do know Sarah Short, if I needed to tell you that.
18 THE COURT: How do you know her?
19 JUROR NUMBER 118: Me, my sister, and her all went to
20 school together, and my sister used to roommate with her and
21 we all used to just kind of hang out.
22 THE COURT: Would that affect your ability to be a fair
23 and impartial juror if seated on this case?
24 JUROR NUMBER 118: It could.
25 THE COURT: I may want to talk to you a little later.

1 Thank you.

2 JUROR NUMBER 118: Okay.

3 THE COURT: Yes, ma'am?

4 JUROR NUMBER 53: Lisa Douglas. Domestic violence.

5 THE COURT: Thank you, Ms. Douglas.

6 Have any of you ever filed a criminal complaint against

7 someone? In other words, if you called the police or

8 sheriff's department and filed a complaint against someone.

9 (WHEREUPON, one person stood.)

10 THE COURT: If you'll stand and give us your name again.

11 JUROR NUMBER 53: Lisa Douglas.

12 THE COURT: And can you tell us what that was about?

13 JUROR NUMBER 53: It was some years ago, but ex-husband,

14 kidnapping.

15 THE COURT: Thank you.

16 Have any of you or an immediate family member ever been

17 employed in law enforcement?

18 (WHEREUPON, there was no response.)

19 THE COURT: Have any of you or an immediate family

20 member ever worked for the Fourth Circuit Solicitor's Office?

21 (WHEREUPON, there was no response.)

22 THE COURT: Have any of you or an immediate family ever

23 been represented by the Fourth Circuit Solicitor's office?

24 And that would imply as a victim in any case.

25 (WHEREUPON, there was no response.)

1 THE COURT: Have any of you or an immediate family
2 member ever campaigned for the solicitors in a solicitor's
3 election or donated money to the solicitor's campaign?
4 (WHEREUPON, there was no response.)
5 THE COURT: Are any of you or an immediate family member
6 a member of any organization such as MADD, SADD, CAVE, Cadre,
7 the Sheriff's Association, the Troopers Association, or you
8 have donated money to such an organization? We need you to
9 be recognized, please.
10 (WHEREUPON, several people stood.)
11 THE COURT: Yes, ma'am?
12 JUROR NUMBER 87: I've donated money to MADD.
13 THE COURT: To MADD? And your name?
14 JUROR NUMBER 87: Marcia Jones.
15 THE COURT: Thank you.
16 Yes?
17 JUROR NUMBER 40: Jennifer Cook. Chesterfield County
18 Police Department, donated.
19 THE COURT: To the Chesterfield Police Department or the
20 Sheriff's Department?
21 JUROR NUMBER 40: Sheriff's Department.
22 THE COURT: And your name again?
23 JUROR NUMBER 40: Jennifer Cook.
24 THE COURT: Thank you.
25 JUROR NUMBER 33: Sean Carroll. Troopers Association.

1 THE COURT: Thank you.

2 We need your name again. We couldn't hear.

3 JUROR NUMBER 40: Me?

4 THE COURT: Yes, ma'am.

5 JUROR NUMBER 40: Jennifer Cook.

6 THE COURT REPORTER: She said Cook?

7 THE COURT: Yes?

8 JUROR NUMBER 136: Carolyn Stokes. Troopers

9 Association.

10 THE COURT: Thank you, Ms. Stokes.

11 JUROR NUMBER 53: Lisa Douglas. United Way. United

12 Way.

13 THE COURT: No, that wasn't included.

14 JUROR NUMBER 53: Okay.

15 THE COURT: Have any of you ever served on a criminal

16 trial jury?

17 (WHEREUPON, several people stood.)

18 THE COURT: Yes?

19 JUROR NUMBER 33: It was an attempted murder case five

20 or six years ago.

21 THE COURT: And your name?

22 JUROR NUMBER 33: Sean Carroll.

23 THE COURT: What was the outcome?

24 JUROR NUMBER 33: Guilty.

25 THE COURT: All right. Anyone else?

1 Yes, sir?

2 JUROR NUMBER 13: Hayne Blakeney. I served on a jury
3 several years back and the guy went to jail for domestic
4 violence.

5 THE COURT: Domestic violence?

6 JUROR NUMBER 13: Yes, sir.

7 THE COURT: Your name again?

8 JUROR NUMBER 13: Hayne Blakeney.

9 JUROR NUMBER 94: It might be about seven years ago. I
10 served about seven years ago on an attempted murder.

11 THE COURT: What was the case?

12 JUROR NUMBER 94: Attempted murder.

13 THE COURT: What was the outcome?

14 JUROR NUMBER 94: I cannot remember.

15 THE COURT: Okay. Did it -- did it go to a verdict?

16 JUROR NUMBER 94: No. I believe we didn't get a
17 verdict.

18 THE COURT: Okay. And your name again?

19 JUROR NUMBER 94: Megan Little.

20 THE COURT: Couldn't hear.

21 JUROR NUMBER 94: Megan Little.

22 THE COURT: Ms. Little, thank you.

23 Yes?

24 JUROR NUMBER 27: Michael Bryant. I served in 2009. I
25 believe it was criminal and they settled out of court.

1 THE COURT: Okay.

2 JUROR NUMBER 12: I served about 10 years ago. Hampson

3 Blakeney.

4 THE COURT: Mr. Blakeney, what was the outcome of the

5 case?

6 JUROR NUMBER 12: It settled in court.

7 THE COURT: Okay. Thank you.

8 Do any of you feel that a law enforcement officer, if

9 they arrest someone, that that person is necessarily guilty?

10 (WHEREUPON, there was no response.)

11 THE COURT: Are you inclined to believe a law

12 enforcement officer simply because he or she is a law

13 enforcement officer?

14 (WHEREUPON, there was no response.)

15 THE COURT: Do any of you believe that if a grand jury

16 returns an indictment against someone that they must be

17 guilty?

18 (WHEREUPON, there was no response.)

19 THE COURT: Does anybody operate under the belief that a

20 person charged with a crime should have to prove his or her

21 innocence?

22 (WHEREUPON, there was no response.)

23 THE COURT: Any further inquiries from the State?

24 MS. JOHNSON-LEE: No, Your Honor.

25 THE COURT: From the defense?

1 MS. COPELAND-LITTLE: No, Your Honor.

2 THE COURT: Five and ten?

3 MS. JOHNSON-LEE: Yes, Your Honor.

4 THE COURT: All right. Madam Clerk is going to take
5 over now and she's going to call your name, and we need you
6 to come forward through that gate and come right here in
7 front of Madam Clerk's desk, turn, and face both tables where
8 they can get a good look at you and you'll either be seated
9 or either carried over for another trial later on.

10 (WHEREUPON, there was a pause in the proceedings, after
11 which the proceedings resumed as follows.)

12 THE COURT: Is there any member of the jury panel
13 related by blood or by marriage or have any business, social,
14 religious or fraternal relationship with Troy Ellerbe? If
15 so, we need to be told.

16 (WHEREUPON, there was no response.)

17 THE COURT: All right.

18 THE CLERK: Juror Number 137, Donna Teal.

19 (WHEREUPON, a white female came forward.)

20 THE CLERK: Step up here. Just turn around and face
21 them. Wait and turn around.

22 What say the State?

23 MS. JOHNSON-LEE: Please seat the juror.

24 THE CLERK: What say defense?

25 MS. COPELAND-LITTLE: Please seat Ms. Teal.

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

2 THE COURT: I didn't tell you this, but I should have
3 told Ms. Teal and the rest of you you're welcome to feel
4 awkward when you come up here.

5 THE CLERK: Number -- Juror Number 33, Sean Carroll.

6 (WHEREUPON, a white male came forward.)

7 THE CLERK: What say the State?

8 MS. JOHNSON-LEE: Please present the juror.

9 THE CLERK: What says defense?

10 MS. COPELAND-LITTLE: Please excuse Mr. Carroll.

11 THE CLERK: Juror Number 2, Darlene Adams.

12 (WHEREUPON, a white female came forward.)

13 THE CLERK: You might want to bring your belongings with
14 you in case you have to stay. Turn around and face that way.

15 What say the State?

16 MS. JOHNSON-LEE: Please present the juror.

17 THE CLERK: What says defense?

18 MS. COPELAND-LITTLE: Please seat Ms. Adams.

19 THE CLERK: Juror Number 73, Robert Hammond.

20 (WHEREUPON, a white male came forward.)

21 THE CLERK: What say the State?

22 MS. JOHNSON-LEE: Please present the juror.

23 THE CLERK: What says defense?

24 MS. COPELAND-LITTLE: Please seat Mr. Hammond.

25 THE CLERK: Have a seat.

1 Juror Number 97, Dawone Louallen.
2 (WHEREUPON, a black male came forward.)
3 THE CLERK: What says the State?
4 MS. JOHNSON-LEE: I beg the Court's indulgence.
5 Please present the juror.
6 THE CLERK: What says defense?
7 MS. COPELAND-LITTLE: Please seat Mr. Louallen.
8 THE CLERK: Have a seat.
9 Juror Number 14, Denoris Blanton.
10 (WHEREUPON, no one came forward.)
11 THE CLERK: Juror Number 40, Jennifer Cook.
12 (WHEREUPON, a black female came forward.)
13 THE CLERK: What says the State?
14 MS. JOHNSON-LEE: Please present the juror.
15 THE CLERK: What says defense?
16 MS. COPELAND-LITTLE: Please excuse Ms. Cook.
17 THE CLERK: Juror Number 118, Amanda Parker.
18 (WHEREUPON, a white female came forward.)
19 THE CLERK: What says the State?
20 MR. REDMOND: Please -- oh, I'm sorry.
21 MS. JOHNSON-LEE: Please present the juror.
22 MR. REDMOND: Sorry, Your Honor. Force of habit.
23 THE CLERK: What says defense?
24 MS. COPELAND-LITTLE: Please excuse Ms. Parker.
25 THE CLERK: Juror Number 46, Delisa Davis.

1 (WHEREUPON, a white female came forward.)
2 THE CLERK: What says the State?
3 MS. JOHNSON-LEE: Please present the juror.
4 THE CLERK: What says defense?
5 MS. COPELAND-LITTLE: Please seat Ms. Davis.
6 THE CLERK: Have a seat.
7 Juror Number 145, Terry Williams.
8 (WHEREUPON, a white male came forward.)
9 MS. JOHNSON-LEE: I beg the Court's indulgence.
10 Please present the juror.
11 THE CLERK: What says defense?
12 MS. COPELAND-LITTLE: Please seat Mr. Williams.
13 THE CLERK: Juror Number 147, Pauline Woodell.
14 (WHEREUPON, a white female came forward.)
15 THE CLERK: What says the State?
16 MS. JOHNSON-LEE: I beg the Court's indulgence.
17 Please excuse the juror.
18 THE CLERK: Juror Number 80, Sonya Ingram.
19 (WHEREUPON, a black female came forward.)
20 THE CLERK: What says the State?
21 MS. JOHNSON-LEE: Please present the juror.
22 THE CLERK: What says defense?
23 MS. COPELAND-LITTLE: Please seat Ms. Ingram.
24 THE CLERK: You can have a seat.
25 Juror Number 78, Mia Hillian.

1 (WHEREUPON, a black female came forward.)
2 THE CLERK: What says the State?
3 MS. JOHNSON-LEE: Please present the juror.
4 THE CLERK: What says defense?
5 MS. COPELAND-LITTLE: I beg the Court's indulgence.
6 Please seat Ms. Hillian.
7 THE CLERK: Juror Number 67, Mary Godwin.
8 (WHEREUPON, a white female came forward.)
9 THE CLERK: What says the State?
10 MS. JOHNSON-LEE: Please present the juror.
11 THE CLERK: What says defense?
12 MS. COPELAND-LITTLE: Please excuse this juror.
13 THE CLERK: You're excused.
14 Juror Number 99, Kadrick Louallen.
15 (WHEREUPON, a black male came forward.)
16 THE CLERK: What says the State?
17 MS. JOHNSON-LEE: Please present the juror.
18 THE CLERK: What says defense?
19 MS. COPELAND-LITTLE: Please excuse Mr. Louallen.
20 THE CLERK: Juror Number 20, Ahmadrac Bracey.
21 (WHEREUPON, a black male came forward.)
22 THE CLERK: What says the State?
23 MS. JOHNSON-LEE: I beg the Court's indulgence.
24 Please present the juror.
25 THE CLERK: What says defense?

1 MS. COPELAND-LITTLE: Please seat -- please seat Mr.
2 Bracey.

3 THE CLERK: Juror Number 79, Aarika Horne.
4 (WHEREUPON, a white female came forward.)

5 THE CLERK: What says the State?

6 MS. JOHNSON-LEE: I beg the Court's indulgence. May we
7 approach, Your Honor?

8 THE COURT: Sure.

9 (WHEREUPON, a bench conference was held in the presence
10 of the jury panel but out of the hearing of the jury
11 panel off the record, after which the proceedings
12 resumed as follows.)

13 THE COURT: Excused by agreement.

14 THE CLERK: You're excused.

15 THE CLERK: Juror Number 93, Sara Lewis.
16 (WHEREUPON, a white female came forward.)

17 THE CLERK: What says the State?

18 MS. JOHNSON-LEE: Please present the juror.

19 THE CLERK: What says defense?

20 MS. COPELAND-LITTLE: Please excuse Ms. Lewis.

21 THE CLERK: Juror Number 83, Scott Jacobs.
22 (WHEREUPON, a white male came forward.)

23 THE CLERK: What says the State?

24 MR. REDMOND: I beg the Court's indulgence.

25 MS. JOHNSON-LEE: Please excuse the juror.

1 THE CLERK: You're excused.
2 Juror Number 12, Hampson Blakeney.
3 (WHEREUPON, a black male came forward.)
4 THE CLERK: What says the State?
5 MS. JOHNSON-LEE: Please present the juror.
6 THE CLERK: What says defense?
7 MS. COPELAND-LITTLE: Please seat Mr. Blakeney.
8 THE CLERK: Juror Number 69, Teressa Griggs.
9 (WHEREUPON, a white female came forward.)
10 THE CLERK: What says the State?
11 MS. JOHNSON-LEE: Please present the juror.
12 THE CLERK: What says defense?
13 MS. COPELAND-LITTLE: Please excuse Ms. Griggs.
14 THE CLERK: Juror 62, Taylor Freeman.
15 (WHEREUPON, a white female came forward.)
16 THE CLERK: What says the State?
17 MS. JOHNSON-LEE: Please present the juror.
18 THE CLERK: What says defense?
19 MS. COPELAND-LITTLE: Just one moment, please. Please
20 seat the juror.
21 THE CLERK: Juror Number 13, Hayne Blakeney.
22 (WHEREUPON, a black male came forward.)
23 THE CLERK: What says the State?
24 MR. REDMOND: I beg the Court's indulgence.
25 MS. JOHNSON-LEE: Please present the juror.

1 THE CLERK: What says defense?

2 MS. COPELAND-LITTLE: I beg the Court's indulgence just

3 one moment.

4 Please seat Mr. Blakeney.

5 THE CLERK: Two alternates?

6 THE COURT: Two alternates.

7 THE CLERK: Juror Number 94, Megan Little.

8 (WHEREUPON, a black female came forward.)

9 THE CLERK: What says the State?

10 THE COURT: One second. Let's go with three alternates,

11 please.

12 THE CLERK: Okay.

13 What says the State?

14 MS. JOHNSON-LEE: Please present the juror.

15 THE CLERK: What says defense?

16 MS. COPELAND-LITTLE: Just one moment. Please seat the

17 juror.

18 THE CLERK: Juror Number 3, Billie Albright.

19 (WHEREUPON, a white female came forward.)

20 THE CLERK: What says the State?

21 MS. JOHNSON-LEE: Please present the juror.

22 THE CLERK: What says defense?

23 MS. COPELAND-LITTLE: Please excuse Ms. Albright.

24 THE CLERK: Juror Number 36, Donnie Chavis.

25 (WHEREUPON, a white male came forward.)

1 MS. JOHNSON-LEE: Please present the juror.
2 THE CLERK: What says defense?
3 MS. COPELAND-LITTLE: Please seat Mr. Chavis.
4 THE CLERK: Juror Number 136, Carolyn Stokes.
5 (WHEREUPON, a white female came forward.)
6 THE COURT: Put another chair right there.
7 THE CLERK: What says the State?
8 MS. JOHNSON-LEE: Please present the juror.
9 THE CLERK: What says defense?
10 MS. COPELAND-LITTLE: Please excuse Ms. Stokes.
11 THE CLERK: Juror Number 71, Joshua Haire.
12 (WHEREUPON, a white male came forward.)
13 THE CLERK: What says the State?
14 MS. JOHNSON-LEE: Please excuse the juror.
15 THE CLERK: Juror Number 70, Amanda Gunter.
16 (WHEREUPON, a white female came forward.)
17 THE CLERK: What says the State?
18 MS. JOHNSON-LEE: Please present the juror.
19 THE CLERK: What says defense?
20 MS. COPELAND-LITTLE: Please excuse Ms. Gunter.
21 THE CLERK: Juror Number 16, Kirsten Boan.
22 (WHEREUPON, a white female came forward.)
23 THE CLERK: What says the State?
24 MS. JOHNSON-LEE: Please present the juror.
25 MS. COPELAND-LITTLE: Please seat the juror.

1 THE COURT: Thank you. All right. Any matters
2 concerning jury selection from the State or the defense?

3 MS. JOHNSON-LEE: None from the State.

4 MS. COPELAND-LITTLE: None from the defense, Your Honor.

5 THE COURT: Yes, sir?

6 JUROR NUMBER 73: Sir, there's something I need to
7 disclose. On a previous question of yours about broadcast
8 media, I have -- I have seen it on the Channel 9 news. I
9 have --

10 THE COURT: Come on up right here, please.
11 Counsel, you may approach.

12 (WHEREUPON, a bench conference was held in the presence
13 of the jury but out of the hearing of the jury as
14 follows.)

15 THE COURT: You need to just step over here. Would the
16 fact that you have seen previous media -- would that affect
17 your ability to be a fair and impartial juror seated on this
18 trial?

19 JUROR NUMBER 73: I don't think so, but his appearance
20 is different now. They basically pretty much said the same
21 thing you said in the beginning. Just it was very brief.
22 Channel 9 Eyewitness News out of Charlotte, but they have
23 covered it three times.

24 THE COURT: Have you formed any opinions from what you
25 have seen as far as guilt or innocence?

1 JUROR NUMBER 73: No, sir.

2 THE COURT: Okay. Any questions?

3 THE COURT REPORTER: Can I have your name, please?

4 JUROR NUMBER 73: Robert Hammond.

5 THE COURT REPORTER: Thank you.

6 THE COURT: All right.

7 JUROR NUMBER 73: And I apologize for not disclosing

8 that.

9 THE COURT: That's all right. Thank you for letting us

10 know.

11 JUROR NUMBER 73: I just want to be fair to everybody.

12 THE COURT: Okay.

13 (WHEREUPON, the bench conference ended and the

14 proceedings resumed as follows.)

15 THE COURT: Those of you that were seated on this jury,

16 if you continue to be seated on this jury, can you be both

17 fair and impartial to the State and the defense? If not,

18 raise your right hand.

19 (WHEREUPON, there was no response.)

20 THE COURT: All right. Now, thank you so much for your

21 cooperation with us.

22 Those of you that came in, we're going to put you on a

23 call-in system that are not on this jury. You've got a

24 number. We need you to call in tomorrow night after six.

25 That number has been provided for you. We will give you an

1 update at that time. Okay?

2 Does that suit -- suit the court staff? Tell me now if
3 there's any change I need about the call in.

4 All right. Y'all are excused. Make sure before you
5 leave here you've got the correct address with Madam Clerk.
6 Call in after six tomorrow night to get an update.

7 All right. Y'all may leave or you're welcome to stay
8 and watch the proceedings.

9 (WHEREUPON, the jury panel was excused and exited the
10 courtroom.)

11 THE COURT: All right. You folks on the jury, I've got
12 a few things I need to talk with you about before we send you
13 home for the day. We will begin this case at 9:30 in the
14 morning. The bailiff staff will show you how and where to
15 report in the morning at 9:30.

16 Do not discuss this case with anyone. Do not allow
17 anybody to contact you in any form or fashion to try to
18 communicate with you about this case. Should that happen,
19 you are to immediately notify the Sheriff's Department of any
20 such attempt. Do not even discuss this case amongst
21 yourselves until you are asked to deliberate at the
22 conclusion of the case. Do not allow any family member or
23 anyone else to talk with you about this case. Okay?

24 I want you to avoid any media coverage. Now, when I say
25 that, there's an exception. In the evening, you may watch

1 the national news, but avoid any local media coverage. That
2 would be Channel 15, 13, 10, 9, 3, 18, all these local
3 channels or the radio. Just leave that alone because quite
4 often things are misreported. We don't want any problem with
5 that. So just avoid all local media coverage until we have
6 completed this case.

7 All right. Any problem with 9:30?

8 MR. REDMOND: No, sir, Your Honor.

9 MS. COPELAND-LITTLE: No, sir.

10 THE COURT: Okay. I'm going to excuse you all at this
11 time and ask you to be back here at 9:30 in the morning.
12 Please follow my instructions and we'll see you then.

13 And we're going to continue to work. We've got other
14 matters that are scheduled this afternoon and we've got to
15 handle that have nothing to do with this case.

16 THE BAILIFF: When you come in tomorrow, come through
17 that gate. We'll go into this room. Okay? Don't talk to
18 nobody. Just let the people at the front know you're a juror
19 and they'll help you get through back here. Okay?

20 THE COURT: Okay. We're talking about this door here.
21 Just come right on through to the room. Thank you, sir.

22 THE BAILIFF: Thank you.

23 THE COURT: Everybody else remain seated while the jury
24 departs.

25 (WHEREUPON, the jury panel exited the courtroom.)

1 THE COURT: All right. If we're going to get any kind
2 of lunch break, we've got to do it now. Anything before we
3 do break for lunch? I wish I could give you better timing,
4 but I've got that case scheduled at one and they're just
5 going to have to wait a few minutes. So whoever is on the
6 desk when those lawyers arrive for that 1 o'clock hearing,
7 just tell them we'll be back as soon as possible. I'm
8 thinking maybe 15 after or so.

9 Okay. And as far as anything else we want to do here,
10 we're going to have to mesh it in with this mandatory
11 security meeting we've got. I don't know how long it'll
12 take. We may have some time between that hearing that we
13 will hopefully start close to one and two, but we've got all
14 these folks that are on that mandatory list coming in here at
15 two for that meeting. I don't think it's going to take too
16 long. So we just want to say 2:30?

17 MS. JOHNSON-LEE: Yes.

18 THE COURT: On this case?

19 MR. REDMOND: Yes, sir.

20 THE COURT: All right. Everybody go grab some lunch
21 because we're going to be here as soon after one as we can.

22 (WHEREUPON, there was a break in the proceedings, after
23 which the proceedings resumed as follows.)

24 THE COURT: All right. Ms. Little?

25 MS. COPELAND-LITTLE: Thank you, Your Honor. May it

1 please the Court.

2 Your Honor, at this time, I would respectfully move the
3 Court for a continuance of this trial. Your Honor, I would
4 just like to let the Court know that -- and you may already
5 be aware of this, but this case has been continued three
6 times by the Solicitor's Office. It was set for January, it
7 was continued. It was set for February, it was continued.
8 It was set for May, it was continued, all at the request of
9 the Solicitor's Office. This is the first time I've ever
10 requested a continuance in this case.

11 Judge, the reason I'm asking for a continuance is -- one
12 of the reasons is that just today around lunchtime or at
13 10:50 a.m., somebody -- I got this note saying that there was
14 a statement of my client that was just found out about by law
15 enforcement that was done on June 21st, 2017. Your Honor,
16 while they did provide me with two other statements that were
17 interviews with my client, today was the first time I ever
18 received what was I understand the first recorded statement
19 that my client gave.

20 Judge, for the past couple of hours, I have been meeting
21 with my client trying to actually watch that video. While I
22 understand the solicitor is saying she is not trying to put
23 that video into evidence, I need to see it, study it. I need
24 -- there are several things in it, and I'm not finished yet,
25 Judge. It looked to me like I had -- there were a total of

1 four separate parts for the video and I was on the second one
2 when we just got called back in here.

3 Judge, I don't know what all my client said in there. I
4 don't know if there's anything in there that's going to
5 notify me of any other witnesses I need to call. I don't
6 know if there's anything in the rest of that video that would
7 lend support to my two other motions that I have filed.

8 Judge, respectfully, I'm asking for more time so that I
9 can adequately defend my client and, to do that, I am
10 entitled to all of his statements. I've always been entitled
11 to them ever since I first filed my Rule 5 motion over two
12 years ago and, Your Honor, again, this is just coming to my
13 attention today.

14 Your Honor, there is talk on this video that I just
15 received about texts among my client and the deceased victim
16 and Mr. Parker and Ms. Deese. I have not been able to find
17 any texts except for one that appears to be between my client
18 and Mr. Short. I don't know. I do know also that at the
19 preliminary hearing Mr. Burns testified about these texts
20 about Ms. Deese was missing some ice and that that was the
21 reason they thought there was a robbery. I have not seen
22 those texts, Your Honor.

23 There is -- there are also supposedly texts between Mr.
24 Short and my client going back several weeks about the
25 supposed beef that they had. I have not seen those texts,

1 Your Honor. They are not in my discovery.

2 Your Honor, also, just within the past week -- I think
3 it was Wednesday of last week I was notified that all the
4 charges against one co-defendant were dismissed and that the
5 charges against another co-defendant -- one of those charges
6 had been dropped or a change was made to it.

7 Judge, I've been working on this case for two years and
8 my defense strategy was planned around the fact that there
9 were at least one other co-defendant charged with murder and
10 one charged with accessory before and after. That is a
11 substantial change in circumstances, Your Honor, that I
12 believe would warrant a continuance in this case. Number
13 one, to give me time to make sure that I do have all the
14 evidence that exists and especially these texts that
15 supposedly exist that I have no -- I have not seen, Your
16 Honor. And given the fact that they're coming up with
17 something today on the day this trial starts leaves me to
18 wonder what else might be out leaving, Your Honor.

19 So respectfully, I request that the Court continue this
20 to the next term to give me time to finish watching the
21 videos that I just got today, decide if they are exculpatory
22 in any way, decide if I have other witnesses I need to call,
23 to see if there's anything to support my other two motions,
24 and, Your Honor, that is all I have on my motion for a
25 continuance.

1 THE COURT: Solicitor?

2 MS. JOHNSON-LEE: Your Honor, yes, we just found out
3 today right before Deputy Solicitor Redmond gave a note to
4 Ms. Little that apparently on the statement from June 21st --
5 it was actually a longer statement and the first part of the
6 statement was not on the external hard drive or in the cloud.
7 So we never got that either. So I did tell her we will not
8 use any portion of that statement, whatever it may be, in the
9 trial against her client.

10 Investigator Wayne Jordan has already reviewed it and
11 given us some notes and, honestly, it doesn't look like
12 there's anything in there that we would intend to use anyway,
13 but be that as it may, the State agrees we will not use
14 anything from that statement because she definitely was
15 entitled to it and has been entitled to it all along.

16 As far as those text messages, Your Honor, we will
17 stipulate there are no other text messages beyond the ones
18 that we've already turned over. Apparently, that was a law
19 enforcement tool during the investigation. And I would ask
20 Investigator Jordan to correct me if I say anything wrong
21 here, but that was a law enforcement tool during their
22 interrogation of Mr. Busby. The only text messages are those
23 that Ms. Little has in her possession and we stipulate to
24 that.

25 I beg the Court's indulgence.

1 And, Your Honor, as far as the charges against the co-
2 defendants, of course, law enforcement does keep
3 investigating and Solicitor Redmond has been back and forth
4 to SLED to meet with Agent Chris Johnson with computer
5 crimes.

6 And based on what SLED has done, they have -- and in
7 addition to that, we've gotten archived Facebook messages,
8 all of which have been turned over to Ms. Little, but based
9 on all of that, it is clear that Kenneth Parker wasn't even
10 in the county at the time of the murder and it's also clear
11 from the telephone calls being made by the female co-
12 defendant, she was at home at the time, and as well as the
13 archived messages related to her.

14 Again, it's in those Facebook messages that Ms. Little
15 has. She definitely has an accessory after, but there is no
16 evidence of accessory before the fact against her. So those
17 charges had to be dismissed and that was something that only
18 came to light within the last couple of weeks.

19 The State does oppose a continuance. The defendant
20 himself filed the motion for a speedy trial, and that's one
21 of the reasons we're going forward with this trial today is
22 based on his own motion for the speedy trial. So we would
23 just ask that the Court deny that and we go forward with the
24 trial.

25 MS. COPELAND-LITTLE: Briefly, Your Honor. First, I

1 would like to clarify that Ms. Lee meant to say that they are
2 stipulating that these texts don't exist when Graig Burns
3 testified under oath at the preliminary hearing about these.
4 So Mr. Burns is back there shaking his head yes. So he may
5 need to talk to these people and figure out whether these
6 texts exist or not.

7 Your Honor, as far as this video, whether or not they
8 want to use it is not the issue. The fact that it's there
9 and that law enforcement had it, I think I should have the
10 right to study it, to do a transcript of it for myself, again
11 to see what else, if anything, maybe on there that I need to
12 use in my defense of this gentleman. Your Honor, he is
13 charged with a very serious crime and, you know, his freedom
14 is at stake here, Judge, and I don't want to go forward if
15 I'm not going to be able to do my job and have all the
16 knowledge in the possession of the State.

17 MR. REDMOND: There aren't any more text messages, Your
18 Honor. The only thing that, I guess, some of the reference
19 may actually be what is in the Facebook post regarding the
20 reason Ms. Deese was looking for a bag or something about her
21 looking for a bag, but those were in the Facebook -- archived
22 Facebook messages that we received from Mr. Parker and his
23 attorney within the last couple of weeks that we turned over.

24 So the only things from any phones that we actually
25 have, other than the -- I'm talking about physically from the

1 phones, the dump from the text messages that she got with the
2 defendant between the defendant and Kenneth Parker, among
3 other people, but the ones we would be using would be
4 specifically ones between him and Kenneth Parker.

5 And then when we received the Facebook archived
6 messages, we actually forwarded that to Ms. Little. That
7 does get into some of the issues concerning the bag in a
8 vehicle, I think, and in talking with Investigator Burns,
9 that was the thing that he said he agreed with her on, but
10 again, that was not -- I don't think that was in the text
11 messages per se.

12 Long story short, there's no other set of text messages.
13 We got one text dump from the defendant's phone and we've got
14 these Facebook archived messages from Kenneth Parker's phone
15 that he actually provided to us a couple of weeks ago. So we
16 can stipulate that there are no other messages from any
17 phones that we've got.

18 THE COURT: I don't see enough here for us to continue
19 this trial. This trial needs to go forward.

20 And as far as this statement, we're not continuing with
21 any testimony or actually beginning this trial today. So
22 you've got this afternoon and tonight to see if there's any
23 important exculpatory evidence that may be there and,
24 according to what you may find and review, we can talk about
25 that tomorrow.

1 Your client wanted a speedy trial and filed that motion.
2 There's always little hiccups in trying to get serious cases
3 like this tried. I'm not going to delay it.

4 MR. REDMOND: Thank you, Your Honor.

5 MS. COPELAND-LITTLE: Thank you, Your Honor.

6 MS. JOHNSON-LEE: Thank you, Your Honor.

7 MS. COPELAND-LITTLE: And on that, would Your Honor
8 consider allowing me to finish watching those statements
9 before I -- before the Court hears my motions on *Jackson v.*
10 *Denno* and motion to suppress?

11 MR. REDMOND: That kind of puts us in a quandary. Not
12 that I'm opposed to it, but I'm just going to be -- you know,
13 in fairness to the defense since they got it today, there are
14 a couple of passages on that video from what I've been
15 advised of that are interesting and I would love to be able
16 to get into that.

17 So if they are -- and I understand the Court's ruling
18 about there being exculpatory information, but if there is
19 time to review it, then at this point I don't know that we
20 should concede that we not be able to get into it. Again, I
21 have not seen it. I don't know how long it is, how much the
22 substantive portions are, but if we're going to do that,
23 which I have no opposition to, what I'm saying is I would
24 then backtrack off of our concession of using that until the
25 Court can hear everything in the morning.

1 I think -- and it may be that we're still at the point
2 where it won't come in. I'm just not conceding that point at
3 this time until we've had a chance to review it because from
4 what I've been made aware of, there are a couple of passages
5 that from the State's standpoint may actually be useful to
6 the State and, if we could get into them, I would love to be
7 able to address some of the things that were asked of the
8 defendant in that video in the statement that we got today.

9 So I'm just saying I'm not saying that -- in other
10 words, what I'm saying is that rather than us conceding we
11 aren't going to use it, I'm asking that that issue be held in
12 abeyance until Ms. Little has a chance to look over it, until
13 we have a chance to look over it, and it may be in the
14 morning the Court decides we still can't use it, but from
15 what I've been made aware of is on that video, there may be
16 some useful things that may tie into some things that would
17 help the State out.

18 THE COURT: Okay. If we come in and start at nine in
19 the morning, since we told them to be at 9:30, that should
20 give a little relief. And then if we go into the trial and
21 y'all can space out when we actually need to do the *Denno*
22 hearing, that would help too, rather than keep the jury back
23 there for an extended period of time. Is that a logistical
24 problem y'all think you can work on?

25 MR. REDMOND: I think we can work around that, Judge.

1 MS. COPELAND-LITTLE: Your Honor, that would -- that
2 would be fine. I'm just still a little confused after Ms.
3 Lee has already conceded that she's not going to use anything
4 on that video and now Mr. Redmond is saying you've got time
5 to look at it so we might change our mind and try to use it,
6 but, Your Honor, we can hash that out another time.

7 MR. REDMOND: The only reason I say that, Your Honor, is
8 because if that's going to be used against us in the general
9 *Jackson v. Denno* sense, then the State would contend that in
10 fairness if there's enough time to look at it and view it in
11 the whole totality of the circumstances, we're just saying
12 that we be fed out of the same spoon in that regard.

13 THE COURT: Well, I don't mind stopping now and letting
14 y'all go ahead and complete that and we'll come back a little
15 earlier in the morning and just try to piece it together the
16 best we can.

17 MR. REDMOND: And I do think that there's another
18 motion. I think there's some other motions she has, but the
19 State has no opposition to that at all, holding the *Denno* in
20 abeyance until in the morning, and then we can move on with
21 other matters and just deal with the *Denno* first thing in the
22 morning.

23 MS. COPELAND-LITTLE: Just to clarify, I think that the
24 Court said we would do -- we would not -- we would wait and
25 do the *Jackson v. Denno* at the appropriate time in the trial.

1 MR. REDMOND: Okay. That's fine. Either way, whichever
2 way.

3 THE COURT: If you need to do it.

4 MS. COPELAND-LITTLE: Unless we have time and we could
5 obviously do it. I'll be ready, Your Honor.

6 THE COURT: All right. Nine o'clock then?

7 MS. COPELAND-LITTLE: Yes, sir.

8 MR. REDMOND: Yes, sir.

9 THE COURT: Okay. All right. Get it checked out and
10 see if there's anything of real importance there.

11 MS. COPELAND-LITTLE: Thank you, Your Honor.

12 MR. REDMOND: Your Honor, the reason -- there's a
13 suppression issue that we would assert is outside of the
14 *Jackson v. Denno*. The defense has made us aware that they
15 are going to move to suppress the search that kind of led to
16 all of the evidence that was retrieved belonging to the
17 victim, Mr. Short.

18 We've got several witnesses, including Jason Catoe from
19 Lancaster County, who had patiently waited today. Since the
20 State contends that those are two separate issues, the *Denno*
21 issue and the suppression of the search, the State is
22 prepared to move on to the suppression of the search issue if
23 the defense is planning on making that motion.

24 MS. COPELAND-LITTLE: Your Honor, yes, I am. I am
25 planning to make that motion. I'm getting a little concerned

1 now that I might need to also make a motion to suppress this
2 latest statement, which I have not even had time to read.

3 THE COURT: You can do that tomorrow on that, this
4 latest statement, you know.

5 MS. COPELAND-LITTLE: Okay. All right.

6 THE COURT: All right. Well, let's go forward then.
7 The Sheriff's Department has graciously from Lancaster been
8 over here and, even though he's smiling, I'm sure he's a
9 little --

10 MR. CATOE: That's all right, Your Honor. I can come
11 back tomorrow.

12 THE COURT: Yes, sir.

13 MR. REDMOND: See.

14 MS. COPELAND-LITTLE: Just one moment, Your Honor.

15 THE COURT: All right. I'll tell you what. We'll stand
16 at ease about five minutes. Get everything together and
17 we'll come back in.

18 MR. REDMOND: Yes, sir.

19 MS. COPELAND-LITTLE: Thank you, Your Honor.

20 THE COURT: We'll take a little breather here.

21 (WHEREUPON, there was a break in the proceedings, after
22 which the proceedings resumed as follows.)

23 THE COURT: Is the defense ready?

24 MS. COPELAND-LITTLE: Yes, Your Honor.

25 THE COURT: Court come to order now. We're going to

1 move on to the suppression motion.

2 MS. COPELAND-LITTLE: Thank you, Your Honor. May it
3 please the Court.

4 Your Honor, at this time, the defense moves the Court to
5 suppress any physical evidence discovered after a warrantless
6 search of my client's vehicle on June 21st, 2019 [sic]. Your
7 Honor, we are arguing that my client was an overnight guest
8 at that residence and his vehicle was at the residence. His
9 vehicle was locked. The keys were in my client's possession.

10 Your Honor, we contend that a search was made of the --
11 a preliminary search of the defendant's truck was made
12 without his consent and prior to obtaining a search warrant,
13 Your Honor, and that there was no probable cause in existence
14 at the time to search the vehicle.

15 That search was testified about by Graig Burns at the
16 preliminary hearing and, Your Honor, it's my understanding
17 that he did an initial search, stated that he was looking for
18 a pistol that had been stolen out of Lancaster County.
19 However, Your Honor, when I look at the warrants from
20 Lancaster County, they specifically state on there that there
21 is -- that they have the gun themselves in evidence that Mr.
22 Busby was charged with being in possession of.

23 So for that reason, Your Honor, we would move to
24 suppress anything found in the search, that preliminary
25 search that was done without a warrant, we say without

JASON CATOE - DIRECT BY MS. JOHNSON-LEE

1 consent and without probable cause.

2 THE COURT: Solicitor?

3 MS. JOHNSON-LEE: The State is ready to call witnesses,
4 Your Honor. We'd start with Jason Catoe from the Lancaster
5 County Sheriff's Office.

6 THE CLERK: Do you solemnly swear or affirm to tell the
7 truth, the whole truth, and nothing but the truth, so help
8 you God?

9 THE WITNESS: So help me God.

10 THE CLERK: Thank you.

11 JASON CATOE, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. JOHNSON-LEE:

15 Q: State your name for the record?

16 A: Jason F. Catoe.

17 Q: And where do you work?

18 A: Lancaster County Sheriff's Office.

19 Q: And how long have you been with Lancaster County?

20 A: Going on 14 or 15 years right now.

21 Q: Okay. What is your job there right now?

22 A: I've been a criminal investigator for almost 8 years,
23 but I -- 10 years.

24 Q: Where were you on June 21st, 2017? Do you know?

25 A: I was in -- I believe I was in a class in York County

1 when those warrants -- if that's what you're speaking of.

2 I'm sorry.

3 Q: Yes. Okay. Can you please tell the Court whether or
4 not you received a phone call from anybody with the
5 Chesterfield County Sheriff's Office?

6 A: On -- on that day, I received a phone call. I was in a
7 class for vehicle fires. I received a phone call from Wayne
8 Jordan, who I've worked with ever since I've been in
9 investigations. We were introduced when I first started.

10 And he called me asking about Mr. Busby, if I knew him,
11 and that conversation -- I came out of class and that
12 conversation led to me learning they were investigating
13 something. I shared information with him that I was
14 investigating him for a robbery and a stolen gun. And there
15 wasn't any details because I had to get back into class. I
16 stepped out during it. And I let him know that I had enough
17 probable cause to sign a warrant on him, and he had asked me
18 if I could get a warrant, if I hadn't already, and I told him
19 I would work on it.

20 So at that point, I contacted my lieutenant, who is now
21 the captain over investigations, and I want to say that I
22 emailed him the night before for approval to do the warrants
23 because I had met with the victim that had purchased the gun
24 from him and obtained the gun back, but none of that
25 information was relayed on to the Chesterfield County

JASON CATOE - DIRECT BY MS. JOHNSON-LEE

1 Sheriff's Office. It was just I was investigating a stolen
2 gun case that Mr. Busby was involved in and I could obtain
3 warrants.

4 Q: All right. At what stage were you in your investigation
5 as of June 21st?

6 A: On June the 19th, I had met with the victim because
7 Kershaw County had contacted me about him being involved in
8 buying a stolen gun from, I guess, a confidential informant
9 they may have talked to. At some point, I believe around the
10 14th -- I can't remember exactly when the report was done. He
11 met with a deputy at the Triple R Swap Shop in the town of
12 Kershaw and found that the victim, David Henderson, was -- in
13 fact, it was stolen from him while he was at the Yogi Mart
14 one night and they got all the information and put it in NCIC
15 from there. And at that point, I found out through Kershaw
16 County investigators that a person named Chip Lewis had
17 purchased it in our jurisdiction in Lancaster County at M&M
18 Auto Sales.

19 Q: And who did he purchase it from?

20 A: From Mr. Busby, according to the victim, which he IDed
21 Mr. Busby in a photo lineup as to when he purchased the gun
22 from him for \$200.

23 Q: Is that James David Busby?

24 A: James David Busby.

25 Q: Okay. Now, you actually got that gun back into

1 possession of the Lancaster County Sheriff's Office?

2 A: Yes. I met with the victim on the 19th. It was, like,
3 late in the day when all this came about about actually
4 finding out what was going on. He couldn't meet with me
5 until late in the day and it wasn't that pressing a case.

6 So I had to be in that class the next day. I want to
7 say I prepared the warrant worksheets and I emailed them at
8 some point to my lieutenant for approval because they had to
9 approve every warrant because they go back through and look
10 at the case and see what you've got on it and you've got to
11 talk to them before they would say, hey, you can present this
12 to a magistrate judge.

13 And they were sitting there waiting when I got the phone
14 call on Wednesday. I never had got approval and I advised
15 him what was going on and for him to review it and if he
16 could get the warrants. And I think Sgt. Murphy, who no
17 longer works with us, appeared before the judge and presented
18 probable cause and they issued the arrest warrants for
19 receiving stolen goods less than 2,000 and obtaining goods by
20 false pretense where Mr. Lewis had purchased the gun from
21 him, making him a victim because we had took it from him.

22 Q: How long were you going to be in that class?

23 A: Thursday. I think it was set to end on Thursday
24 afternoon.

25 Q: Okay. If you had not gotten the call from Investigator

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1 Jordan, would you still have gotten that warrant once that
2 class ended Thursday or maybe Friday?

3 A: Yeah. If I could've gotten back to town on Thursday and
4 met with a magistrate, I would have presented it then, but if
5 not, the earliest was Friday morning.

6 Q: Okay. So is there anything you did differently in this
7 case other than requesting the warrants sooner while you were
8 in class as opposed to waiting until Thursday or Friday after
9 class?

10 A: No. We get calls from other jurisdictions all the time
11 about people, if we know them, and, you know, it just
12 happened that I had this case going on and I was able to sign
13 warrants on him. Once -- once the warrants were obtained,
14 our typical protocol, like I say, and our policy and
15 procedures is for them to go to our records department. Then
16 they decide whether they're able to be entered into NCIC
17 under certain standards.

18 This one we, I think, only had jurisdiction for the
19 state of South Carolina for extradition because of the
20 charge. And once they were entered, I was sent an email or a
21 text message with the NIC number which identifies that
22 warrant with that person for if you get out with them, that
23 NIC number is used when we call the other agency that they
24 would've called our agency and said, hey, y'all have a
25 warrant on him in NCIC, will y'all come get him?

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1 And they sent basically a 10-minute hit from the
2 dispatch in Chesterfield County to us and we have 10 minutes
3 to confirm it, which we would have confirmed they can pick
4 him up and carry him to their jurisdiction and put him in
5 jail until we can come get him, transport him back to our
6 jail cell, where a deputy will come pick him up, and then
7 we'll serve the warrants on him and then they see our
8 magistrate judge.

9 Q: So did you let Wayne Jordan know that the warrants were
10 in NCIC?

11 A: As soon -- as soon as I got word that they were in NCIC,
12 I want to say I sent him a text message with that NIC number
13 so if they got out with them -- and sometimes it's -- I don't
14 know what it is. They put different letters or something.
15 If they couldn't pull him up by his name, they could pull the
16 warrant up by the NIC number.

17 Q: Now, did you ever tell Investigator Jordan that you
18 actually had the gun in your possession?

19 A: No. It was a brief conversation that I was
20 investigating a gun case and I never mentioned to him the
21 specifics of the case. I just basically told him, yeah, I
22 know him and I've got a case on it right now where there's a
23 stolen gun. I can sign warrants on him, and he said that
24 they were looking at him for something. I say, well, I can
25 go ahead and get the warrants. That way, if you need to, you

1 can go looking for him and pick him up for us.

2 Q: Did you ever give copies of the warrants to the
3 Chesterfield County Sheriff's Office?

4 A: No. In my years of working, I've only seen one warrant
5 like that countersigned where we went and picked the person
6 up ourselves with a State Law Enforcement agent.

7 Q: Now, at some point in time, were these warrants for
8 breach of trust, obtaining goods under false pretenses, and
9 receiving stolen goods, were they served on Mr. Busby?

10 A: Yes. After he was released from jail on bond, he was
11 brought to us, like he normally would have been if he hadn't
12 had other charges pending over here. Once he was bonded out,
13 he came straight to us and bonded out on those charges and,
14 ultimately, one of them has been disposed of in court.

15 Q: Okay. Which one has been disposed of?

16 A: The receiving stolen goods was disposed of, I think,
17 back in maybe June. I can't remember the exact court date.

18 Q: Okay. And what happened with that particular charge?

19 A: He pled guilty to that charge.

20 Q: Okay.

21 Q: Okay. And the goods that were stolen, was that the gun
22 in question?

23 A: Yes.

24 Q: Okay. And what about the obtaining goods under false
25 pretenses?

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1 A: I told him I would hold off on him that day if he would
2 agree to pay the victim back and I had -- this continued
3 until I think maybe September or October.

4 Q: Okay. And by not coming over and serving those
5 warrants, getting them countersigned, is that just the
6 standard operating procedure of the Lancaster County
7 Sheriff's Office?

8 A: The only time I know that -- we most of the time do
9 that. We can send them to Chesterfield County and have them
10 countersigned, let them serve them, and then they see a
11 magistrate over here, but 99 times out of 100, mainly, you
12 know, we'll go get them once they finish with their charges.
13 Most of the time that's done when somebody is in SCDC and
14 they have been in the prison for a while and they have a
15 magistrate come in and see them at SCDC.

16 Q: Okay. Thank you.

17 MS. JOHNSON-LEE: I beg the Court's indulgence.

18 That's all the questions I have. Please answer any
19 questions Ms. Little has.

20 MS. COPELAND-LITTLE: Yes, sir.

21 CROSS-EXAMINATION

22 BY MS. COPELAND-LITTLE:

23 Q: Investigator Catoe, I believe you testified that you did
24 not give them much information. You just let them know that
25 there was a warrant for a stolen pistol?

JASON CATOE - CROSS BY MS. COPELAND-LITTLE

1 A: Yeah. I told them I was investigating, like, a stolen
2 gun case and could obtain a warrant on him.

3 Q: And did you identify and let them know what kind of gun
4 it was that you were looking for?

5 A: No, ma'am. It was really brief. Like I said, I was in
6 class and there was never really talk of anything being
7 urgent because I didn't have time because I had to step back
8 in class.

9 Q: So you never would have asked them to look for a
10 particular gun?

11 A: No. Once -- once I talked with him, the next break I
12 went on I went and called my lieutenant and said, hey, this
13 is what's going on over there. Can you make this happen? I
14 said send me the thing and I'll send it to them and let them
15 know the NIC number and that there's a warrant on him. And
16 we never spoke of a gun. The next time I called him was when
17 I was on the way home from the class and asked him if they
18 got him and he told me that they -- that he wouldn't be
19 coming back with me because he probably was going to be
20 charged with murder.

21 Q: All right. Thank you.

22 MS. COPELAND-LITTLE: No further questions.

23 MS. JOHNSON-LEE: And no further questions, but, Your
24 Honor, Officer Catoe is under subpoena for the week, but the
25 State is going to release him from the subpoena at this time.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 THE COURT: Any objection?

2 MS. COPELAND-LITTLE: No objection, sir.

3 THE COURT: Thank you. Safe trip.

4 THE WITNESS: Yes, sir.

5 MS. JOHNSON-LEE: Wayne Jordan.

6 THE CLERK: Do you solemnly swear or affirm to tell the
7 truth, the whole truth, and nothing but the truth, so help
8 you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you.

11 WAYNE JORDAN, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. JOHNSON-LEE:

15 Q: State your name for the record?

16 A: Anthony Wayne Jordan.

17 Q: And where are you employed?

18 A: Chesterfield County Sheriff's Office.

19 Q: And how long have you worked there?

20 A: I've been with Chesterfield since 2003.

21 Q: What is your current job?

22 A: The lieutenant over the detective division.

23 Q: And how long have you been the lieutenant over the
24 detective division?

25 A: Probably seven-plus years.

1 Q: Okay. We're just dealing with the suppression of the
2 search; so I'm not going to get into a lot of the details as
3 far as other issues at this time, but please explain to the
4 Court briefly what you did on or about June 21st with respect
5 to looking for information on James David Busby?

6 A: Our investigators developed Mr. Busby as a potential
7 person of interest in a homicide case we were working. We
8 had information of his possible whereabouts being on Plyler
9 Road in Pageland. Correction, in Jefferson. I had no
10 knowledge of who he was.

11 I contacted Lancaster County Sheriff's Office and Capt.
12 Mike Howell, who is no longer there anymore. He's retired.
13 He got me in touch with Investigator Jason Catoe. I called
14 Jason. He texted me back. He said he was in a class. He
15 called me back. He finally called me. I said do you know
16 David Busby or James Busby. He said he sure did. He was
17 currently working an investigation with him on a weapons
18 case.

19 I said do you have enough to take him into custody
20 because we're looking at him as a person of interest in our
21 homicide case, and he said he did. He told me -- he told me
22 it was a gun case, a pistol case.

23 So, at that point, we felt like we had a good location
24 on Mr. Busby in our county on Plyler Road, and myself and the
25 detectives went to Plyler Road and we pulled into the yard of

1 Nicole Deese. We saw his white-in-color Chevy pickup truck
2 sitting in the front yard.

3 Q: Okay. Now, did you go to that location on Plyler Road
4 before or after finding out whether or not those Lancaster
5 warrants were in NCIC?

6 A: We went after.

7 Q: Okay. So what happened once you confirmed the records
8 were in NCIC -- the warrants were in NCIC and you go to
9 Plyler Road?

10 A: Well, we had -- of course, we worked the crime scene the
11 day before and we had evidence on the -- on the crime scene.
12 So the day before, a couple of my detectives went up there
13 and saw the vehicle at -- on the Plyler Road location at
14 Nicole Deese's house. They came back and we were discussing
15 it.

16 So the second day, which is the next day, which is the
17 21st, we go up there after we confirm that he is on NCIC for
18 Lancaster County. We knock on the door. Nicole Deese
19 answers the door and we ask her if Mr. Busby is in the
20 residence. She said he is. She pointed to -- she said he
21 was in the back bedroom.

22 I walked through the hall, went through the living room,
23 down the hall, and I met Mr. Busby face-to-face in the back
24 bedroom and told him -- I said -- I asked him who he was. He
25 said his name was David Busby. I said, man, you've got a

1 warrant on you out of Lancaster County. Where's the pistol?
2 He said I don't have a pistol. I said, man, I need to search
3 your car for a pistol. He said, okay, no problem, I don't
4 have a pistol. I said where's your keys. He said they're in
5 my pocket. I said I need your keys. He took -- he reached
6 in his pants pocket, pulled his keys out to his truck, and
7 handed them to me. I handcuffed him. We walked outside. We
8 started our search. I physically unlocked the car and then
9 myself and Sgt. Burns started our search.

10 Q: Okay. Now, could you see what Sgt. Burns was doing as
11 you were searching the vehicle?

12 A: Yes. I was on the passenger side. Sgt. Burns was on
13 the driver's side. It was me and him. We were the only two
14 in the vehicle. At one point, he was at the back in the
15 backseat, back driver's side compartment. I happened to look
16 and I saw him pull a black-in-color T-shirt out of a set of
17 boots. I continued my search. I heard Sgt. Burns say look
18 what I found. I looked up. He had two -- he had ID cards in
19 his hand.

20 Q: ID cards belonging to who?

21 A: And then I think at that time I asked him. I said whose
22 are those and he said these are -- these are our victim,
23 Mickey Short's.

24 Q: So what did you do?

25 A: At that point, I said stop what we're doing, put

1 everything back as you find it. We sealed the vehicle up. I
2 called for our county wrecker. Troy Timney or David Lee, I
3 can't -- I can't remember which one. I think it was Troy
4 Timney brought the wrecker up. I stayed. Myself and Major
5 Brelin stayed with the vehicle the entire time. Troy Timney
6 came up, loaded the vehicle on our county rollback, and
7 myself and Major Brelin followed it back to the Sheriff's
8 Office where we secured it in our bay.

9 Q: Now, going back to your conversation with David Busby
10 when you told him you needed to search the truck --

11 A: Uh-huh.

12 Q: Did you say he said okay?

13 A: Yes. I said I need to search your truck for the pistol.
14 He said, okay, I don't have a pistol in my truck. I said,
15 well, I need to search it. He said okay. I said where's
16 your keys, because we saw -- we knew the vehicle was locked
17 because you can see where the vehicle was locked. He said
18 they were in his pocket. I said I need your keys. He
19 reached in his pants pocket and handed me his keys. When I
20 had them in my possession, I handcuffed him.

21 Q: At any point in time did he say, no, you're not
22 searching my truck?

23 A: He never said, no, I couldn't search his truck. He
24 never said stop searching my truck. He never said anything
25 to those lines.

1 Q: Now, if he had said no, you're not searching my truck,
2 what would you have done?

3 A: If he would have initially -- if he would have told me
4 no at the onset, I would have stopped. We would have seized
5 the vehicle because -- we would have seized the vehicle
6 because we had some evidence from the tire impressions from
7 our scene on the day prior and we noticed that the tires
8 there were similar to what he had on the back on his vehicle
9 at the time. We would have seized the vehicle, brought it,
10 had it secured in our office, and we would've obtained a
11 search warrant for the vehicle for the tires.

12 Q: And what was it that stood out to you about the tires on
13 that vehicle?

14 A: Those tires were very -- they were very unique. I say
15 unique because they were a mud grip tire. They were a big
16 tire. They wasn't a standard street tire. They had mud
17 grips to them, and that is very similar, very, very close in
18 similarity to what we found on our scene.

19 Q: Okay. So if he had not given you consent to search or
20 said no, you are not searching the vehicle, you would have
21 gotten a search warrant, towed it, based on the fact that the
22 tires appeared similar to the tracks at the scene?

23 A: That is correct. If he would have told us no at the
24 onset, we would seize -- we were going to seize the vehicle.
25 That was our intent going there, seizing the vehicle for the

1 tire impressions. And if he would have told us no at the
2 onset, we would have stopped. We would have never touched
3 that vehicle, never seized it. We would have never searched
4 that vehicle. We'd have took it to our office, we would have
5 got our search warrant, and did like we did, you know,
6 brought SLED in for the process of the vehicle.

7 Q: Now, if he had not been charged with murder and armed
8 robbery, would you still have maintained custody of him so
9 that Lancaster could come pick him up on their two warrants?

10 A: Yes. He would have been taken into custody and brought
11 down to the Sheriff's Office and given over to Lancaster.

12 MS. JOHNSON-LEE: I beg the Court's indulgence.

13 MR. REDMOND: I beg the Court's indulgence.

14 BY MS. JOHNSON-LEE:

15 Q: Now, you indicated that the truck tires were very
16 similar to the tracks found at the scene. Is that the scene
17 where the body was found?

18 A: The crime scene where we found Mr. Mickey Short, yes.

19 Q: And during the course of your investigation, did you
20 obtain any evidence from anyone regarding any type of dispute
21 between the defendant and the victim?

22 A: Yes. During our investigation, a couple of detectives
23 interviewed Rachel Hammond. She gave us information that Mr.
24 Short, Mickey, and Mr. Busby were in a dispute over a -- over
25 a weapon, over a gun, a shotgun that supposedly was bought by

1 Mickey Short, but Mickey never received from David Busby.

2 She indicated that he was very upset about it that he did not
3 get the weapon. So that was where we -- that's one of the
4 many pieces of information we received on developing him as a
5 person of interest on this.

6 Q: And the stolen gun in Lancaster County --

7 A: Uh-huh.

8 Q: -- was -- to your knowledge, was it a shotgun or a
9 pistol?

10 A: To my knowledge, it was a pistol.

11 Q: Okay. And the cards that were found in the defendant's
12 vehicle, where again were those found?

13 A: When I -- like I said, Sgt. Burns was on the driver's
14 side, I was in the passenger side. I looked between the
15 seats and I saw Sgt. Burns going into a boot and he was
16 pulling out a black -- I think I recall it as being a black
17 T-shirt possibly inside -- stuffed inside of the boot. And
18 when I looked back down to my search, I heard him -- I heard
19 Sgt. Burns say look what I found. I looked up. He had two
20 forms of ID and I can't remember if he had the Social
21 Security card or a credit card or a driver's license. He had
22 something identifying in both hands that they belonged to
23 Mickey Short.

24 Q: Okay. But it came from a boot?

25 A: It came from a pair of boots. It was a boot in the

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 backseat back floorboard driver's side compartment of David
2 Busby's vehicle.

3 Q: And is a boot something that a handgun or pistol could
4 be easily concealed in?

5 A: Sure. Because it was -- it was a tall boot, probably a
6 midcalf boot.

7 Q: Thank you.

8 MS. JOHNSON-LEE: Court's indulgence.

9 BY MS. JOHNSON-LEE:

10 Q: And just for final clarification, what type of weapon
11 was the victim shot with?

12 A: Are you talking about Mickey Short?

13 Q: Yes, the victim.

14 A: He was shot with a shotgun.

15 Q: Okay. Thank you.

16 MS. JOHNSON-LEE: No further questions. Please answer
17 any questions Ms. Little has.

18 MS. COPELAND-LITTLE: Thank you. Just briefly.

19 CROSS-EXAMINATION

20 BY MS. COPELAND-LITTLE:

21 Q: At the time when Mr. Busby was taken into custody for
22 the Lancaster warrant, were -- first, you're a detective. Do
23 you wear a body camera?

24 A: No, ma'am, I don't.

25 Q: And --

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1 A: Nobody in my unit wears a body camera.

2 Q: None of the detectives do; is that right?

3 A: No, ma'am.

4 Q: And were there any uniformed police officers there at
5 the time that Mr. Busby was taken into custody?

6 A: There may have been some admin uniform, maybe Lt.
7 Ellerbe, maybe Capt. Vaughn. They may have been there, but I
8 don't recall them being in the house with him.

9 Q: Okay. So you're stating that this alleged consent took
10 place while you were in the house with Mr. Busby?

11 A: We were in the back bedroom of Ms. Deese's trailer.

12 Q: And -- and your testimony is that before you put him in
13 cuffs, you asked him for the keys and he handed you the keys?

14 A: He went in his pocket and pulled them out.

15 Q: All right. Were there any witnesses other than you that
16 heard Mr. Busby give this consent?

17 A: There was some other people in the house doing their
18 search. Like I said, I was the first one in the house. I
19 was the first one through the door and which she said he was
20 in the back bedroom. I made a beeline. I went straight to
21 the back bedroom to -- to -- to lay eyes on him.

22 Q: Is that a no? There were no -- I asked -- the question
23 I asked, sir, was whether or not there was any other --

24 A: I can't --

25 Q: -- law enforcement present?

WAYNE JORDAN - CROSS BY MS. COPELAND-LITTLE

1 A: I can't answer that yes or no because I don't know if
2 anybody else heard it. To my knowledge, I guess nobody else
3 heard it.

4 Q: Okay. All right.

5 MS. COPELAND-LITTLE: I beg the Court's indulgence for
6 just a moment.

7 No further questions. Thank you.

8 MS. JOHNSON-LEE: Just one follow-up.

9 REDIRECT EXAMINATION

10 BY MS. JOHNSON-LEE:

11 Q: And if the defendant had said no, you're not searching
12 the vehicle, would you have also gotten a search warrant
13 based on the fact that Rachel Hammond told you about the
14 dispute between the defendant and the victim, Mickey Short,
15 over a shotgun?

16 A: Yes. To get inside the vehicle, yes, we would have. We
17 would have got a -- we would have got probably, you know,
18 what I like to call a two-fold search warrant. We would have
19 searched. Like, I would've got a search warrant for the tire
20 impressions itself. We would've got a search warrant to get
21 inside the vehicle looking for this -- we knew he was shot
22 with a shotgun the day before. We would've been looking for
23 the shotgun and we would've been looking for possibly the
24 stolen weapon out of Lancaster County.

25 Q: And did you, in fact -- after those items that you did

1 find were put back and the car was towed, did you, in fact,
2 get search warrants for tire impressions and search warrants
3 to search the interior of the vehicle?

4 A: Yes, we did.

5 Q: Thank you.

6 MS. JOHNSON-LEE: No further questions.

7 MS. COPELAND-LITTLE: Just briefly, to follow up on
8 that.

9 RECROSS-EXAMINATION

10 BY MS. COPELAND-LITTLE:

11 Q: You've just testified you would've gotten a search
12 warrant. Is that -- is that your testimony?

13 A: Yes. A search warrant would have been obtained.

14 Q: All right. Would you have --

15 A: Me, personally --

16 Q: -- sought a search warrant or would you have gotten a
17 search warrant? I mean do you know that you would have
18 gotten a search warrant? You would've asked for a search
19 warrant?

20 A: If I had applied for one, I'm sure I would have gotten
21 one, but yes, I would have applied for one.

22 Q: Have you ever been denied a search warrant?

23 A: Yes, I sure have.

24 Q: So you don't know for sure whether you would've gotten
25 one or not, do you?

WAYNE JORDAN - RECROSS BY MS. COPELAND-LITTLE

1 A: I mean I felt like I had enough evidence to give me a
2 search warrant, yes.

3 MS. COPELAND-LITTLE: That's all I have. No further
4 questions.

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

6 MS. JOHNSON-LEE: The State would have no further
7 witnesses.

8 MS. COPELAND-LITTLE: Nothing further, Your Honor. I'm
9 sorry. Just one moment.

10 THE COURT: I don't need to hear anything further. I
11 don't have any evidence to the contrary that he would -- that
12 Mr. Jordan, Lt. Jordan, was not given permission. So as it
13 stands, the evidence indicates he was given permission to the
14 search. So the motion to suppress is denied.

15 MR. REDMOND: And, Your Honor, just to make sure the
16 record is clear, I think it's obvious that we were also
17 adding in the fact that it is an inevitable discovery issue
18 based upon the tire impressions and especially based upon the
19 information they had obtained from Rachel Hammond. But
20 again, so I'm just saying that for the record that that's
21 where the State was going. We got the consent, but there
22 were also other issues that would go under the category of
23 inevitable discovery, the State would contend, and I just
24 wanted to put that on the record.

25 THE COURT: All right. What else?

1 MS. COPELAND-LITTLE: That's all I have on that motion,
2 Your Honor.

3 MR. REDMOND: And do we have any other motions this
4 afternoon?

5 MS. COPELAND-LITTLE: No, sir.

6 MR. REDMOND: There is a matter, Your Honor. Once we
7 break for today, we don't need to put it on the record now,
8 but depending on how things shake out, there may be -- there
9 was a subpoena that was issued by the defense last week and
10 we probably need to address that with the Court because the
11 State may have a motion in limine based upon that particular
12 subpoena, but that's something that we can address with the
13 Court at the conclusion of the proceedings today.

14 And it may not be necessary tomorrow, but we at least
15 want to advise the Court that there may be a potential issue
16 regarding a defense subpoena. And then I can put it on the
17 record tomorrow, if the need arises, but if we could have a
18 minute to discuss it with the Court?

19 THE COURT: Yes.

20 MR. REDMOND: But that would be all. We don't have
21 anything else for today. I just briefly want to take a
22 couple minutes, but once we conclude today, I just want to
23 make the Court aware of that, the issue with the defense
24 subpoena, and we were aware of it. I mean they gave us a
25 copy. We were aware of what's going on, but we just wanted

1 to bring it to the Court's attention.

2 THE COURT: In chambers or out here?

3 MR. REDMOND: We can go back in chambers. Yes, sir.
4 Back in chambers.

5 THE COURT: Now, the jury has not been sworn. What's
6 the position of the State concerning the defendant and his
7 bond issue?

8 MR. REDMOND: Your Honor -- and that was -- and I'm
9 probably going to let Ms. Johnson-Lee address this as well.
10 Ordinarily, I do request that bond fall. In this case, I
11 don't know what the position of the Court would be on the
12 position of the defendant's bond. He is on GPS monitoring at
13 the time. There are some concerns that have been addressed
14 that -- quite frankly, there's been some allegations that
15 have been attributed to the defendant that raise some
16 concerns that something may take place negatively.

17 And so at this point, I think based upon witness
18 concerns, we do have witnesses that we have, you know,
19 provided the witness list as to who is going to be
20 testifying. And so the State's official position would be
21 that at this point his bond fall until the conclusion of the
22 trial since the jury has been impaneled.

23 THE COURT: Ms. Little?

24 MS. COPELAND-LITTLE: Thank you, Your Honor.

25 Your Honor, if I'm not mistaken, this same issue has

1 been brought up by the Solicitor's Office at every bond
2 hearing we have had that they had concerns about my client.
3 Despite that, Your Honor did give him a bond and put
4 electronic monitoring on there with other conditions, such as
5 no contact, which at the time Your Honor felt was sufficient.

6 My client has made a substantial bond in this case, a
7 \$200,000 bond. Judge, he's on real-time electronic
8 monitoring with the agency that they requested that he use.
9 And for those reasons, we would ask that he be allowed to
10 continue to remain on bond during the pendency of this trial.

11 THE COURT: All right. Based on the fact that you're
12 going to need to review that statement that came in --

13 MS. COPELAND-LITTLE: Yes, sir.

14 THE COURT: -- late, this is how I'm going to handle it.
15 I am going to -- I'm going to leave the status quo on there.
16 He remains on bond. However, with this caveat. We will
17 continue with this trial tomorrow and if he jumps bail or
18 whatever, this trial will go on and he will be tried in his
19 absence, and that would be the worst thing he could possibly
20 do is not show up.

21 MS. COPELAND-LITTLE: Yes, sir.

22 THE COURT: And you need to talk to him about laying low
23 tonight, don't have any contact with anybody, stay safe, and
24 work with you on anything you need him to work with you on as
25 far as especially that statement. Okay?

1 MS. COPELAND-LITTLE: Thank you, Your Honor.
2 THE COURT: We'll be ready to go at nine in the morning.
3 MS. COPELAND-LITTLE: Yes, sir. We'll be here.
4 THE COURT: And I'm back here in chambers.
5 MR. REDMOND: Yes, sir.
6 THE COURT: If y'all need to talk to me.
7 (WHEREUPON, the proceedings adjourned for the day.)
8 JULY 16, 2019
9 (WHEREUPON, the proceedings resumed.)
10 THE COURT: Are y'all ready to get started?
11 MS. JOHNSON-LEE: Yes, Your Honor.
12 THE COURT: All right.
13 MS. COPELAND-LITTLE: Yes, sir. Sorry, Judge. I was
14 talking with my client. Did you want to go forward with the
15 motion for the *Jackson v. Denno* hearing? Okay.
16 THE COURT: That'll be fine, if you're ready. Whatever
17 y'all need me to hear.
18 (WHEREUPON, there was a pause in the proceedings for
19 counsel to confer, after which the proceedings resumed
20 as follows.)
21 THE COURT: Ms. Little?
22 MS. COPELAND-LITTLE: At this time, I'd move the Court
23 for a *Jackson v. Denno* hearing wherein the State would need
24 to show by a preponderance of the evidence that any
25 statements made by my client were voluntary, voluntarily and

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1 freely given and, therefore, admissible.

2 THE COURT: All right. Solicitor, let's hear from you.

3 MS. JOHNSON-LEE: Yes, Your Honor. We're going to call
4 Joey Carnes first. He has worked about 18 hours straight so
5 we wanted to go ahead and go a little out of order so he can
6 get out of here.

7 THE CLERK: Do you swear or affirm to tell the truth,
8 the whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Have a seat.

11 JOEY CARNES, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. JOHNSON-LEE:

15 Q: Please state your name for the record?

16 A: Joseph Carnes.

17 Q: And where do you work?

18 A: Chesterfield County Sheriff's Office.

19 Q: And what is your job there?

20 A: I'm a patrol sergeant.

21 Q: Okay. Were you employed there on June 21st, 2017?

22 A: Yes, ma'am.

23 Q: And what was your job at that time?

24 A: I was narcotics supervisor.

25 Q: Okay. And does that mean that you were also an

1 investigator?

2 A: Yes, ma'am. I was part -- a part of the detective
3 division.

4 Q: And how long had you been an investigator?

5 A: At that time, approximately four years.

6 Q: Now, did you have occasion to participate in an
7 interview on June 21st, 2017, with the defendant, James David
8 Busby?

9 A: Yes, ma'am.

10 Q: When you participated in the interview with him, did you
11 go over any of his rights, his constitutional rights that are
12 referred to as Miranda?

13 A: I personally did not, but I was the witness to Detective
14 Graig Burns -- then Detective Graig Burns doing so.

15 Q: And as witness, you were in the room while the rights
16 were being given to him?

17 A: That's correct.

18 Q: Okay. And what did you witness as to how the rights
19 were conveyed to him?

20 A: There's a -- a form that we use for the Sheriff's Office
21 and each one of the rights were -- were read out to Mr. Busby
22 and one of the questions at the end asks if he understands
23 these rights, and Mr. Busby initialed all of them that he
24 understood and he also initialed that he wished to continue
25 with the interview.

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1 Q: Okay. And did he also put his signature onto that form?

2 A: That's correct.

3 Q: And did you sign that form as a witness?

4 A: That's correct.

5 MS. JOHNSON-LEE: The form is pre-marked. It's pre-
6 marked as State's Exhibit 3. I'd like to show this to Deputy
7 Carnes.

8 BY MS. JOHNSON-LEE:

9 Q: Do you recognize that document?

10 A: Yes, ma'am, I do.

11 Q: Okay. And is that the Miranda form that was read to
12 David Busby in your presence?

13 A: Yes, ma'am, it is.

14 Q: And can you read each one of the rights that were read
15 to him during the interview that day?

16 A: It says you have the right to remain silent. Anything
17 you say may be used against you in a court of law. You have
18 the right to talk with a lawyer and have him or her present
19 with you while you are being questioned. If you are unable
20 to hire an attorney, one will be provided to represent you
21 before any questioning. You can decide at any time to
22 exercise your Miranda rights and not answer any questions or
23 make any statements without the presence of an attorney.

24 Do you understand the above Miranda rights as I've just
25 read to you? If so, please read and initial each line that

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1 you fully understand and have read each right. With these
2 rights in mind, do you wish to continue with this interview?
3 If so, at this time understand you're being audio and video
4 recorded.

5 Q: Okay. And again, he did initial and sign that document?

6 A: That's correct. He initialed 1 through 8, which is the
7 eight lines I just read, and then he also signed, dated, and
8 timed it at 1:57 p.m. on June 21st, 2017.

9 MS. JOHNSON-LEE: Your Honor, I'll go ahead at this time
10 and move to have that Miranda form put into evidence.

11 MS. COPELAND-LITTLE: No objection.

12 THE COURT: In without objection.

13 (WHEREUPON, State's Exhibit Number 3, Miranda form, was
14 admitted into evidence.)

15 BY MS. JOHNSON-LEE:

16 Q: And as a narcotics investigator, are you familiar with
17 people in your job who are under the influence of drugs or
18 alcohol?

19 A: That's correct. And I was also previously certified as
20 a drug recognition expert, which is a very intensive class,
21 which basically it teaches you to read a person's body
22 language also with different symptoms with the eyes and heart
23 rate and stuff to determine what, if any, illegal substances
24 they are under the influence of.

25 Q: And what was your -- did the defendant appear to be

1 intoxicated?

2 A: No, ma'am.

3 Q: Okay. How did he respond to your questions?

4 A: He was very clear with his answers and he just seemed
5 normal. He was a bit shaken, but definitely not
6 intoxicated.

7 Q: Okay. And to the best of your knowledge, was his
8 statement freely and voluntarily given?

9 A: That's correct.

10 Q: And was he coerced into giving a statement through any
11 threat or actions of yourself or any other investigator?

12 A: No, ma'am. In fact, we stopped, I believe, to give him
13 food and water throughout the interview.

14 Q: So he was not under any duress at the time he gave the
15 statement?

16 A: No, ma'am.

17 Q: Okay. At any point in time, did he request an attorney?

18 A: No, ma'am.

19 Q: At any point in time, did he attempt to invoke his right
20 to remain silent?

21 A: No.

22 Q: And did he make the statement that he did make in
23 response to your questioning?

24 A: Yes, ma'am. He made several statements in response to
25 our questions.

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1 Q: Okay. And when you say several statements, were you and
2 other investigators in and out after that point?

3 A: That's correct.

4 Q: Okay.

5 MS. JOHNSON-LEE: And while Investigator Carnes is here,
6 I don't think there's been a motion to contest the buccal
7 swab, but I would just like to find out from the defense if
8 that is going to be contested because he will be the witness
9 on that for the pretrial.

10 MS. COPELAND-LITTLE: Just one moment, Your Honor.

11 Yes. We will.

12 CROSS-EXAMINATION

13 BY MS. COPELAND-LITTLE:

14 Q: Going back to my client's appearance, did he appear
15 sleepy during the interview?

16 A: At the time, he did appear a little bit sleepy, but,
17 like I said, he was up and then down, up and then down, but
18 you could tell that he was probably coming off of some type
19 of major event.

20 Q: Okay. So that up and down, up and down you're talking
21 about, that wouldn't be one of the signs that you would
22 recognize as somebody being intoxicated?

23 A: No, ma'am.

24 Q: Okay.

25 A: Not in itself.

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1 Q: Okay.

2 A: It's multiple factors whenever you have to factor in
3 whether someone is intoxicated.

4 Q: Did you -- were you present any time when my client
5 stated that he had not slept in three or four days?

6 A: I do recall hearing that, yes, ma'am.

7 Q: And in your experience as a drug recognition officer,
8 somebody who has been up for several days, would that be a
9 sign that they might possibly be under the influence of
10 narcotics?

11 A: That is correct.

12 Q: But you didn't think that my client was?

13 A: He didn't appear to be.

14 MS. COPELAND-LITTLE: That's the only questions I have.
15 Thank you.

16 THE WITNESS: You're welcome.

17 MS. JOHNSON-LEE: No further questions and I'd ask that
18 this witness be excused for the remainder of today. He is
19 still under subpoena for tomorrow.

20 MS. COPELAND-LITTLE: No objection.

21 THE COURT: Thank you, sir. You're excused for today.

22 MS. JOHNSON-LEE: Graig Burns.

23 THE CLERK: Do you swear or affirm to tell the truth,
24 the whole truth, and nothing but the truth, so help you God?

25 THE WITNESS: I do.

GRAIG BURNS - DIRECT BY MS. JOHNSON-LEE

1 THE CLERK: Thank you, sir. Have a seat.

2 GRAIG BURNS, being first duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. JOHNSON-LEE:

6 Q: State your name for the record and where you're
7 employed?

8 A: Graig Cornelius Burns. I'm employed with the
9 Chesterfield County Sheriff's Office.

10 Q: And what is your job there?

11 A: My job right now is a school resource officer.

12 Q: Were you employed with the Chesterfield County Sheriff's
13 Office on June 21st and 22nd of 2017?

14 A: Yes, ma'am.

15 Q: And what was your duties then?

16 A: I was a criminal detective.

17 Q: And as part of your duties as a criminal detective with
18 the Sheriff's Office, did you have occasion to interview the
19 defendant, James David Busby?

20 A: Yes, ma'am, I did.

21 Q: And are you familiar with the so-called Miranda warnings
22 or a suspect's constitutional rights?

23 A: Yes, ma'am.

24 Q: And did you have occasion to advise James David Busby of
25 those rights during the course of an investigation on or

GRAIG BURNS - DIRECT BY MS. JOHNSON-LEE

1 about June 21st and 22nd, 2017?

2 A: Yes, ma'am, I did.

3 Q: Now, specifically, let's go to June 22nd, 2017. Did you
4 participate in an interview on that date?

5 A: Yes, ma'am.

6 Q: And did you give those Miranda warnings to James David
7 Busby on June 22nd?

8 A: Yes, ma'am.

9 Q: And how was he advised of those rights on June 22nd?

10 A: There's a standard form that we have inside the
11 investigative -- in the room that we have and the table. We
12 pull out the drawer to pull them out and I read the form from
13 line 1. First, I have to get the person's name and write it
14 across the top, put the date and time, ask them for their
15 date of birth, put that there as well.

16 Then I begin. I let them know that they are currently
17 at the Chesterfield County Sheriff's Office and that these
18 are Miranda rights, and I say Miranda as follows and I read
19 line 1 through 8. I ask them do they understand. I turn the
20 paper around and say you can initial each statement and they
21 sign and date it.

22 Q: And would that form that you read James Busby on June
23 22nd be a mirror-image or an exact copy of what was read to
24 him on June 21st?

25 A: Yes, ma'am. It's a standard form we use every day.

GRAIG BURNS - DIRECT BY MS. JOHNSON-LEE

1 Q: Okay. Did he sign a form for you on June 22nd?

2 A: Yes, ma'am.

3 Q: Okay. Now, we don't have that form; is that correct?

4 A: I don't know. I haven't seen the case file.

5 Q: Okay. But it's on video?

6 A: Yes, ma'am.

7 Q: Okay. And the entire Miranda reading of the warnings
8 and questioning is on video on June 22nd?

9 A: Yes, ma'am.

10 Q: Okay. And did the defendant at any point in time
11 request an attorney on June 22nd?

12 A: No, ma'am.

13 Q: Did he invoke his right to remain silent on June 22nd?

14 A: No, ma'am.

15 Q: Did he initial each one of those rights that you read to
16 him on June 22nd?

17 A: Yes, ma'am.

18 Q: Did he sign that form on June 22nd?

19 A: Yes, ma'am.

20 Q: And did he make a statement in response to your
21 questions on June 22nd?

22 A: Yes, ma'am.

23 Q: Did he at any point in time refuse to answer questions
24 or refuse to continue without an attorney?

25 A: No, ma'am.

GRAIG BURNS - DIRECT BY MS. JOHNSON-LEE

1 Q: Did he give that statement on June 22nd freely and
2 voluntarily?

3 A: Yes, ma'am.

4 Q: At any point in time, did you or anyone else with the
5 Sheriff's Office threaten him in order to coerce him into
6 giving that statement?

7 A: No, ma'am.

8 Q: Was he given breaks?

9 A: It's standard we would ask him a line of questioning and
10 then after we get done asking our questions, we take a break,
11 step out, and go see the lieutenant in the other room
12 watching it live and say any more questions you possibly can
13 think of we can have. So usually, we stay out of the room
14 between 5 to 10 minutes. We ask -- we always ask the
15 defendant if he needs to use the restroom or needs some water
16 or anything like that during that time period.

17 Q: And was any food, drink or bathroom breaks withheld from
18 James David Busby in exchange for forcing him to testify?

19 A: No, ma'am.

20 Q: Forgive me. Excuse me. Not testify, but to give a
21 statement?

22 A: No, ma'am.

23 Q: And so his statement was not given under any duress as
24 far as you could tell?

25 A: No, ma'am.

GRAIG BURNS - DIRECT BY MS. JOHNSON-LEE

1 Q: Okay. Did he appear distressed during the interview?

2 A: I would say distressed based off the nature of the
3 interview because of what -- once we informed him of the
4 charges, I would say he appeared stressed based off of that
5 situation, but other than that, I didn't think otherwise.

6 Q: Okay.

7 MS. JOHNSON-LEE: I beg the Court's indulgence.

8 That's all the questions I have. Please answer any
9 questions Ms. Little has.

10 THE WITNESS: Yes, ma'am.

11 MS. COPELAND-LITTLE: Just one moment, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. COPELAND-LITTLE:

14 Q: Officer Burns, you testified that my client did not
15 appear -- I'm sorry. Did my client appear intoxicated to you
16 on the 22nd?

17 A: No, ma'am.

18 Q: And did he ever tell you during the interview that he
19 had not had any sleep in three or four days?

20 A: Yes, ma'am.

21 Q: Did you ever promise my client that you would help him
22 if he would give you a statement?

23 A: Say that again, ma'am?

24 Q: Did you ever tell my client that you would help him if
25 he would give you a statement?

GRAIG BURNS - CROSS BY MS. COPELAND-LITTLE

1 A: No, ma'am.

2 Q: After that first time when you say that you gave him his
3 Miranda form -- of course, we don't have the form, but -- but
4 you're saying that he did sign the form and you gave him his
5 rights. Did you ever go back and give him those rights again
6 after a period of time or did you just give them that one
7 time and -- that one time?

8 A: On which day, ma'am?

9 Q: On the 22nd.

10 Q: No, ma'am. On the 22nd, once we interviewed him and once
11 I left the room, we were done with the interview. But on the
12 21st when I stepped out of the interview room for a while,
13 when I went back in to re-speak with Mr. Busby, I did inform
14 him that he was still under Miranda and Miranda was still in
15 effect.

16 Q: Okay. Now, you're talking about on June 21st?

17 A: That's the only time I stepped out and informed him that
18 he was still under Miranda.

19 Q: Okay.

20 A: On the 22nd, I did not.

21 Q: All right. And do you recall any long breaks during the
22 interview on June 22nd?

23 A: No, ma'am. Only long enough to step out of the
24 interview room to step over to speak to my lieutenant, who
25 was in the next room.

GRAIG BURNS - CROSS BY MS. COPELAND-LITTLE

1 Q: All right. And during the interview that's on video,
2 was my client slurring his words?

3 A: No, ma'am.

4 Q: He sounded clear to you? You could understand
5 everything he was saying?

6 A: Yes, ma'am. I met Mr. Busby. That was the first time I
7 ever spoke with him and, to me, his speech was normal. I
8 didn't have to ask him to repeat anything and I understood
9 what he was saying.

10 Q: You're talking about on the 22nd? We're talking about on
11 the 22nd; correct? I'm asking you on the 22nd, did he appear
12 to be slurring his words?

13 A: No, ma'am.

14 Q: Okay. All right. Well, since you brought up the 21st,
15 you were present during a good portion of that interview too,
16 weren't you?

17 A: Yes, ma'am. I think I was present for about 90 percent
18 of that interview.

19 Q: Okay. And so you had an opportunity to observe Mr.
20 Busby for at least four hours that day; is that correct?

21 A: Yes, ma'am.

22 Q: All right. So going back to the first interview, June
23 21st, did you -- you didn't -- did you think that my client
24 was clearheaded?

25 A: Yes, ma'am.

GRAIG BURNS - CROSS BY MS. COPELAND-LITTLE

1 Q: Okay. Did he appear sleepy to you?

2 A: No, ma'am.

3 Q: He was not slurring his words?

4 A: No, ma'am.

5 MS. COPELAND-LITTLE: Just one moment. That's all the
6 questions I have for Mr. Burns.

7 MS. JOHNSON-LEE: No further questions for this witness.

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

9 THE WITNESS: Thank you.

10 MS. JOHNSON-LEE: Wayne Jordan.

11 THE CLERK: Do you swear or affirm to tell the truth,
12 the whole truth, and nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 WAYNE JORDAN, being first duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. JOHNSON-LEE:

18 Q: Please state your name for the record?

19 A: Anthony Wayne Jordan.

20 Q: Where are you employed?

21 A: Chesterfield County Sheriff's Office.

22 Q: And what is your current position?

23 A: I'm a lieutenant over the criminal detective unit.

24 Q: And were you employed by the Sheriff's Office during the
25 month of June 2017?

1 A: I was.

2 Q: And during the month of June, what was your job?

3 A: I was a lieutenant over the criminal detective unit.

4 Q: And how long have you been over the criminal detective
5 unit of the Sheriff's Office?

6 A: Seven-plus years.

7 Q: Okay. On or about June 21st and 22nd or thereafter, did
8 you have occasion to interview the defendant, James David
9 Busby?

10 A: I sat in on an interview. Yes, ma'am.

11 Q: Okay. And which date did you sit in on an interview?

12 A: I believe it was the 21st, June 21st.

13 Q: Okay. And were you in the interview when the Miranda
14 rights were given to James David Busby?

15 A: On the 21st?

16 Q: On the 21st.

17 A: No, I was not.

18 Q: Okay. Were you present on the 22nd when those warnings
19 were given?

20 A: I believe I was. I think I was.

21 Q: Have you had occasion to view the videos from those two
22 dates?

23 A: Yes, I did.

24 Q: Okay. At any point in time, did the defendant, James
25 Busby, ever attempt to cease giving answers or statements to

1 any of the investigators who were interviewing him?

2 A: No. He was forthcoming on everything on his statements.

3 Q: Did you ever on video or in person see him invoke his
4 right to an attorney or his right to remain silent?

5 A: Never.

6 Q: Were all of his answers freely and voluntarily given?

7 A: Yes.

8 Q: Did he appear to be under any coercion?

9 A: No.

10 Q: Did he appear to be under any duress?

11 A: No.

12 Q: Was anything withheld from him as far as bathroom
13 breaks, food, water?

14 A: No. We even at one point gave him a bottle of water and
15 a pack of crackers and offered him pizza that we -- you know,
16 we bought from the Sheriff's Office because of the lengthy
17 investigation that we were doing.

18 Q: Now, we have a video that is pre-marked as State's
19 Exhibit 1 on a flash drive. This flash drive contains the
20 second portion of the video from June 21st. It does not have
21 the contested section of the video. That is not on here.
22 And it has the full video from June 22nd, and I'll show you
23 what's marked as State's Exhibit 1.

24 A: Your Honor, all I can say is I guess that's the one. I
25 haven't seen that flash drive. I've only seen what was given

1 to the Solicitor's Office.

2 Q: Okay.

3 A: And I didn't put the videos on that flash drive.

4 Q: How --

5 A: I'm assuming it's on there.

6 Q: Okay. How did you turn those videos over to the
7 Solicitor's Office?

8 A: I did an external hard drive with all of our Rule 5 on
9 it, Rule 5(b) and all of our paperwork, all of our videos,
10 all of our pictures. It was on an external hard drive which
11 I handed the whole entire hard drive to the Solicitor's
12 Office.

13 Q: Did you go back and view those interviews that were
14 turned over to the Solicitor's Office before court?

15 A: I did.

16 Q: Okay. And did you view the video for June 21st from the
17 month and time when someone reminded the defendant that he
18 was still under --

19 A: Yes.

20 Q: -- Miranda?

21 A: Yes, I did.

22 Q: Okay. Were you present when he was told he was still
23 under Miranda?

24 A: Yes.

25 Q: Okay. And when he was told he was still under Miranda

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 on June 21st, did he contest that remark?

2 A: No.

3 Q: Did he attempt to cease answering questions?

4 A: No.

5 Q: Did he invoke a right to an attorney?

6 A: No.

7 Q: Okay. On the June 22nd video, have you watched that one
8 also?

9 A: Yes.

10 Q: And at any point in time on that video, did he do any of
11 those things? Refuse to answer questions?

12 A: No.

13 Q: Say I don't want to talk anymore?

14 A: No.

15 Q: Invoke the right to an attorney?

16 A: No.

17 Q: Okay. Now, since you initially made those videos, were
18 they altered in any way?

19 A: No.

20 Q: Okay. And so those are the complete videos as far as
21 from the moment on June 21st he's told you're under -- you're
22 still under Miranda through the end of the interview? Is
23 that the complete interview from that point in time until the
24 end?

25 A: Yes.

1 Q: And the June 22nd, is that the complete interview?

2 A: Yes.

3 Q: Okay. Can you please give the highlights of the
4 defendant's statements on those two days?

5 A: Starting from where we walked back in the room?

6 Q: Starting from when you walked back into the room.

7 A: We walked back in the room after a break and it was
8 probably a 20-minute break because we were doing some other
9 things with a vehicle that we took into custody. Myself and
10 Sgt. Burns walked back into the room. Sgt. Burns advised him
11 that he was still under Miranda. We sat down. We started --
12 we started some more interview.

13 We started questioning Mr. Busby some more, such as I
14 think he was confronted with some text messages that we had.
15 We confronted him with some information on some different
16 stories that he gave us prior than one of our other persons
17 of interest that we took into custody, that their stories
18 didn't match. And we talked to him about a firearm.

19 There was -- I mean there was -- there was several other
20 things I can't right off the top of my head remember, but we
21 continued to ask him about his relationship with the victim,
22 Mickey Short, that he continuously denied, only knowing him
23 for a very short time.

24 Q: Did he give you any statements as to the murder of
25 Mickey Short?

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 A: Other than he did not do it?

2 Q: Correct.

3 A: I mean other than -- I mean he said he didn't do it and
4 where he did -- what he did with the firearm that was given
5 to him.

6 MS. JOHNSON-LEE: I beg the Court's indulgence.

7 BY MS. JOHNSON-LEE:

8 Q: Can you just describe what or how he said the murder
9 occurred, if he did tell you that?

10 A: He just -- he just stated that they met with Mickey
11 Short and that a shotgun was displayed and the person shot
12 him in the face and left him lay and then they went on
13 through his clothes, took his wallet, took his ID. He even
14 told us the part about keeping the ID and forms of
15 identification from Mickey Short in case the tables had
16 turned on him so he would have proof to -- that he didn't do
17 it, and that's when we found the items in his vehicle.

18 Q: Now, just briefly, did he blame one other person for
19 being the shooter?

20 A: No. He actually blamed a couple of people for the
21 shooting.

22 Q: Okay. So he gave different statements?

23 A: Yes. He gave multiple different statements. He gave
24 multiple different shooters. But he wasn't -- he never -- he
25 never -- I believe at one point in the video, if I recall

1 correctly, he even put hisself at the scene there. I think
2 so. I believe that's correct.

3 Q: Did he give details that only the shooter or someone at
4 the scene --

5 A: Most definitely. He gave -- he gave intimate details of
6 the shoot -- the shooting incident and how the shooting
7 occurred.

8 Q: Did he have details concerning what happened to the
9 victim after the shooting that only the shooter or someone
10 present would know?

11 A: He sure did, yes.

12 Q: Okay. Now, you referenced the gun. Did he tell you
13 where the gun was at?

14 A: He took us to the gun, yes.

15 Q: Okay. And where was the gun?

16 A: Well, he took us to the gun that was given to him by
17 supposedly another shooter and was told to go discard the
18 gun, and he took us to that gun.

19 Q: Now, it was his statement that someone else gave him the
20 gun?

21 A: Yes.

22 Q: Okay. But you did recover a gun?

23 A: We did recover a gun where he led us on Lake Terry Road,
24 off of Lake Terry Road probably maybe 100 yards, maybe 150
25 yards off of Lake Terry into the wood -- wooded area.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 Q: Okay. Was it -- what type of gun was it?

2 A: It was a shotgun.

3 Q: And what condition was it in?

4 A: Broken and it was buried and it was rusted. It was in I
5 know at least two pieces, maybe three pieces.

6 Q: Okay. And you referenced Lake Terry. Did he tell you
7 that he threw anything in the lake?

8 A: He also told us about taking items and throwing them
9 into the lake because he was directed to by another person
10 that supposedly did the shooting. We brought in the DNR dive
11 team. They dove for some objects. He wasn't present at the
12 time they started their dive. They came up with one object
13 and then they were, like, we can't find anything else.

14 So I directed a deputy to go pick him up and bring him
15 to the scene. He got out of the car, walked to the point of
16 the -- of the lake, pointed, said go down right to -- for the
17 divers to go there. The divers went down. Maybe five
18 minutes they came up with a bag that contained a glove, a
19 shotgun shell, a spent shotgun shell, and a couple of other
20 odd items.

21 MS. JOHNSON-LEE: And, Your Honor, I would like to offer
22 into evidence the flash drive containing half of the June 21st
23 interview and all of the June 22nd interview.

24 MS. COPELAND-LITTLE: Your Honor, I would object to that
25 being admitted until we finish the hearing and then Your

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 Honor can rule on whether or not it's admissible.

2 MS. JOHNSON-LEE: I beg the Court's indulgence.

3 THE COURT: All right.

4 MS. JOHNSON-LEE: I beg the Court's indulgence.

5 BY MS. JOHNSON-LEE:

6 Q: At any point in time have you gone back and -- now, this
7 question is only based on the statement from the defense
8 yesterday, but at any point in time yesterday did you go back
9 and review the first part of the interview from June 21st?

10 A: I don't understand your question. What are you talking
11 about?

12 Q: The first half of the interview from June 21st, from the
13 time the Miranda statement was signed that's already in
14 evidence until you and Graig Burns go back into the room and
15 say you're still under Miranda, have you gone back and viewed
16 that portion of the video?

17 A: Yes. I watched it yesterday.

18 Q: Okay. And at any point in time during that portion of
19 the video, did he attempt to revoke his Miranda rights? Did
20 he attempt to stop questioning?

21 A: No, he did not.

22 Q: Did he say I want an attorney?

23 A: No, he did not.

24 Q: During that portion of the video, was he under duress?

25 A: No, he was not.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 Q: Was he being coerced?

2 A: No, he was not.

3 MS. JOHNSON-LEE: I beg the Court's indulgence.

4 That's all the questions I have. Answer any questions
5 Ms. Little has.

6 MS. COPELAND-LITTLE: Thank you.

7 CROSS-EXAMINATION

8 BY MS. COPELAND-LITTLE:

9 Q: Detective Jordan, I got a little confused during your
10 testimony. I believe she was asking you about a couple of
11 interviews, the second part of the interview on June 21st and
12 I don't believe -- I don't recall if she asked you about the
13 interview. Were you present at the interview on June 22nd?

14 A: I believe I was. Yes.

15 Q: All right. All right. Now, you -- when you -- while
16 you were testifying, you were talking -- you were talking
17 about he took you here and he took you there. Was that on
18 June 21st or June 22nd that we were talking about the
19 interviews that were given on that day? When -- when are you
20 saying that he took you to discover these items?

21 A: That's something that I would have to look back on my
22 notes. I mean I was just answering the question she gave. I
23 can't give you a specific date. I don't --

24 Q: It wasn't the same day that y'all were sitting in the
25 interview room?

WAYNE JORDAN - CROSS BY MS. COPELAND-LITTLE

1 A: Again, I'd have to look at my notes. I really can't
2 tell you. I know it wasn't the 21st. I can tell you that.

3 Q: And it wasn't the 22nd either, was it?

4 A: I can't answer that. I don't know --

5 Q: All right. So --

6 A: -- how long ago it was or not.

7 Q: Can you testify whether or not my client was given his
8 Miranda rights before any of those things, these trips that
9 you're saying that y'all took?

10 A: From me? Did I give it to him?

11 Q: Yes.

12 A: I did not because I was out on the scene.

13 Q: Okay. And so did you -- did you ever personally give
14 him his Miranda rights?

15 A: Nothing on video. I think I Miranda'd -- I did Miranda
16 the day we took him into custody after -- after we found the
17 items in the vehicle. I'm 100 percent sure I did verbally
18 give him Miranda that day, but as far as doing a video
19 interview at our Sheriff's Office, no, I did not personally
20 read Miranda to him.

21 Q: So you -- you don't know whether or not he was advised
22 of those rights before y'all took these trips and before he
23 identified any items at the lake or anywhere else?

24 A: Again, I was in the field; so I cannot say whether he
25 was or he wasn't at the time he was transported --

1 Q: Okay.

2 A: -- to those incidents in the field, no.

3 Q: All right. I'm going to go back to June 21st, the second
4 interview that started around 3:30 p.m. At that time, were
5 you -- did my client appear intoxicated to you at all?

6 A: No, he did not.

7 Q: Okay. Did he appear extremely sleepy?

8 A: No. I wouldn't say sleepy, no.

9 Q: Do you recall him telling you that he had not slept for
10 three or four days?

11 A: I do recall him saying that he had not slept for several
12 days, yes.

13 Q: And did he -- did you have trouble understanding him at
14 times because he appeared to be rambling or slurring?

15 A: No. Because he was not rambling at all. As a matter of
16 fact, him and Sgt. Burns got into a little verbal judo
17 together at one point of the interview.

18 Q: So while you were present while he was being
19 interviewed, you didn't have to tell him to speak up, hold
20 your head up, repeat? You didn't ask him to repeat himself?

21 A: Speak up and hold your head up, I do not recall. I mean
22 I may have asked him to say what -- asked him to repeat
23 himself because he would mumble sometimes. I mean he would
24 make a -- he would hold his head down and mumble and I'd have
25 to ask him because of our audio -- our acoustics in our

WAYNE JORDAN - CROSS BY MS. COPELAND-LITTLE

1 interview room isn't the best acoustics. So I may have at
2 one point or Sgt. Burns may have at one point asked him to
3 speak up, but as far as holding his head down, slurring
4 speech, no, ma'am. He was -- he was -- he was talking fine.
5 In my opinion, he was talking fine.

6 Q: All right.

7 MS. COPELAND-LITTLE: Just one moment. All right.
8 That's all the questions I have, Your Honor.

9 MS. JOHNSON-LEE: We'd have no follow-up questions for
10 Investigator Jordan. If we could have just a moment, Your
11 Honor, I think I may need to recall Investigator Burns just
12 based on the questions during cross-examination involving
13 Lake Terry and the gun.

14 THE COURT: Okay.

15 MS. JOHNSON-LEE: The State recalls Graig Burns.

16 THE CLERK: You're still under oath.

17 THE WITNESS: Yes, ma'am. .

18 THE COURT: You're still under oath.

19 THE WITNESS: Yes, sir.

20 GRAIG BURNS, being duly sworn
21 previously, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. JOHNSON-LEE:

24 Q: Investigator Burns, do you recall taking or you present
25 when David Busby was brought to the location of Lake Terry?

1 A: Yes, ma'am.

2 Q: Okay. Do you recall any discussions with him about what
3 was in Lake Terry?

4 A: Yes, ma'am. I was involved with interviewing Mr. Busby.
5 He stated that there was a gun that was used and was buried
6 and he could show us the location of where that gun was at.
7 And he also stated to me that there were some items that he
8 threw into Lake Terry. He said he placed them in a white
9 plastic bag with a two-and-a-half-inch tow ball. There was
10 going to be some gloves, shell casings, and a wallet, and he
11 said that he threw those items into the lake because he
12 didn't want the other persons of interest to come back and
13 state that he had those items and try to get him tied to this
14 situation.

15 Q: And did he tell you where in the lake he threw that bag
16 with those items?

17 A: Basically, what he said is he stood in the back of the
18 truck and placed the items inside of the bag and he tossed
19 them. And I asked him did he baseball toss them or did he
20 just merely toss them into the lake at a distance. He said
21 he just tossed them into the lake.

22 Q: And what about the gun? What did he tell you?

23 A: He said that he buried it and he could show us where it
24 was at.

25 Q: Did he volunteer to show you where the gun was buried?

1 A: Yes, ma'am.

2 Q: And did he volunteer the information about Lake Terry?

3 A: Yes, ma'am.

4 Q: And when he was taken to Lake Terry, did he voluntarily
5 show where he had thrown items in the lake?

6 A: Yes, ma'am. When he arrived on the scene, he got out of
7 the vehicle. I think that he was -- the diver was still in
8 the water and they was trying to find the items and we was
9 all out there talking. There was probably about 20 of us out
10 there talking and a statement was made we can't find these
11 items.

12 Mr. Busby was standing next to the patrol car that
13 Deputy Brown was driving. He walked over and he said they're
14 right here and he pointed. The diver went down, stayed down
15 for a couple of minutes, and then came back up with the bag.
16 And while the diver was out there with the bag, he placed the
17 bag inside the boat that they was on. And during that time,
18 everyone arrived back on scene and we -- everybody ate. We
19 fed Mr. Busby and we stood there and after he was taken back
20 to the county jail.

21 Q: Now, would he have been taken from the jail to any
22 location if he had not first volunteered to you to show you
23 these places where he had buried or hidden things?

24 A: No, ma'am. Because we attempted to locate the items on
25 our own based off of information that he gave us in the

1 interview.

2 Q: Okay. But he volunteered that information?

3 A: Yes, ma'am.

4 Q: And at any point in time did he volunteer to go take you
5 to the gun?

6 A: Yes, ma'am.

7 Q: And to the lake?

8 A: Yes, ma'am. He wanted to show us the items that we
9 could recover because, like I stated earlier, he stated that
10 those items would be -- he placed those items there because
11 he was being threatened by other persons of interest that he
12 stated that committed this crime.

13 Q: So he wanted you to find those things?

14 A: Yes, ma'am.

15 Q: Okay.

16 MS. JOHNSON-LEE: Thank you. Nothing further. Hold on
17 just a second, Mr. Burns. One more.

18 THE WITNESS: Yes, ma'am.

19 BY MS. JOHNSON-LEE:

20 Q: And these searches, they were all done within a close
21 period of time to those interviews?

22 A: The search with the firearm was done on the day of the
23 22nd.

24 Q: And when he volunteered to take you to those items, was
25 that during an interview when he was under Miranda?

GRAIG BURNS - DIRECT BY MS. JOHNSON-LEE

1 A: Yes, ma'am.

2 Q: Okay. Thank you.

3 MS. JOHNSON-LEE: No further questions.

4 CROSS-EXAMINATION

5 BY MS. COPELAND-LITTLE:

6 Q: Officer Burns --

7 A: Yes, ma'am.

8 Q: On the 22nd, I believe there's already been testimony
9 that my client was under Miranda when he gave that interview.
10 And you've already testified that you didn't think he was
11 intoxicated at that time; correct?

12 A: No, ma'am. On the 22nd, he had done spent the night at
13 the county jail. So he had done been there and got some
14 rest, I assume.

15 Q: Okay. So on the 22nd, you stated he did not appear
16 intoxicated is what you're telling me; correct?

17 A: That's my statement.

18 Q: Okay. Are you the person who took him? How did it come
19 about that he -- was he picked up by someone and taken to
20 look for this firearm?

21 A: Yes, ma'am. The day that we went to the firearm,
22 myself, Lt. Jordan, Maj. Brelin, Investigator Carnes, Mullis,
23 and I think, if I'm not mistaken, maybe Capt. Vaughn, but we
24 went to the scene on Lake Terry. Mr. Busby rode in a vehicle
25 with myself.

GRAIG BURNS - CROSS BY MS. COPELAND-LITTLE

1 Q: And that would have been on the 22nd?

2 A: Yes, ma'am.

3 Q: All right. And you also testified about another trip.
4 Do you know what day that trip was on?

5 A: If I'm not mistaken, ma'am, I think that trip was that
6 Friday, but I don't know the date. I think it might've been
7 the 24th or either the 25th.

8 Q: So this would have been some two -- three days after the
9 interview?

10 A: Yes, ma'am. Because we called DNR the same day of the
11 statement was given, but DNR was off with another boat. This
12 couldn't have happened. So we couldn't get their divers
13 until a couple days later.

14 Q: All right. So were you present when he was picked up to
15 take -- to be taken to the lake the second time?

16 A: I was not at the county jail. I was on scene that day,
17 ma'am.

18 Q: Okay. So you don't know whether or not anybody advised
19 him of his rights on that date?

20 A: When he was picked up?

21 Q: Correct.

22 A: No, ma'am.

23 Q: All right. And when you were out at the lake with him,
24 this would have been some two or three days after the last
25 interview. Did you, in fact, give him his Miranda rights at

1 that time?

2 A: No, ma'am.

3 Q: All right. On the -- I believe -- did you say it was
4 the Monday? It was the Monday after? It was the following
5 Monday when you made the second trip to Lake Terry; is that
6 correct?

7 A: No, ma'am.

8 Q: It was not?

9 A: No, ma'am. It was that Friday.

10 Q: At any time while Mr. Busby was at the lake with you,
11 did you tell -- did he tell you that he had an attorney?

12 A: No, ma'am.

13 Q: So you were never made aware that he was represented by
14 counsel?

15 A: No, ma'am.

16 Q: He didn't show you a card that had a lawyer's name on
17 it?

18 A: No, ma'am.

19 Q: He didn't ask for his lawyer?

20 A: No, ma'am. As a matter of fact, Ms. Little, me and Mr.
21 Busby standing there talking, he asked me when he was going
22 to go for his bond hearing. I told them I didn't know and I
23 told him that I would speak with the solicitor on his behalf
24 and state that he did assist and speak favorably in a
25 positive manner for him, but he never stated one time to me

GRAIG BURNS - CROSS BY MS. COPELAND-LITTLE

1 that he had an attorney, that he wanted an attorney or he
2 invoked Miranda at all.

3 Q: All, right.

4 A: Yes, ma'am.

5 Q: All right. And I just want to clarify your testimony
6 because I believe you testified that you took my client to
7 the first -- to the lake the first time?

8 A: Yes, ma'am. If I'm not mistaken, if I remember
9 correctly, I think --

10 Q: Was it not David Lee or Randall Mullis who took him?

11 A: Randall Mullis rode in a vehicle with Investigator
12 Carnes.

13 Q: All right.

14 A: I may have -- it might have been David Lee. I ain't 100
15 percent sure, but I know that myself -- honestly, I totally
16 forgot that day if he was even on the scene.

17 Q: Okay. So you don't know?

18 A: I do know. I know that myself, Investigator Jordan,
19 Steve Brelín, Joey Carnes, Steve Vaughn, and Mr. Busby and
20 Randall Mullis was on scene.

21 Q: Were at the lake, but I'm talking about how he got
22 there. You testified earlier that you took him.

23 A: I thought that I took him that day because I remember me
24 and him having a conversation at the -- when we was parked
25 next to the road waiting on -- before we got out of the truck

GRAIG BURNS - CROSS BY MS. COPELAND-LITTLE

1 to go into the woods.

2 Q: Okay. So you think you took him?

3 A: Yes, ma'am. That's what I think. I may be mistaken. I
4 haven't checked the jail records. If I'm mistaken --

5 Q: Okay. Well, if you don't know, you can say you don't
6 know.

7 A: I don't remember. I thought that I did, but I don't
8 know.

9 Q: And this -- just to confirm, your testimony is that this
10 was all during that first week and that it was not that
11 following Monday that you went to the lake that second time?

12 A: I'm going to say I remember that Friday.

13 Q: All right.

14 MS. COPELAND-LITTLE: No further questions.

15 MS. JOHNSON-LEE: I want to mark this document for
16 identification purposes. That's been marked.

17 REDIRECT EXAMINATION

18 BY MS. JOHNSON-LEE:

19 Q: I'll show you what's marked for identification purposes
20 only as State's Exhibit 4 in order to refresh your memory.
21 That is a DNR dive form; is that correct?

22 A: Yes, ma'am.

23 Q: And what is the date on that dive form?

24 A: June 26th, 2017.

25 Q: Okay. And that would have been on Monday; is that

1 correct?

2 A: I don't remember exactly.

3 Q: But it does say June 26th?

4 A: June 26th, 2017, at 8:30 -- at 8:30.

5 Q: Okay.

6 MS. JOHNSON-LEE: Thank you. No further questions.

7 THE COURT: Anything else?

8 MS. COPELAND-LITTLE: Not from this witness, Your Honor.

9 THE COURT: Thank you. You can step down.

10 MR. REDMOND: I beg the Court's indulgence just one
11 second.

12 MS. JOHNSON-LEE: And the State would move to have the
13 videos on the flash drive labeled as State's Exhibit 1 put
14 into evidence.

15 MS. COPELAND-LITTLE: Your Honor, may I have just one
16 moment?

17 Your Honor, since the hearing is still in progress, I
18 would ask -- I would object to any admission until Your Honor
19 has heard all of the testimony.

20 THE COURT: All right. Any further testimony from the
21 State?

22 MS. JOHNSON-LEE: Not from the State.

23 MS. COPELAND-LITTLE: The defense calls David Busby for
24 the limited purpose of this *Jackson v. Denno* hearing as to
25 voluntariness.

JAMES DAVID BUSBY - DIRECT BY MS. COPELAND-LITTLE

1 THE COURT: Come around and be sworn, please.

2 THE CLERK: Put your left hand on the Bible and raise
3 your right. Do you solemnly swear to tell the truth, the
4 whole truth, and nothing but the truth, so help you God?

5 THE DEFENDANT: Yes, ma'am.

6 THE CLERK: Thank you. Have a seat.

7 JAMES DAVID BUSBY, being first
8 duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. COPELAND-LITTLE:

11 Q: All right, David. I'm going to ask you to speak
12 clearly. First, can you give your full name for the court
13 reporter?

14 A: James David Busby.

15 Q: All right, David. I want you to listen closely because
16 we have lots of different things we are going to be talking
17 about here. So please just listen to the question that I'm
18 asking you. Do you recall an interview that you had in the
19 afternoon hours around -- just one moment -- around 5:37
20 p.m.? This would have been late in the afternoon on June
21 21st.

22 A: Yes, ma'am. I remember being in there.

23 Q: Okay. Now, prior to going into that interview, were you
24 under the influence of any narcotics?

25 A: Yes, ma'am.

JAMES DAVID BUSBY - DIRECT BY MS. COPELAND-LITTLE

1 Q: All right. What type of narcotics? Well, let me ask
2 you this. When had you been using narcotics before the
3 interview?

4 A: Well, I had been up three or four days on ice, crystal
5 meth. And right before they got me, earlier that day I took
6 a Xanax bar trying to go to sleep. You know, I was hungry
7 and wanted some sleep. So that's why.

8 Q: So --

9 A: I was under, you know, the influence of crystal meth and
10 Xanax.

11 Q: All right. Now, just briefly for the Court, if somebody
12 is under the influence of crystal meth, how long does that
13 normally last after somebody takes meth? Do you know?

14 A: You know, even a little bit will keep you up all night.
15 You know, it's -- I mean -- you know.

16 Q: Does it last more than a day sometimes?

17 A: Oh, yeah. You know --

18 Q: Does it --

19 A: It depends on how much you do, but yeah. That's why,
20 you know, like I said, I was up three or four days.

21 Q: All right. Now, you remember going -- being at the
22 interview in the late afternoon hours of June 21st, but do you
23 have any independent recollection of what you said during
24 that time?

25 A: No, ma'am.

1 Q: All right.

2 A: Not really.

3 Q: All right. So the knowledge that you have is from going
4 back and watching the videos that I showed you; is that
5 correct?

6 A: Yes, ma'am.

7 Q: All right. Now, do you remember during that interview
8 late in the afternoon of June 21st whether or not you had all
9 of your senses about you? Did you understand what was going
10 on?

11 A: No, ma'am.

12 Q: All right. And do you recall signing that Miranda form?

13 A: I don't recall much of it at all. Like I said, I took
14 that Xanax and all and it was kind of -- you know, I was in
15 and out. I don't -- I don't recall much of any of it.

16 Q: All right. And what kind of effect does a Xanax bar
17 have on you?

18 A: It puts you to sleep, you know, but I had the meth in my
19 system. So I mean I took -- you know, meth is an upper and
20 Xanax is a downer. Like I said, I was trying to go to sleep,
21 you know, so I was still kind of in between. So they was
22 working against each other, I guess you could say. So I was
23 up and down.

24 Q: All right. Were you aware at the time that you gave any
25 statements that you didn't have to give any statements?

JAMES DAVID BUSBY - DIRECT BY MS. COPELAND-LITTLE

1 A: No, ma'am. I remember earlier, you know, they read some
2 stuff to me and I signed it, but, like I said, I -- I don't
3 remember a whole lot about it, you know.

4 Q: If you had not been under the influence of narcotics, do
5 you think you would have talked to -- would you have talked
6 to the officers that day?

7 A: Probably not. No, ma'am.

8 Q: Now, I want to ask you about the interview on the 22nd.
9 That would have been that next morning. Do you remember that
10 interview?

11 A: To be honest, I didn't even know I give one the next day
12 until, you know, you showed me the video and the papers and
13 all. I don't remember going the next day down there talking
14 to them again. I only remember the first day. That's the
15 only day I remember.

16 Q: Now, after you went back and looked at these videos, can
17 you tell the Court whether or not you were telling the truth
18 on that second interview on June 21st that you can remember?
19 I mean you said you remember being there. Now that you've
20 had a chance to go back and look, were you being truthful
21 during that interview?

22 A: No, ma'am.

23 Q: All right. Where were you getting these details that
24 you were giving the officer from? Do you know?

25 A: Well, yeah. You know, all the story I just started

1 making up because I got scared, you know, and this back-and-
2 forth stuff. And I just took the detailed stuff that I got
3 from Nicole Deese where -- because she had just talked to the
4 officers the night before, Tuesday night. When she come back
5 to her house, she told me all this stuff that they supposedly
6 told her, you know. So that's where any details I got come
7 from. So I just added that with all the stuff I said, you
8 know, just trying to make a story up because I just was
9 scared and high and I wanted to go home. So I just rambled
10 on about a bunch of stuff.

11 Q: All right. And I want to ask you also about the
12 interview -- I'm sorry -- about the trip to -- I want to ask
13 you about the first trip that you took to the lake, which
14 would have been, I believe, on the 22nd. I'm not exactly
15 positive, but the first time you went from the detention
16 center out to the lake, who took you there?

17 A: It was David Lee and Randall Mullis. They picked me up
18 together and drove me out there, and several other people was
19 there, Mr. Burns, Mr. Carnes, I think maybe Mr. Jordan. He
20 might've been there that first trip. I'm not sure if he was
21 or not, but I know that I rode with David Lee and Randall
22 Mullis.

23 Q: All right. And do you recall whether or not on that day
24 before or at any time during that trip were you given your
25 Miranda rights?

JAMES DAVID BUSBY - DIRECT BY MS. COPELAND-LITTLE

1 A: No, ma'am. They didn't give me no Miranda rights. I
2 didn't sign nothing. They just come pick me up and told me I
3 was going to take a ride with them.

4 Q: All right. And then on the second trip, which would
5 have been on Monday the 26th, let me ask you this. Over that
6 weekend on that Saturday, which would have been the 24th, did
7 you retain an attorney?

8 A: Yes, ma'am, I did.

9 Q: All right. And that would be me; correct?

10 A: Yes, ma'am.

11 Q: All right. And do you recall me coming to visit you at
12 the jail?

13 A: Yes, ma'am. On a Saturday.

14 Q: And giving you my business cards?

15 A: Yes, ma'am.

16 Q: And telling you to give those or show those to any
17 officers that attempted to ask you questions?

18 A: Yes, ma'am.

19 Q: All right. So this is some four to five days after your
20 initial detention. Were you intoxicated at that time?

21 A: No, ma'am.

22 Q: Okay. So over the course of days, you felt like the
23 drugs were out of your system?

24 A: Yes, ma'am. I had finally started, you know, eating and
25 sleeping and I was coming back to my normal self. Yes,

1 ma'am.

2 Q: All right. So on the 26th, on that Monday -- and you've
3 already testified -- I believe you testified that nobody gave
4 you any Miranda warnings or rights on that day?

5 A: No. That day neither. No, ma'am. That Monday --

6 Q: All right.

7 A: -- Larry Brown.

8 Q: I'm sorry. I was just asking you if anybody gave you
9 your rights on that Monday the 26th?

10 A: No, ma'am. Nobody did.

11 Q: All right. At any time on the 26th, did you make any
12 statements to any law enforcement about a lawyer?

13 A: Yes, ma'am.

14 Q: Okay. What -- to who and what did you say?

15 A: I told Officer Graig Burns. Once Larry Brown picked me
16 up at the jail and told me we was taking a ride once again,
17 we got up to Lake Terry. There was a bunch of people there.
18 Graig Burns opened the door and started walking. I pulled
19 out the card I had in my pocket of yours. I handed it to
20 him. He said, yeah, she's a good lawyer. I said, well, you
21 need to contact her and speak to her. You know, she advised
22 me not to talk to y'all no more. He got a little ill with me
23 and told me it was too late for all that and I needed to
24 cooperate and a lot of other stuff. But yes, ma'am, I
25 advised him that I had retained you and I would like to speak

JAMES DAVID BUSBY - DIRECT BY MS. COPELAND-LITTLE

1 to you or you needed to be contacted by them.

2 Q: All right. And I believe you already testified his
3 response was what?

4 A: I mean it's too late for that. The best thing I could
5 do was to cooperate.

6 Q: All right.

7 MS. COPELAND-LITTLE: Answer any questions now that the
8 solicitor has.

9 THE DEFENDANT: Yes, ma'am.

10 CROSS-EXAMINATION

11 BY MS. JOHNSON-LEE:

12 Q: How far did you get your education?

13 A: I think ninth grade. I quit high school in ninth grade.

14 Q: Okay. And what about your employment history? Where
15 did you work or were you working at the time of this incident
16 on June 19th?

17 A: I was working for Billy McGuigan Construction.

18 Q: And what were your duties in construction?

19 A: Well, running heavy equipment. I did the maintenance on
20 them and stuff like that. But probably about, you know, a
21 week right before that, it had been raining a lot. So I
22 didn't work much that week, but that's who I was working for
23 at the time that it happened.

24 Q: Okay. Maintenance on heavy construction equipment?

25 A: Yeah. And running heavy equipment. Yes, ma'am.

JAMES DAVID BUSBY - CROSS BY MS. JOHNSON-LEE

1 Q: Had you done other type of work before that?

2 A: Yes, ma'am. Always welding and maintenance on heavy
3 equipment and stuff like that. Yes, ma'am.

4 Q: Okay. And with regards to the form that is signed on
5 June 21st and it's in evidence as State's Exhibit Number 3,
6 I'll hand this to you. Is that your signature on that
7 document?

8 A: Yes, ma'am.

9 Q: Okay. And is that your initials next to the enumerated
10 rights?

11 A: Yes, ma'am.

12 Q: Okay. Do you recall someone from the Sheriff's Office
13 reading those individual items to you?

14 A: No, ma'am. I don't remember a lot about that day at
15 all.

16 Q: Okay. When you put your signature and your initials on
17 there, did anybody force you to do that?

18 A: No, ma'am.

19 Q: Okay. Did they not give you any food if you wanted it?

20 A: No, ma'am.

21 Q: In fact, they actually fed you at some point during
22 this; is that correct?

23 A: Yes, ma'am.

24 Q: Okay. And water? They gave you water?

25 A: Correct.

JAMES DAVID BUSBY - CROSS BY MS. JOHNSON-LEE

1 Q: Okay. Did they give you any other drinks?

2 A: I think maybe a Mountain Dew later on, but yes, ma'am,
3 they gave me water and drinks for sure.

4 Q: Okay. Did they threaten you if you didn't sign that
5 form?

6 A: No, ma'am.

7 Q: Did they threaten you with some sort of harm if you
8 didn't give them a statement?

9 A: No, ma'am.

10 Q: Did you understand that you had the right to remain
11 silent?

12 A: Yes, ma'am.

13 Q: Did you understand that you had the right to an attorney
14 if you had wanted one at that time of questioning?

15 A: Yes, ma'am.

16 Q: Okay. Did you understand that you could have not
17 answered their questions if you had just said, you know what,
18 I'm not talking to y'all?

19 A: No, not fully. You know, just because of the way it
20 kept on. You know, it was drug out five or six hours,
21 several officers, a lot of door slamming, screaming. So I
22 just felt like I had to say something, you know.

23 Q: Did you ever tell them, no, I don't want to talk to you
24 anymore?

25 A: No, ma'am.

JAMES DAVID BUSBY - CROSS BY MS. JOHNSON-LEE

1 Q: Okay. Did you know that you could do that though?

2 A: Yeah. I think they told me that at the very beginning
3 on that paper, yeah.

4 Q: Okay. Did you know that anything that you said could
5 possibly be used someday in a courtroom like this?

6 A: Not really. No, ma'am. You know.

7 Q: Did you ask them to explain any of these rights to you?

8 A: No, ma'am.

9 Q: Okay. Why didn't you ask them to explain it if you
10 didn't understand it?

11 A: Because I was, I guess, you know, high. You know,
12 between the two drugs, I mean I wasn't thinking right. You
13 know, my mind wasn't clear. So I was just -- you know, I
14 didn't ask no questions really.

15 Q: Okay. Now, you did take or tell them where the gun was
16 located and where the items were in Lake Terry. Do you
17 remember telling them those things?

18 A: No, ma'am.

19 Q: Okay.

20 A: They say that was the next day or something. You know,
21 like I said, I don't remember that. I remember one time, the
22 first day. That's the only time I remember.

23 Q: Okay. But the information actually turned out to be
24 correct; is that right?

25 A: Yes, ma'am.

JAMES DAVID BUSBY - CROSS BY MS. JOHNSON-LEE

1 Q: Okay. And you did volunteer to take them to go look for
2 the gun and to go look for the items in Lake Terry?

3 A: Well, I mean they come to the jail house and got me and
4 told me I was taking a ride. They didn't ask me will you go
5 or do you want to go. They just come and said, come on,
6 you're going to take a ride with us. So I really didn't
7 have, you know --

8 Q: Well, going back to the --

9 A: -- a choice.

10 Q: I'm sorry. Going back to the interview though when you
11 first told them about where you had buried the gun and where
12 you had thrown the stuff in Lake Terry, I know you said that
13 somebody else made you do that. You did volunteer to at
14 least take them to those items; is that correct? During the
15 interview?

16 A: I don't remember.

17 Q: You don't remember?

18 A: No. I don't remember that interview at all.

19 Q: Okay. Are you under the influence of anything today?

20 A: Oh, no, ma'am.

21 Q: Okay. And just one last question. And I think you made
22 a comment about after you looked at the video, you realized
23 that you had lied. Did you say that you had lied to law
24 enforcement?

25 A: Yes. She asked me, you know, if the stuff I said was

JAMES DAVID BUSBY - CROSS BY MS. JOHNSON-LEE

1 true. I said no. You know, I made up all kinds of stuff.

2 Like I said, I had been up for days and scared.

3 Q: Well, can you tell us which items you made up?

4 A: Pretty much everything, you know, about what happened
5 and this and that. Everything I said. I mean I don't -- you
6 know.

7 Q: So everything you told them about the murder, how it
8 happened, who did it, that was a lie?

9 A: Yeah. I mean I said that me and Parker was there and I
10 seen him do it. So me and him wasn't there. I didn't see
11 nobody do it, but, like I said, the detailed stuff that I did
12 say was stuff that Nicole told me the night before when she
13 come back from speaking with them.

14 Q: And what about when you said Clint killed him? Was that
15 a lie too?

16 A: I don't even remember saying that.

17 Q: Okay. If you had looked at the videos and saw yourself
18 saying that, would that have been a lie?

19 A: Yes, ma'am. You know, like I said, I had been scared
20 and kept getting hollered at and accused and so I just tried
21 to say something, you know, just to --

22 MS. JOHNSON-LEE: Thank you. We have no further
23 questions.

24 MS. COPELAND-LITTLE: Nothing further, Your Honor.

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

1 THE DEFENDANT: Thank you.

2 MS. COPELAND-LITTLE: Your Honor, I don't have any other
3 witnesses. At this time, I would ask that the Court suppress
4 all the statements made by my client where he testified that
5 he was intoxicated, he was under the influence of ice and
6 Xanax, and also, Your Honor, specifically anything that
7 occurred on June 26th after my client requested his attorney.

8 THE COURT: All right. I'll remind counsel now that the
9 findings of the Court concerning this *Denno* hearing is based
10 on the greater weight of the evidence, and I've reviewed all
11 of this that's been presented.

12 It appears and the Court finds that after receiving
13 Miranda rights and giving due consideration to the
14 intoxication argument, I've reviewed *State v. Saxon*, which is
15 a South Carolina case that pretty well controls intoxication
16 and giving of statements.

17 I don't have any officer here that believed that he was
18 so grossly intoxicated that he was in a position he shouldn't
19 have been giving a statement. So based on *Saxon*, I find
20 intoxication does not come into play here.

21 I find that after receiving Miranda rights that were
22 given to him that he freely, voluntarily, and intelligently
23 entered into these statements. I also find that there was no
24 duress, coercion, undue influence, intimidation exercised by
25 law enforcement during these interviews and questioning.

1 With those findings, let me back up now. As far as --
2 as far as the argument about representation, I believe that
3 will come into play for that Monday. The officer had no
4 knowledge, at least by testimony, that they knew of any
5 representation. The defendant went ahead and gave them the
6 information about where the bag was located. At least that
7 was there.

8 I don't see that there's enough there for me to step in
9 and grant any motion to exclude that evidence because none of
10 the officers were aware of representation. I don't think he
11 -- I don't find that there was any duress, coercion or undue
12 influence or intimidation used to get him to tell where the
13 bag was thrown into the lake.

14 Now, all of this as far as *Denno* hearing, I remind
15 counsel now if you go to trial before the jury on this, you
16 know, it comes down to the weight of the evidence as they
17 find it, as the jury sees it. Okay?

18 MS. COPELAND-LITTLE: Yes, sir.

19 THE COURT: Now --

20 MS. JOHNSON-LEE: Your Honor, will the Court also rule
21 on the buccal swab?

22 THE COURT: All right. Well, yes, I will because
23 there's been no contradictory evidence about that. So yes,
24 that can come in. The statements can come in. The buccal
25 swab can come in.

1 (WHEREUPON, State's Exhibit Number 1, statements on
2 video DVD, was admitted into evidence.)

3 THE COURT: I think I covered everything else about --
4 about the other, the shotgun being found. That part, I don't
5 see any problem with that. Even though we've got
6 contradictory evidence about the representation and the
7 return to the lake on Monday, none of the officers, at least
8 from their testimony, knew anything about representation.

9 All right. The jury is out there. We're ready to get
10 started with the trial, but now that all this has been
11 reviewed and taken care of and I've made my findings on it,
12 if there's any room to further negotiate any resolution, take
13 a few minutes to do that. Everybody is going to need a
14 recess here for about 10 minutes.

15 MS. COPELAND-LITTLE: Yes, sir.

16 (WHEREUPON, there was a break in the proceedings, after
17 which the proceedings resumed as follows.)

18 THE COURT: All right. We're ready for the jury. You
19 can bring them in.

20 (WHEREUPON, the jury entered the courtroom.)

21 THE COURT: Ladies and gentlemen of the jury, thank you
22 so much for your patience this morning. I know all of you
23 said, well, the judge told us to be back here at 9:30. As
24 you will find out later on in the trial, you have duties and
25 the Court has duties.

1 I am the judge of the law. You are the judge of the
2 facts. Quite often, matters of law have to be handled
3 outside of your presence by the judge. The attorneys and I
4 got together about our timing and it was in our judgment we
5 should go ahead and handle as many matters of law that we
6 could handle before the actual start of the trial rather than
7 have you come in and constantly in and out of the courtroom,
8 back and forth to the jury room, playing in effect musical
9 chairs.

10 So what we have tried to accomplish here is to get as
11 many matters of law handled as we could so we could keep the
12 trial going and keep a smooth even flow by trying to prevent
13 so much going back and forth. So that's the reason why we
14 had to delay y'all coming in this morning.

15 All right. With that said, I'm going to ask Madam Clerk
16 if she would put you under oath, and let the record reflect
17 that I am appointing Ms. Darlene F. Adams as foreperson for
18 the jury. Later on, when we have a break, we will rearrange
19 the seating. Of course, Madam Forelady to be up front.

20 Madam Clerk?

21 THE CLERK: Ladies and gentlemen, if you'll raise --
22 rise and raise your right hand.

23 (WHEREUPON, the jurors complied.)

24 THE CLERK: Do you solemnly swear that you will well and
25 truly try and true deliverance make between the State of

1 South Carolina and the defendant at the bar, whom you shall
2 have in charge, and a true verdict render according to the
3 law and the evidence, so help you God?

4 THE JURORS: I do.

5 THE CLERK: You may have a seat.

6 THE COURT: All right. Now, I'm going to start out and
7 I'm just going to give you a brief opening review of how we
8 proceed in cases such as this and give you an idea of what
9 you're going to go through as far as the phases of the trial.
10 As all of you know, we are in the General Sessions mode of
11 court, and that means we are trying the criminal cases that
12 are on the docket here in Chesterfield County.

13 As I just told you, I am the judge of the law. You are
14 the finders of the facts. So it will be your duty to listen
15 to the evidence, review the evidence, and apply the law of
16 the case to you that I will give to you at the conclusion of
17 the case to the facts as you find them and thus reach a
18 verdict. The verdict is the final phase of the trial at the
19 end.

20 Now, what we're going to do, we will start off. You
21 will hear opening statements possibly from both sides. They
22 are not mandatory. Okay? But I give both sides, the State
23 and the defense, an opportunity to make opening statements to
24 you. And basically, most of the time, that's just the
25 outline of their position in the case to you.

1 After the opening statements are completed is where you
2 will receive the evidence. It is crucial that you listen and
3 observe the evidence in the case because of what I just said
4 a few minutes ago. You are the finders of the facts in this
5 case. I don't get involved in that. That is your sole duty,
6 the jury, the finder of the facts. So as I said, it is
7 crucial that you listen and observe the evidence.

8 Evidence may take many different forms. It may be
9 testimony from the witness stand over here. It may be
10 documents. It may be physical type items. Whatever the
11 evidence is, you need to listen and observe.

12 This being a criminal case, the burden of proof is on
13 the State of South Carolina to prove the guilt of the
14 defendant beyond a reasonable doubt. In criminal cases, all
15 defendants are presumed innocent until proven guilty beyond a
16 reasonable doubt.

17 After the evidentiary portion of the case is completed
18 will come time for closing arguments where counsel from both
19 sides will be given ample opportunity to argue to you to try
20 to see or try to get you to see the evidence as they do.
21 What counsel says is not evidence. They may quote previous
22 evidence that's been presented. They may review that with
23 you, but what they necessarily say is not evidence.

24 After -- after concluding the closing arguments will
25 come the time for the judge's charge on the law where I will

1 give you the law of the state of South Carolina concerning
2 this case. Only after all that is completed will you be
3 asked to deliberate in this case.

4 So with that said, I instruct you at this time do not
5 deliberate this case. Do not talk with each other, discuss
6 this case, until that time comes. Don't allow any third
7 party or outside party to discuss this case with you. When
8 the time to deliberate comes, that's when you will step back
9 to the jury room and you will review the evidence and thus
10 reach a verdict.

11 I've covered the phases of the trial with you. That's
12 how we will proceed. From time to time, we will take a
13 break. We try to run for about an hour at a time, maybe a
14 little bit over according to how the witnesses line up.
15 We'll take a lunch break.

16 For those of you that have family you have to look after
17 or businesses that you may have to take care of after court
18 hours, we will not run late at night. Back 20-something
19 years ago, sometimes we would run until 8:30 or 9 o'clock at
20 night, but it was causing problems not only for the court
21 staff but also for jurors. So our Chief Justice at that time
22 requested that we not run past five, at the latest 5:30 in
23 the evening, unless there are extingent circumstances.

24 As far as start time, we usually start anywhere from 9
25 to 10 o'clock. There's a reason for that. You have a lot of

1 attorneys that have other clients and other business that
2 they have to take care of. They have to do that in the
3 morning or either late in the evening. So traditionally
4 court starts a little bit later than normal banking hours.

5 Also, another reason for that now is the judges, many of
6 us, are appointed administrative duties and we have to take
7 care of that in the morning before we get started.
8 Otherwise, it's impossible to do it after hours in the
9 evening. So we will try to keep basically those hours during
10 the progress of this trial.

11 Now, most of the time in the morning, everybody is all
12 fresh and bright-eyed and bushytailed and ready to go and
13 then what happens, you go to lunch and when you get my age,
14 you may eat a little bit too much lunch and you want to fall
15 asleep. Please do not do that to me.

16 If you feel like that you're going to doze off, get my
17 attention or the staff's attention and we will take a coffee
18 break. Okay? For those of you that don't like coffee, we've
19 got some Coca-Colas, Pepsis, something with caffeine in it.
20 Okay? Please don't fall asleep on me because that can cause
21 problems.

22 Note taking. A lot of judges forbid note taking. I
23 have never adopted that, but there is one rule you have to go
24 by if you take notes. You've got to keep them to yourself.
25 You can't share them with another juror.

1 Personally, I wouldn't take notes because I remember
2 from my college days when you have a professor up there
3 giving a lecture, you get all involved taking the note, my
4 mind would be directed to taking that note on that pad and
5 the professor would say something that I would miss and that
6 would be the very thing that would be on the exam later on.

7 So I found out that caused a problem and I always
8 delayed trying to write down any notes until after the actual
9 lecture was over. But I'll leave that up to you if you want
10 to try to keep notes.

11 All the exhibits will be kept to where you can review
12 them later on during your deliberations. So that helps
13 somewhat.

14 All right. With that said, I'm going to turn it over to
15 counsel at this time and we will proceed with the trial of
16 this case. If you have any problems whatsoever, get one of
17 us's attention and we'll try to address it.

18 Solicitor?

19 MS. JOHNSON-LEE: May it please the Court. Ms.
20 Copeland-Little.

21 OPENING STATEMENT ON BEHALF OF THE STATE

22 MS. JOHNSON-LEE: Good morning. Ladies and gentlemen of
23 the jury, we're here today because of what happened on
24 Father's Day in 2017. Sunday, June 18th, 2017, Father's Day.
25 Farris Mickey Short, who was the victim in this case, had

1 spent the night at the home of his cousin, Clint Gulledge,
2 and Clint's wife, Rachel.

3 On Sunday, his daughter -- one of his daughters picked
4 him up to go to Father's Day lunch. He came back. Around
5 3:30, he left Clint and Rachel's house. That was the last
6 time Clint saw his cousin alive.

7 On the late evening of June 18th, 2017, Farris Mickey
8 Short drove to meet the defendant, James David Busby, in a
9 field on the top of the hill on Hurst Cemetery Road. This is
10 a dirt road that veers off of Wamble Hill Road, not too far
11 from Edwards Elementary School here in Chesterfield. This
12 field during the daylight hours has a wonderful view of the
13 surrounding countryside. David Busby had been there before.

14 That beautiful setting turned to bloodstained terror by
15 12:30 a.m. on June 19th. Mickey was found later in the early
16 morning hours of June 19th, which was Monday, laying beside
17 his red pickup truck on the ground in the field. His belt
18 was completely out of his pants. His pants pockets had been
19 pulled inside out and his pants were pulled down slightly.
20 Blood was pooling onto the ground and half of his face was
21 missing.

22 The inside of his truck was covered with blood, with
23 brain matter and human tissue from his head being shot with a
24 shotgun. His phone had been broken in half and thrown into
25 the back of his pickup truck and had a spot of his blood on

1 it. A bat that had been made for him by his cousin, Clint,
2 was found near his body.

3 He was found during the morning hours of June 19th by a
4 neighbor in that area, Bryan Rivers. Bryan was passing by.
5 He went, saw the scene, and called 9-1-1. He then remained
6 until the sheriff's deputies started arriving.

7 Deputy Grant Polson and Deputy Stewart Robinson were the
8 first to arrive. The first things that Grant Polson noticed
9 were Mickey's obviously deceased body, his pants appearing to
10 have been gone through, the blood throughout his truck, and
11 tire tracks that seemed to have been made by some sort of mud
12 tires. Those tire tracks stood out to him so much so that
13 when Deputy Robinson almost stepped on one of them, he made
14 him stop and told him to watch out.

15 Now, we're going to be upfront with you. Mickey used
16 drugs. He likely may have had drugs in his possession on the
17 night that he was brutally slain. He shared drugs with his
18 friends. He may have even sold drugs. There were no drugs
19 on his person, near his person or in his truck after his
20 murder. There was no money on his person, near his person or
21 in his truck after the murder.

22 Mickey had paid David Busby, the defendant in this case,
23 for a shotgun that he never got. Mickey was upset with David
24 Busby about this. You will hear testimony to all of this.

25 Mickey's cousin, Clint Gullledge, and his wife, Rachel,

1 were aware of this dispute. At one point, Busby had claimed
2 that he had put the gun behind Clint and Rachel's house.
3 They searched but never found it. They shared that
4 information with the Chesterfield County Sheriff's Office.
5 They also shared with the Sheriff's Office that Mickey had
6 hung out a great deal with a young lady by the name of Nicole
7 Deese.

8 When the sheriff's deputies went to the home of Nicole
9 Deese to talk to her, they saw a white truck parked in her
10 yard. It was a white truck with distinctive mud tires. The
11 truck was registered to James David Busby.

12 On June 21st, 2017, David Busby was picked up at the home
13 of Nicole Deese. His truck was searched by law enforcement,
14 initially with consent and later more thoroughly with a
15 search warrant. Inside the defendant David Busby's truck,
16 tucked into a black T-shirt, folded over and then tucked
17 inside of a boot, what appeared to be a cowboy boot, were the
18 victim Mickey Short's Social Security card, his driver's
19 license, and a debit card belonging to him.

20 Also inside David Busby's truck were a pair of blue
21 jeans that had blood spatter on the bottom. The blood on
22 these jeans was proved to be Mickey's by the State Law
23 Enforcement Division. The inside waistband of those blue
24 jeans, those same jeans that had Mickey's blood on them, was
25 swabbed and tested. David Busby's DNA is on the inside

1 waistband of those blue jeans.

2 A Maglite flashlight was also found inside David Busby's
3 truck. The blood that was found on that Maglite flashlight
4 belongs to the victim, Mickey Short, according to the State
5 Law Enforcement Division.

6 In addition, tire impressions were taken by the State
7 Law Enforcement Division of all four tires on David Busby's
8 truck and of the tire tracks at the murder scene. The tires
9 on David Busby's truck are consistent with the tire tracks
10 left behind by the killer's vehicle.

11 David Busby admitted to the Sheriff's Office that he had
12 hid the shotgun that was used to kill Mickey Short. He told
13 them where he buried it. It was found at that location,
14 broken down into three pieces. Again, he told them where to
15 find that gun. It was found exactly as David Busby told them
16 it would be and it was buried in the nearby vicinity of
17 Nicole Deese's house.

18 David Busby admitted to the Sheriff's Office that he
19 took the victim's wallet, a pair of gloves, and other items,
20 put them into a plastic bag, and threw it -- threw it into
21 Lake Terry. Divers from the Department of Natural Resources
22 recovered the bag. The wallet was not in it. It did contain
23 a spent shotgun shell that was tucked into a black glove.
24 The dive also recovered an unspent shotgun shell at the same
25 location.

1 David Busby admitted to the Sheriff's Office that he had
2 kept the victim's ID, debit card, and Social Security card,
3 although he gave a reason for why he did that. David Busby
4 tried to soften his ties to Mickey's murder by claiming
5 multiple stories. He claimed he didn't know anything about
6 the murder. He claimed that Kenneth Parker killed Mickey,
7 and he claimed that Clint Gulledge killed Mickey.

8 David Busby, during his statements, gave information to
9 the Sheriff's Office that only the killer or someone at the
10 scene would have known. He described how Mickey was shot
11 with that shotgun, how he was shot in the face, how Mickey
12 was pulled out of the truck, how his pockets had been gone
13 through, and he claimed that someone else took Mickey's money
14 and a .22 pistol.

15 Kenneth Parker was charged with murder and armed
16 robbery, the same as David Busby was. His charges have been
17 dismissed. Further investigation of phone records and phone
18 pings by the State Law Enforcement Division, as well as
19 archived Facebook messages, have proved that Kenneth Parker
20 was not even in Chesterfield County at the time of the
21 murder. He was in Lancaster County.

22 Clint Gulledge is Mickey's cousin. Mickey spent the
23 night at Clint and Rachel's house often. He spent his last
24 full night on this earth at their house. He had gone over on
25 Saturday night with a .22 pistol that he had purchased. He

1 did some shooting in the backyard. Clint and Rachel live
2 almost -- at that time lived almost a stone's throw away from
3 the hill where Mickey was slain. They lived on the first
4 dirt road that veers off of Wamble Hill Road when you come on
5 to it off of Highway 9.

6 They were expecting Mickey to likely come back to their
7 home Sunday night, Father's Day night. If not, they at least
8 expected him to call early on the morning of the 19th because
9 that was something he would often do when he didn't spend the
10 night. As soon as Clint heard that Mickey was dead, he
11 called David Busby, who was at Nicole's house. He could hear
12 Nicole in the background, almost freaking out. He heard
13 David Busby tell her to shut up.

14 Nicole Deese and Mickey were close. Yes, he gave drugs
15 to her. She never had to pay him. He even bought her a car.
16 Nicole received a phone call from Mickey on the evening of
17 June 18th. Mickey wanted her to go with him to re-up. That's
18 a drug term. David Busby was at her house and he told her to
19 say no. She did as she was instructed. David Busby later
20 left, telling Nicole that he was going to buy drugs from
21 Mickey.

22 Around this time, Kenneth Parker had been in
23 Chesterfield County and met Mickey at his camper, Mickey's
24 camper in the Mount Croghan area. Mickey wanted Kenneth to
25 do some electrical work for him. As Kenneth was leaving to

1 go back home, he passed David Busby's white truck coming into
2 Mickey's driveway. Again, this was in Mount Croghan.

3 David Eddins lives in the town of Ruby. Mickey came to
4 his house to bring him an electrical or a breaker box. David
5 Busby's white truck followed Mickey into David Eddins'
6 driveway. Mickey and David Busby drove off, one following
7 the other. Late, late that evening, David Busby drove back
8 to David Eddins' house alone and inquired about Mickey. He
9 said to tell Mickey that he was going to his grandmother's.

10 Nicole Deese, meanwhile, that evening had been getting
11 more and more upset as the evening wore on. David Busby had
12 left to go buy drugs from Mickey. However, he had not come
13 back as it -- as it was getting very late and Mickey never
14 called her. She knew that something was terribly, horribly
15 wrong. She reached out to Kenneth Parker and begged Kenneth
16 to call David Busby and to call Mickey. She even gave David
17 Busby's number to Kenneth Parker so he could try calling for
18 her.

19 David Busby did ultimately return to Nicole's house. He
20 was agitated. She was very upset and begged him throughout
21 the night and Monday to tell her what had happened. Sometime
22 on Monday, he told her, "I killed Mickey."

23 Now, the indictments in this case are murder, armed
24 robbery, and possession of a weapon during the commission of
25 a violent crime.

1 To prove murder, the State must prove to you that David
2 Busby willfully, feloniously, and intentionally killed Farris
3 Mickey Short and he did so with malice aforethought. And
4 that can mean that even if two seconds beforehand he had
5 malice, then it applies. And he did so by means of shooting
6 Mickey.

7 The indictment for armed robbery states that he did take
8 a shotgun and he did take and carry away personal property of
9 Farris Mickey Short from or in the immediate presence of the
10 victim. When the victim was found, there was no money near
11 his body. The .22 pistol he had had at Clint's was not in
12 his truck or near his body or on his body, and there were no
13 drugs found.

14 The last indictment that you will be asked to consider
15 is for possession of a weapon during the commission of a
16 violent crime. And again, that is just that he possessed a
17 firearm when he killed and/or robbed Mickey.

18 The State will ask you after the conclusion of all of
19 the evidence being presented to you to find James David Busby
20 guilty of each of those crimes.

21 And one last thing, evidence is not only the physical
22 items, reports, bullets, pellets, other physical items that
23 will be put into evidence. It is also testimony. The
24 testimony of every person that gets on that witness stand is
25 also evidence, and it's up to you to decide how much of that

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1 evidence to believe, any, part or all.

2 Thank you for your attention today and thank you for
3 listening to all of the evidence that the State is going to
4 present in this case.

5 MS. COPELAND-LITTLE: Your Honor, at this time, I'm
6 going to reserve my opening statement until later on in the
7 trial.

8 THE COURT: Okay.
9 Solicitor?

10 MS. JOHNSON-LEE: The State calls Dr. Janice Ross.

11 THE CLERK: Place your left hand on the Bible and raise
12 your right. Do you solemnly swear to tell the truth, the
13 whole truth, and nothing but the truth, so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Thank you. Have a seat in the witness
16 stand.

17 DR. JANICE ROSS, being first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. JOHNSON-LEE:

21 Q: Please state your name on the record?

22 A: Janice Edwards Ross.

23 Q: Okay. What is your occupation?

24 A: I'm a forensic pathologist.

25 Q: So you're a duly licensed physician and surgeon?

1 A: Yes.

2 Q: Okay. In what state are you licensed, Dr. Ross?

3 A: In South Carolina, New York, and Georgia.

4 Q: And how long have you been licensed to practice in your
5 profession?

6 A: Forty-three years.

7 Q: And please tell the Court your background in the field
8 of pathology?

9 A: Yes. A pathologist is a doctor. So I've had four years
10 of college and four years of medical school and then over
11 four years of training in the field of pathology, which means
12 that I've learned how to identify and diagnose diseases,
13 including cancers, by using the microscope and by using
14 laboratory testing.

15 I also learned -- we also are trained to do autopsies to
16 find a cause of death. A forensic pathologist is further
17 trained to identify patterns of injury, draw fluids and
18 whatever for toxicology, and document evidence for the court
19 of law so that we can come up with a cause of death and a
20 manner of death.

21 Q: How many autopsies have you performed, Dr. Ross?

22 A: Over 14,000.

23 THE COURT: Solicitor, can we get that portable
24 microphone and put it up here and let's move the doctor up
25 here? I apologize for interrupting. This box was not put in

1 correctly and I noticed several of you can't see.

2 BY MS. JOHNSON-LEE:

3 Q: And again, you said you've performed 14,000 autopsies in
4 your career?

5 A: Yes.

6 Q: Where are you currently employed?

7 A: I am with Newberry Pathology Associates. I was in
8 Newberry, South Carolina. As of November of last year, I
9 moved to Charleston.

10 Q: And do you work for the Charleston County coroner?

11 A: Yes.

12 Q: And is pathology or autopsy a specialized field of
13 medicine?

14 A: Yes.

15 Q: And have you had declared an expert in court before in
16 the field of pathology?

17 A: Yes.

18 Q: How many times?

19 A: Over 200 times.

20 MS. JOHNSON-LEE: And, Your Honor, the State would offer
21 Dr. Ross as an expert in the field of pathology for purposes
22 of this case.

23 MS. COPELAND-LITTLE: No objection, Your Honor.

24 THE COURT: So qualified without objection.

25 MS. JOHNSON-LEE: Thank you, Your Honor.

1 BY MS. JOHNSON-LEE:

2 Q: Did you perform an autopsy on Farris Mickey Short?

3 A: Yes.

4 Q: And where did you perform this autopsy at?

5 A: That was in the morgue at Newberry County Memorial
6 Hospital.

7 Q: Okay. On what date?

8 A: I performed it on June 20th, 2017.

9 Q: How long did the autopsy last?

10 A: Approximately one-and-a-half to two hours.

11 Q: Okay. And please explain to the jury what you did
12 during the course of this autopsy?

13 A: Yes. The coroner of the county calls us and authorizes
14 and schedules an autopsy to be performed. The patient is
15 brought to us to the morgue in the hospital and in a body
16 bag. So we take photographs of the patient dressed and
17 undressed, front and back. And in this case, we saw that
18 there was evidence of a shotgun wound. So we did further
19 x-rays to find out if there were any -- if there was any
20 metal left in the person. Then we proceed with the internal
21 examination.

22 Q: Based on this autopsy within the bounds of medical
23 certainty, have you formed an expert opinion concerning the
24 cause of death and manner of death of Farris Mickey Short?

25 A: Yes.

1 Q: What is your opinion as to the cause of death?

2 A: He had multiple lacerations of blood vessels of the head
3 and neck due to the shotgun wound to the face.

4 Q: And the manner of death?

5 A: Is homicide.

6 Q: Now, did you find any physical evidence in his body
7 relative to the shotgun blast?

8 A: Yes. We found buckshot from the -- from the skin, under
9 the surface of the skin of the left face and the left neck
10 and in his left shoulder.

11 Q: Can you describe for the jury how many pellets and which
12 location they were found at?

13 A: There were a total of -- I'm sorry. There were a total
14 of 15 that were found, like I say, and then mostly to the
15 left side of the neck and to the left cheek and into the
16 shoulder.

17 Q: Okay. You said all of that was on the left side of the
18 body?

19 A: Yes.

20 Q: Can you determine a direction of travel for those
21 pellets entering the body?

22 A: Yes. The entrance wound basically was in the left cheek
23 and the direction of the buckshot was going downward so that
24 it went through the left side of the neck and partially into
25 the left shoulder.

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1 Q: Now, what did you do with the pellets that you recovered
2 from the body?

3 A: The pellets were photographed and sealed, labeled, and
4 then transferred to SLED Agent Anna Tankersley, who then took
5 them to SLED for ballistics testing.

6 Q: Okay. And I have here --

7 MS. JOHNSON-LEE: I'm going to ask that this be pre-
8 marked or be marked for identification for the State, please.
9 And then this one also.

10 THE COURT REPORTER: Okay. What is this one? Do you
11 want me to leave it in the bag?

12 MS. JOHNSON-LEE: Yeah.

13 THE COURT REPORTER: Okay. State's 6 and 7.

14 MS. JOHNSON-LEE: Okay.

15 THE COURT REPORTER: Marked for identification.

16 BY MS. JOHNSON-LEE:

17 Q: I'm just going to show you what's marked for
18 identification as State's Number 6. Are you able to identify
19 or recognize any of the items contained within that packet?

20 A: It's hard to see.

21 Q: We can cut that open if we need to.

22 MS. JOHNSON-LEE: Madam Clerk?

23 Q: Dr. Ross, is that microphone on?

24 A: Yes.

25 Q: Thank you.

1 A: These are bullet fragments or buckshot and are white
2 fragments of metal, but they're all buckshot.

3 Q: Okay. And they are closed up in sealed bags; is that
4 correct?

5 A: Yes. Those are the way we close them.

6 Q: And so that is what you turned over to Anna Tankersley
7 from SLED?

8 A: Yes.

9 Q: And I want to show you next what's marked for
10 identification as State's Exhibit Number 7. Do you recognize
11 that item?

12 A: Yes. It's one tube of blood that we drew from the
13 patient, Mr. Short, at the time of autopsy. It's in a purple
14 topped tube, which is used for the purpose of testing for
15 DNA.

16 Q: Okay. And it would be considered a blood standard?

17 A: Yes.

18 Q: Thank you, Dr. Ross. And again, for the jury, those are
19 all pellets that came from the victim Mickey Short's body?

20 A: Yes.

21 Q: And that is the blood standard that you drew from Mickey
22 Short's body?

23 A: Yes.

24 Q: Thank you. Did you prepare a report of your autopsy?

25 A: Yes.

1 Q: I'm going to hand you -- after this is marked -- an
2 autopsy report. Dr. Ross, I'm handing you what's been marked
3 for identification as State's Exhibit Number 8. Can you
4 please identify that document?

5 A: It's my autopsy report. The diagrams are related to the
6 victim, Farris Short, at the autopsy. It's an autopsy
7 worksheet, which includes organ weights and some notes, death
8 certificate form, history form, evidence transfer form for
9 the blood and buckshot, and evidence transfer form for the
10 clothing.

11 Q: And is your signature contained on that document?

12 A: Yes.

13 Q: And is your signature on the evidence transfer form?

14 A: Yes.

15 MS. JOHNSON-LEE: At this time, I would move to have the
16 autopsy report put into evidence.

17 MS. COPELAND-LITTLE: No objection, Your Honor.

18 THE COURT: In without objection.

19 (WHEREUPON, State's Exhibit Number 8, autopsy report,
20 was admitted into evidence.)

21 MS. JOHNSON-LEE: I beg the Court's indulgence.

22 And, Your Honor, at this time, the State would also move
23 to have admitted into evidence the blood standard, which is
24 State's Exhibit 7 for identification, and the pellets, which
25 are State's Exhibit 6 for identification.

DR. JANICE ROSS - CROSS BY MS. COPELAND-LITTLE

1 MS. COPELAND-LITTLE: No objection.

2 THE COURT: In without objection.

3 (WHEREUPON, State's Exhibit Number 6, shotgun pellets,
4 and State's Exhibit Number 7, blood standard, were
5 admitted into evidence.)

6 MS. JOHNSON-LEE: Thank you, Dr. Ross. Please answer
7 any questions that Ms. Copeland-Little has for you.

8 MS. COPELAND-LITTLE: Thank you.

9 CROSS-EXAMINATION

10 BY MS. COPELAND-LITTLE:

11 Q: Good morning, Dr. Ross.

12 A: Good morning.

13 Q: Dr. Ross, you just testified that this is your report
14 that you did after you performed the autopsy, and I'm
15 referring to State's Exhibit 8.

16 A: Yes.

17 Q: That was just entered into evidence?

18 A: Yes.

19 Q: Dr. Ross, do you have a copy of your report there?

20 A: I do.

21 Q: Okay. I'm going to ask you about on page 2 of the
22 report under the case history. Can you tell the jury what
23 time and date you have on that report as the time of death
24 for Mr. Short?

25 A: We -- this is interpreted from the coroner's report and

DR. JANICE ROSS - CROSS BY MS. COPELAND-LITTLE

1 when the -- the incident apparently occurred, his opinion
2 that it occurred on June 18th, 2017, at approximately 7:15
3 p.m.

4 Q: Thank you, ma'am.

5 A: You're welcome.

6 MS. COPELAND-LITTLE: That's all the questions I have,
7 Your Honor.

8 MR. REDMOND: I beg the Court's indulgence.

9 REDIRECT EXAMINATION

10 BY MS. JOHNSON-LEE:

11 Q: And, Dr. Ross, that was just information relayed to you
12 by the local county coroner in Chesterfield County?

13 A: Yes.

14 MS. JOHNSON-LEE: Thank you, Dr. Ross.

15 MR. REDMOND: I beg the Court's indulgence.

16 BY MS. JOHNSON-LEE:

17 Q: And as far as you know, he is not an investigator with
18 the Sheriff's Office or any agency; is that correct?

19 A: Correct.

20 Q: Okay. And he was not involved in the actual
21 investigation of the case?

22 MS. COPELAND-LITTLE: Objection. This goes beyond the
23 scope of my cross-examination, Your Honor.

24 MS. JOHNSON-LEE: She asked her about the time and I
25 think it goes to that because that's where she got the

1 information from.

2 THE COURT: I'll overrule it. Go ahead.

3 BY MS. JOHNSON-LEE:

4 A: The coroner is involved with taking custody of the
5 deceased and finding out information from witnesses who
6 might've been on the scene.

7 Q: And is the local coroner a medical doctor?

8 A: No.

9 MS. JOHNSON-LEE: That's all I have. Thank you, Dr.
10 Ross.

11 THE COURT: Ms. Little, anything else?

12 MS. COPELAND-LITTLE: No, Your Honor.

13 THE COURT: You may step down. Thank you.
14 May the doctor be excused?

15 MS. JOHNSON-LEE: Yes, sir.

16 MR. REDMOND: The State would next call Mr. Dwayne
17 Moore.

18 THE CLERK: Do you swear or affirm to tell the truth,
19 the whole truth, and nothing but the truth, so help you God?

20 THE WITNESS: I do.

21 THE CLERK: Thank you.

22 THE COURT: You need to redo that.

23 MR. REDMOND: Your left hand.

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

DWAYNE MOORE - DIRECT BY MR. REDMOND

1 THE WITNESS: I'm sorry. I didn't hear her.

2 THE CLERK: Do you swear or affirm to tell the truth,
3 the whole truth, and nothing but the truth, so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Thank you, sir. Have a seat up there.

6 DWAYNE MOORE, being first duly
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. REDMOND:

10 Q: Good morning. Mr. Moore, tell us a little bit about
11 yourself. Do you live here in Chesterfield or just outside
12 of Chesterfield?

13 A: I live in Chesterfield County.

14 Q: All right.

15 A: But not in the city.

16 Q: Okay. Not in the city. And do you live in -- well,
17 tell us what road do you live on?

18 A: I live on Hurst Cemetery Lane.

19 Q: Okay.

20 A: Off of Wamble Hill.

21 Q: Hurst Cemetery Lane. Right off Wamble Hill Road, I
22 believe it is?

23 A: Yes, that's correct.

24 Q: All right. And how long have you lived there?

25 A: Approximately two years, but the land has been in the

1 family for 200 years.

2 Q: Okay. And were you staying at -- I guess right at two
3 years ago, were you staying there are around the 18th of June
4 of 2017?

5 A: Yes, I was.

6 Q: And that particular day, the 18th into the early morning
7 hours of the 19th, was there anything that stood out to you
8 that, of course, you later discovered is related to this
9 case?

10 A: Yes. Before -- right before midnight, my wife and I
11 were taking our daughter to the emergency room for a severe
12 migraine.

13 Q: Okay.

14 A: At 5 'til or 10 'til midnight, and we noted nothing as
15 we were leaving, no vehicle in the field. About 12:30 or
16 12:45, I came back to the house to get some paperwork. At
17 that time, on the left-hand side I observed a pickup truck 20
18 or 25 feet off the road backed in. We've had problems in the
19 past with kids hanging out there; so we'll check on things.

20 I stopped my vehicle, shined my flashlight to see if I
21 can see anybody. I see no one in the vehicle. I can see
22 right through the windshield. I seen nobody in the vehicle.
23 So I didn't think much of it. I went on to the house. I got
24 my paperwork and then 15 minutes later I was going back to
25 the hospital. I stopped again and shined my flashlight.

DWAYNE MOORE - DIRECT BY MR. REDMOND

1 Seen nothing in the vehicle.

2 MR. REDMOND: I beg the Court's indulgence. All right.
3 Technical stuff. Anyway, we'll get to that in a minute.

4 BY MR. REDMOND:

5 Q: So was that the last time that you saw the truck that
6 night?

7 A: No. When I came back to the house with my daughter and
8 my wife, it was still backed in there, same spot. Here again
9 noticed nobody in the vehicle.

10 Q: And about what time was that, best that you can
11 remember?

12 A: Around 2 -- 2:30.

13 Q: Okay. And repeat what you said about 2 -- 2:30, you
14 come back and what did you observe?

15 A: I shined the flashlight again. Still seen nothing,
16 nobody in the vehicle.

17 Q: Was the truck in the same location as you had seen it
18 earlier?

19 A: That is correct. Backed in about 20 -- 25 feet off the
20 road.

21 Q: Okay. Of course, this is in the middle of the night.
22 Did you actually shine the light on the ground? I noticed
23 you said you shined it into the truck.

24 A: I did not. The light I have is a TacLight. So it's a
25 very small beam.

DWAYNE MOORE - DIRECT BY MR. REDMOND

1 Q: I gotcha.

2 A: And a very direct bright beam. So when I shined it on
3 the vehicle, just like this from my driver's seat, I shined
4 it like this right through the front of the truck.

5 Q: Okay.

6 A: It does not put out a wide beam. So no, I did not look
7 on the ground at that time.

8 Q: Okay. Just -- just for clarification. Now, the picture
9 that we -- have you seen State's Exhibit Number 5, I believe
10 it is?

11 MR. REDMOND: And I've already shown this to Ms.
12 Copeland-Little. Here we go. Yes, State's 5. State's 5.
13 If I may approach the witness, Your Honor?

14 BY MR. REDMOND:

15 Q: Now, of course, that is a daytime picture, but does that
16 picture accurately reflect where you saw the vehicle in
17 question?

18 A: Yes, it is.

19 Q: And is that, in fact, the vehicle in question that you
20 saw that night?

21 A: Yes, it is. As a matter of fact, I seen it the next
22 morning when I went up there and this is what I seen.

23 Q: Okay.

24 MR. REDMOND: We'd move to admit State's 5 at this time.

25 MS. COPELAND-LITTLE: Without objection.

DWAYNE MOORE - DIRECT BY MR. REDMOND

1 THE COURT: In without objection.

2 (WHEREUPON, State's Exhibit Number 5, photograph, was
3 admitted into evidence.)

4 MR. REDMOND: And permission to publish State's 5 at
5 this time, Your Honor?

6 THE COURT: Yes.

7 BY MR. REDMOND:

8 Q: And, Mr. Moore, can you see?

9 A: Yes, sir.

10 Q: Okay. And again, is that a copy of what I've just
11 presented you, State's Exhibit Number 5?

12 A: Yes, it is.

13 Q: And again, could you -- using that picture, could you
14 explain to us one more time? If technology cooperates with
15 us, could you tell us one more time what you -- what you
16 observed? In other words, would this be the direction that
17 you were coming from? Well, just explain for us where you
18 were in relation to this picture?

19 A: The first time I seen the vehicle, I was coming from the
20 left-hand side down the hill.

21 Q: Okay.

22 A: So when I parked, when I stopped my truck, I could not
23 see the ground on the driver's side.

24 Q: I gotcha.

25 A: I could see through the truck's front windshield.

DWAYNE MOORE - DIRECT BY MR. REDMOND

1 Q: Okay. And then coming back when you saw it the next
2 time?

3 A: When I come back, I was probably directly in front of
4 the truck on the road because that's a little bit before the
5 truck, that picture is.

6 Q: Uh-huh.

7 A: And I stopped pretty much directly in front of the truck
8 and shined the light in and here again did not see nobody
9 inside the vehicle.

10 Q: Okay. And again, was it in that position when you saw
11 it?

12 A: Yes.

13 Q: Okay.

14 MR. REDMOND: Please beg the Court's indulgence.

15 That would be all the questions I have at this time.

16 Please answer any questions Ms. Copeland-Little may have.

17 MS. COPELAND-LITTLE: Thank you, Your Honor. Just one
18 moment, Your Honor.

19 THE COURT: Sure.

20 CROSS-EXAMINATION

21 BY MS. COPELAND-LITTLE:

22 Q: Well, I'm going to go ahead and ask. I'm just going to
23 go ahead and ask you this. Mr. Moore, those three times that
24 you saw that truck that night, did you see any other vehicles
25 in the area?

DWAYNE MOORE - CROSS BY MS. COPELAND-LITTLE

1 A: No, I did not.

2 Q: And you didn't see any other people either, did you?

3 A: No, I did not.

4 Q: All right.

5 MS. COPELAND-LITTLE: Hold on. Let me just make sure.
6 I think that's probably all. Just one moment. No further
7 questions, Your Honor.

8 MR. REDMOND: Nothing further.

9 THE COURT: May this witness be excused?

10 MR. REDMOND: Yes, sir, Your Honor.

11 MS. COPELAND-LITTLE: Yes, sir.

12 MS. JOHNSON-LEE: The State calls Bryan Rivers.

13 THE CLERK: Come to the Bible. Place your left hand on
14 the Bible and raise your right. Do you swear or affirm to
15 tell the truth, the whole truth, and nothing but the truth,
16 so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Thank you. Just have a seat up here in the
19 witness stand.

20 BRYAN RIVERS, being first duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. JOHNSON-LEE:

24 Q: Please state your name for the record?

25 A: Bryan Rivers.

BRYAN RIVERS - DIRECT BY MS. JOHNSON-LEE

1 Q: Where do you live at, Mr. Rivers?

2 A: On 713 Hurst Cemetery Lane, Chesterfield, South
3 Carolina.

4 Q: Is that near Wamble Hill Road or Hurst Cemetery Road?

5 A: Yes.

6 Q: Okay. Now, do you recall the morning of June 19th, 2017?

7 A: Yes, ma'am.

8 Q: Can you tell the Court where you were that morning?

9 A: I was getting my daughter in the car getting ready to
10 take her to summer school and I asked her to buckle up. As I
11 was getting in the car, I seen a lady driving up and pull in
12 the driveway. She says there's a man on top of the hill. I
13 think he's laying down taking a nap or something. I say,
14 okay, I'll go check on him and make sure he's okay.

15 And I went up the road and as soon as I topped the hill,
16 I looked over and I seen him laying there and I went over the
17 hill a little bit just to get my daughter out of the way, and
18 I got out of the truck and I approached him and I dialed
19 9-1-1. I told them what was going on. And after I got off
20 the phone with them, I got off and I went over to the truck
21 and gave my daughter my phone and told her to watch the
22 YouTube movie and please, baby, please do not get out, and
23 she stayed in the truck. And about two or three minutes, the
24 deputy showed up.

25 Q: About what time in the morning was this?

1 A: It was 7:30.

2 Q: So early morning hours?

3 A: Yeah. Early, early, early, yes.

4 Q: And what was the weather like that day?

5 A: It was warm and cloudy.

6 Q: Okay. And can you describe the scene as you saw it?

7 A: He was laying on his back, face up. There was a bat

8 above his head and a belt at his waist, and his truck was

9 backed in and his windows were down. I did not go -- I went

10 up to him a little bit. I just backed off and called --

11 called the law.

12 Q: Could you tell if he was living or not?

13 A: No. He was -- he was not alive.

14 Q: How did you know?

15 A: He -- he did not have a face.

16 Q: And you said you made sure your daughter was where she

17 couldn't see anything; is that right?

18 A: Yes, ma'am. I didn't want her to see. I didn't want

19 her to see. I seen that and I called a family member to tell

20 them to please come and get my daughter.

21 Q: And you stayed there until law enforcement got there?

22 A: Yes, ma'am.

23 Q: Okay. And then did you then tell them what you had

24 seen?

25 A: Yes, ma'am.

1 Q: Okay.

2 MS. JOHNSON-LEE: Could we get State's Exhibit 5 that's
3 already in evidence? Could we put that back up on the screen
4 for Mr. Rivers to take a look at?

5 BY MS. JOHNSON-LEE:

6 Q: This area of Wamble Hill where the truck -- it was a --
7 what was he laying next to?

8 A: He was laying next to his truck.

9 Q: Okay. A pickup truck?

10 A: Yes, ma'am.

11 Q: Okay. And I want you to look at State's Exhibit Number
12 5. Does that appear to be the scene as you saw it?

13 A: Yes, ma'am. That is exactly as I seen it. As I pulled
14 -- as I pulled up, I seen exactly just that picture.

15 Q: Okay. And have you ever seen anybody out in that area
16 before?

17 A: No. I passed by Sunday night at 11:30. There was
18 nothing, nothing, no truck, no -- no person there. I went
19 home and the next morning that's when the lady pulled up in
20 the yard and told me about the man laying in the -- laying up
21 there in the field.

22 Q: So 11:30 p.m. on Father's Day, there's no truck there?

23 A: No truck.

24 Q: 7:30 a.m. the day after, that is what you found?

25 A: Yes. That's exactly what I seen, exactly.

BRYAN RIVERS - DIRECT BY MS. JOHNSON-LEE

1 Q: Okay. And that appears to be in the picture some sort
2 of hill. Is it a hill?

3 A: Yes. It's a soybean field actually.

4 Q: Okay. And can you see the surrounding countryside from
5 there?

6 A: Yes. Yes, I can see it. I've seen just about all of
7 it.

8 Q: Okay. Thank you, sir. Did you do anything to disturb
9 that scene before law enforcement got there?

10 A: No. I just -- I just -- I walked up and looked and I
11 just called. I just called the authorities.

12 Q: Okay. Did you drive up into that field?

13 A: No. I stayed on the -- stayed on the actual dirt road.

14 Q: The actual dirt road?

15 A: Yes, ma'am.

16 MS. JOHNSON-LEE: Thank you, sir. Answer any questions
17 that Ms. Copeland-Little has for you, please.

18 MS. COPELAND-LITTLE: No questions for Mr. Rivers.

19 MS. JOHNSON-LEE: And we'd ask that the witness be
20 excused.

21 MS. COPELAND-LITTLE: No objection.

22 THE COURT: Thank you, sir. You're excused.

23 MS. JOHNSON-LEE: Next, we'd call Grant Polson.

24 THE CLERK: Place your left hand on the Bible. Raise
25 your right. Do you swear or affirm to tell the truth, the

GRANT POLSON - DIRECT BY MS. JOHNSON-LEE

1 whole truth, and nothing but the truth, so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Thank you, sir. Have a seat, please.

4 GRANT POLSON, being first duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. JOHNSON-LEE:

8 Q: Please state your name for the record?

9 A: Grant Matthew Polson.

10 Q: And where are you employed?

11 A: Chesterfield County Sheriff's Office.

12 Q: How long have you been at the Sheriff's Office?

13 A: Six years.

14 Q: What is your job title there right now?

15 A: Sergeant on patrol.

16 Q: Okay. And were you working at the Sheriff's Office then
17 obviously in June of 2017?

18 A: Yes, ma'am.

19 Q: What was your job then?

20 A: I was a deputy first class on patrol.

21 Q: Now, do you have any prior law enforcement experience?

22 A: I worked six months in the Chesterfield County Detention
23 Center.

24 Q: Now, were you working on June 19th, the day after
25 Father's Day of 2017?

1 A: Yes, ma'am.

2 Q: Okay. Did you receive a call somewhere in the

3 neighborhood of 7:30 that morning?

4 A: Yes, ma'am.

5 Q: And did you respond to that call?

6 A: Yes, ma'am.

7 Q: Where did you go?

8 A: The soybean field off Hurst Cemetery Lane.

9 Q: Okay. And is that a dirt road?

10 A: Yes, ma'am.

11 Q: Okay. What did you see when you arrived?

12 A: A red truck sitting in the field and a body laying next

13 to it by the driver door.

14 Q: Okay. Describe the body and the positioning of it?

15 A: His feet were facing towards the road. He was on his

16 back. He was right just outside of the driver's side door.

17 Q: Okay. Did anything stand out to you about the body and

18 the scene?

19 A: The belt laying next to it appeared as if his pants had

20 been tampered with. There was a baseball bat and a small bag

21 next to the top of his body. And as I walked around the

22 other side of the truck, there was a set of broken glasses

23 along with a key.

24 Q: Now, could you tell if he was deceased?

25 A: Yes.

1 Q: How was that?

2 A: Part of his face was missing.

3 Q: Okay. Now, explain what you meant about his pants?

4 A: It looked like they had been gone through. The belt
5 looked like it'd been taken off and his pants on the front
6 looked like they had been pulled down just a -- just a little
7 bit.

8 Q: Okay. Were his pockets inside out?

9 A: Yes.

10 Q: Did you see blood anywhere?

11 A: Yes. There was a pool of blood next to his head.

12 Q: Okay. And did you see anything inside the truck?

13 A: Yes. Several --

14 Q: What did you see inside the truck?

15 A: Several pieces of blood all throughout the truck.

16 Q: Okay. Was there anything else at the scene that stood
17 out to you that day?

18 A: A tire track close to the driveway.

19 Q: Okay. What stood out to you about that tire track?

20 A: It appeared to be a mud terrain tire. Due to where the
21 vehicle was, there wasn't but so many trucks or vehicles that
22 would go up in that area. It was a freshly planted soybean
23 field.

24 Q: Okay. Did the track appear fresh then?

25 A: Yes.

GRANT POLSON - DIRECT BY MS. JOHNSON-LEE

1 Q: Now, did you do anything to try to protect anyone from
2 stepping on that track that you saw?

3 A: Yes, ma'am. My first sergeant, Stewart Robinson, was
4 also on the scene and tried to preserve -- trying to preserve
5 the crime scene. I advised him of that track, which he'd
6 already almost stepped on it.

7 Q: Okay.

8 MS. JOHNSON-LEE: I have some photographs I'd like to
9 have marked, please, ma'am.

10 BY MS. JOHNSON-LEE:

11 Q: I'm going to show you what's marked --

12 MS. JOHNSON-LEE: Permission to approach?

13 BY MS. JOHNSON-LEE:

14 Q: What's marked for identification as State's 9 through
15 15, do you recognize what's depicted in those photographs?

16 A: Yes, ma'am.

17 Q: And how is it that you recognize what's depicted there?

18 A: It's the scene as I saw it whenever I got there.

19 Q: Okay. Can you describe each one, beginning with the
20 picture number and then describe what that photo depicts?

21 A: This Exhibit 9 is the truck facing the entrance to the
22 field where our vehicles were parked. His body with his feet
23 facing towards the driveway.

24 Q: Let me -- let me just do a little brief depiction
25 because then if we can get -- if they're put into evidence,

GRANT POLSON - DIRECT BY MS. JOHNSON-LEE

1 we're going to put them on the big screen and have you talk a
2 little bit more in detail.

3 A: This was his truck sitting in the field facing the
4 driveway.

5 Q: Okay. And that photo is done in black-and-white?

6 A: Yes.

7 Q: Okay.

8 A: Do you want me to go on?

9 Q: Yes.

10 A: It's a black-and-white photo, Exhibit 10. It's a
11 picture taken from the driveway of the side of the truck as
12 what I approached the vehicle and his body laying next to the
13 truck, what it looked like.

14 Exhibit 11 is the tire track that I saw that First Sgt.
15 Robinson almost stepped on.

16 Exhibit 12 is a picture taken more from the driveway
17 entrance towards the field with his truck in the field.

18 Exhibit 13 is a front picture of his truck in the field.

19 Exhibit 14 is another picture of the truck with a few
20 items laying around it in the field.

21 Exhibit 15 is his pants and his pants pockets where they
22 appear to have been gone through.

23 MS. JOHNSON-LEE: Okay. Speak up just a little bit
24 louder. It's hard to hear at the defense table.

25 THE WITNESS: I'm sorry. So do you want me to go

1 through back all of them?

2 MS. JOHNSON-LEE: No.

3 MS. COPELAND-LITTLE: I could hear. It's just very low.
4 So I was just asking for you to speak up a little.

5 THE WITNESS: Do you want me to go through all of them
6 again?

7 MS. COPELAND-LITTLE: No, sir. I was able to hear you.

8 THE WITNESS: Okay.

9 MS. COPELAND-LITTLE: It was just very low.

10 THE WITNESS: Exhibit 15 was where his pants and his
11 pants pockets appear to have been gone through.

12 MS. JOHNSON-LEE: At this time, I would move to have
13 State's 7 through 15 put into evidence.

14 MS. COPELAND-LITTLE: No objection.

15 THE COURT: In without objection.

16 THE CLERK: 7 through 15?

17 THE COURT REPORTER: 9 through 15.

18 MS. JOHNSON-LEE: I'm sorry, 9 through 15.

19 (WHEREUPON, State's Exhibits Number 9 through 15,
20 photographs, were admitted into evidence.)

21 MS. JOHNSON-LEE: And if we could have those put on the
22 overhead screen?

23 BY MS. JOHNSON-LEE:

24 Q: Okay. Starting with State's Exhibit 9 that is in
25 evidence, please describe for the jury what is depicted in

1 that scene?

2 A: That's the victim's body laying next to the driver's
3 side door of his truck in the edge of the soybean field at
4 the driveway, close to the driveway.

5 Q: Okay. Okay. Exhibit 10?

6 A: That's a picture taken from the driveway side of the
7 victim's truck, his body laying next to the truck in the
8 field with the belt marked as 7 and the bat marked as 8.

9 Q: Okay. And the darkened area near the bottom of the
10 back, what is that?

11 A: That's the pool of blood next to his body.

12 Q: Okay. State's Exhibit 11, what is depicted there?

13 MR. REDMOND: Your Honor, if it's okay, I don't know if
14 the jury -- if it would help the jury if we could dim the
15 lights a little bit?

16 THE COURT: It'll be okay if you can figure out how to
17 do it.

18 MR. REDMOND: A little prayer might not hurt.

19 THE COURT: That'll help.

20 MS. JOHNSON-LEE: Your Honor, could I have Deputy Polson
21 step down to kind of point on this photograph to show what it
22 depicts? It's not picking up very well on the overhead
23 screen.

24 THE COURT: No problem.

25 (WHEREUPON, the witness complied.)

GRANT POLSON - DIRECT BY MS. JOHNSON-LEE

1 BY MS. JOHNSON-LEE:

2 Q: If you could use the laser pointer here and show the
3 jury what is in that photo?

4 A: Okay. So what I noticed whenever I was on scene was the
5 -- it's hard to see for y'all, but at the time it was out in
6 the middle of a field. It was the mud. You can see the
7 outlines in the tire, which are the -- it looks like little
8 blocks kind of. Those are the insides of the different
9 tires. It's harder for y'all to see, but on scene it looked
10 -- it appeared to me to be a fresh tire track of a mud
11 terrain tire. Due to -- the footprint down here is where
12 First Sgt. Robinson almost stepped on it, but if you look
13 closely, there are little grooves that appear to be little
14 blocks inside of this tire print.

15 Q: Thank you. And this is Exhibit 12. Describe this
16 scene? No, this is -- I think that's 5.

17 MR. REDMOND: Scroll down, Angie.

18 MS. THURMAN: That's it.

19 MR. REDMOND: No, that's a different one. That's 5,
20 Exhibit 5.

21 MS. THURMAN: Oh, right here.

22 BY MS. JOHNSON-LEE:

23 Q: That's 12.

24 A: This picture is taken from almost around where the
25 driveway off of where the road is and where it starts getting

1 more dirt right here is right where the driveway is at if you
2 were to come off the road.

3 Q: And is the truck almost perpendicular to the dirt road
4 there?

5 A: Yes.

6 Q: Okay. And it's sort of a hilly area?

7 A: Yes. It's almost as if you pull up onto the -- into the
8 hill.

9 Q: Okay. Exhibit 13?

10 A: That's a picture taken just outside of the front of the
11 truck where facing the driveway of the soybean field.

12 Q: Exhibit 14?

13 A: Almost the same picture. It was -- it was facing -- his
14 truck was facing where the driveway was at. When you come in
15 off the driveway, that's where this picture was taken. I
16 can't really see the 4, 5, and 6 on the left side, but that's
17 around the area where the glasses and the key that I saw were
18 located.

19 Q: Okay. And lastly, Exhibit 15?

20 A: That's where his pants appeared to have been gone
21 through and pulled down a little bit on the front.

22 Q: You said the pants pockets were pulled out and the pants
23 were down slightly?

24 A: Yes, ma'am.

25 Q: Okay. Thank you. Now, in your job duties, have you

1 ever been trained in the field of tracking?

2 A: No, ma'am.

3 Q: Okay. What about with the dog team?

4 A: I have done several dog trackings, yes, ma'am.

5 Q: Okay. Would that have assisted you in any way in
6 identifying a track such as this or would you have dealt with
7 this type of thing before?

8 A: Yes. Several -- on several occasions, we've looked for
9 tracks as far as break-ins. A lot of dirt searches. Say
10 somebody ran from us on a dirt road, we would see footprints
11 or foot tracks, toe digs, that sort of thing. In several
12 different calls that we deal with, we would learn how to
13 understand different tracks and what they mean, but I've
14 never been to a class for it.

15 Q: So you would understand if the tire track appeared fresh
16 versus something that had been there a while?

17 MS. COPELAND-LITTLE: Objection, Your Honor. That calls
18 for a conclusion opinion and he has not been qualified to
19 give that.

20 THE COURT: Sustained.

21 MS. JOHNSON-LEE: Thank you, Deputy Polson. Please
22 answer any questions Ms. Copeland-Little might have.

23 MS. COPELAND-LITTLE: I beg the Court's indulgence. No
24 questions.

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

1 MR. REDMOND: Your Honor, may we approach?

2 (WHEREUPON, a bench conference was held in the presence

3 of the jury but out of the hearing of the jury off the

4 record, after which the proceedings resumed as follows.)

5 THE COURT: Ladies and gentlemen of the jury, we talked

6 about our timing, the witnesses and the amount of time we're

7 going to need. If we go to the next witness, we'll go way

8 over into the lunch hour; so we're going to stop now.

9 I need y'all back here at 1:30, to go back into the jury

10 room at 1:30. Remember, don't discuss this case with anyone.

11 Don't allow anybody to approach you about it.

12 Those of you in the area know the restaurants and the

13 places that you can obtain lunch, probably more so than I do,

14 but I know there are several around downtown and on the

15 perimeter. Y'all enjoy your lunch and we'll see you back

16 here at 1:30.

17 Everybody remain seated while the jury departs.

18 (WHEREUPON, the jury exited the courtroom.)

19 THE COURT: All right. We're in recess until 1:30.

20 MR. REDMOND: Thank you, Your Honor.

21 (WHEREUPON, there was a break in the proceedings, after

22 which the proceedings resumed as follows.)

23 (WHEREUPON, a bench conference was held with Juror

24 Number 20 as follows.)

25 THE COURT: Your name? Mr. Bracey, Juror 20. The

1 bailiff said you mentioned to him that you recognized
2 somebody in the courtroom.

3 JUROR NUMBER 20: His brother.

4 THE COURT: Whose brother?

5 JUROR NUMBER 20: The defendant's brother.

6 THE COURT: The defendant's brother? Is here now?

7 JUROR NUMBER 20: Yes, sir.

8 THE COURT: The fact that you know the defendant's
9 brother, would that affect your ability to remain fair and
10 impartial?

11 JUROR NUMBER 20: (Unintelligible. Spoken over by the
12 clerk near the microphone.)

13 THE COURT: Okay. Do you feel that you can't be fair
14 and impartial?

15 JUROR NUMBER 20: (Unintelligible. Spoken over by the
16 clerk near the microphone.)

17 THE COURT: All right. We're going to excuse you and I
18 may need to back.

19 When do we have another call in? Tonight?

20 THE CLERK: Tonight.

21 THE COURT: You need to call back in after six to see if
22 we might need you back. Thank you for letting us know.

23 JUROR NUMBER 20: Yes, sir.

24 (WHEREUPON, the bench conference ended and the
25 proceedings resumed as follows.)

1 THE COURT: All right. Madam Clerk, if you would, take
2 the three alternates' names, put them in a capsule, if you
3 have them, or counsel can waive capsules. We will have to
4 put them in the hat and draw and see who moves up.

5 MS. COPELAND-LITTLE: I'll waive the capsule.

6 MS. JOHNSON-LEE: I'll waive it too.

7 MS. COPELAND-LITTLE: I'll waive the blind child.
8 Didn't they used to have to use a blind child?

9 THE COURT: Alternate Kirsten Boan, Juror Number 16, is
10 now moved up to replace Mr. Bracey.

11 MS. COPELAND-LITTLE: Judge Burch?

12 MS. JOHNSON-LEE: Judge?

13 THE COURT: Have you got all your ducks in a row now?

14 MR. REDMOND: Working on it, Judge, but we're ready to
15 go forward.

16 THE BAILIFF: Bring them in?

17 THE COURT: Please, sir.

18 (WHEREUPON, the jury entered the courtroom.)

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

20 MS. JOHNSON-LEE: The State calls Wayne Jordan.

21 THE CLERK: Place your left hand on the Bible and raise
22 your right. Do you swear or affirm to tell the truth, the
23 whole truth, and nothing but the truth, so help you God?

24 THE WITNESS: I do.

25 WAYNE JOHNSON, being first duly

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. JOHNSON-LEE:

4 Q: Please state your name for the record?

5 A: Wayne -- Anthony Wayne Jordan.

6 Q: And where are you employed?

7 A: Chesterfield County Sheriff's Office.

8 Q: What is your current job at the Chesterfield County
9 Sheriff's Office?

10 A: I am the lieutenant over the detective unit.

11 Q: How long have you been the lieutenant over the detective
12 unit?

13 A: Seven-plus years.

14 Q: Okay. What was your prior position?

15 A: I rose in the ranks from the Sheriff's Office. In 2003,
16 I came in as a general investigator, rose the ranks to
17 sergeant, first sergeant, and then my current position as a
18 lieutenant.

19 Q: And do you have law enforcement experience elsewhere?

20 A: I started in 1992 with Cheraw Police Department. I
21 started as a tele-communicator and a jailer, rose the ranks
22 to patrol officer, stayed there until '98. I left there in
23 '98 and went to Rock Hill City in '98. I stayed there until
24 2003 and came back to Chesterfield County in 2003.

25 Q: So you were obviously in your current position in the

1 month of June of 2017?

2 A: Yes, I was.

3 Q: Did you receive a call concerning an incident in the
4 Wamble Hill area on the morning of June 17th -- between June
5 17th and June 19th of 2017?

6 A: Yes, I did.

7 Q: When was that call?

8 A: It was somewhere in the 7 o'clock range in the morning.

9 Q: Of which day?

10 A: It would have been Monday morning.

11 Q: Okay. The 19th? And what was the nature of the call?

12 A: I was advised by dispatch that we had a shooting
13 incident and I needed to respond to the Wamble Hill Road area
14 of Chesterfield.

15 Q: Okay. Did you go?

16 A: Yes, I did.

17 Q: About what time did you arrive?

18 A: Somewhere in the 7:15-7:20 range because I had to leave
19 Cheraw. As a matter of fact, I had to get dressed prior to
20 me starting my tour of duty. I got dressed, left Cheraw
21 area. That's where I live and that's probably about a 15-
22 minute ride to Chesterfield to the location over there.

23 Q: What did you see when you got to the scene?

24 A: When I arrived, I was -- I met with Sgt. Graig Burns,
25 one of my detectives, and I also met with Sgt. Polson and

1 first Sgt. Stewart Robinson. They started briefing me about
2 what was going on. I walked to the edge of the crime scene.
3 I stayed in the road. I didn't want to go into the crime
4 scene. I stayed at the edge of the road. I saw a burgundy-
5 in-color pickup truck with a body laying outside the driver's
6 door.

7 Q: Did you ever go up into the scene itself?

8 A: I did go up and observe the scene. I did.

9 Q: And what did you observe?

10 A: Sgt. Polson took me to the scene. He showed me the --
11 showed me what appeared to be a tire track. Then he took me
12 up to the -- to the body. I saw a white male, an older --
13 older gentleman, laying on the ground face up. He had a
14 significant gunshot wound to the left side of his face. I
15 looked inside the vehicle. I looked around the vehicle. I
16 continued looking around the ground and then I exited the
17 crime scene.

18 Q: Okay. Let's back up to when you looked inside the
19 vehicle. What did you see?

20 A: I did not enter inside the vehicle. I looked through
21 the windows. I seen blood. I seen brain matter. I seen
22 fragments from the head/face area. I seen other items in the
23 car that would be in a car.

24 Q: And did anything else other than the deceased victim
25 stand out to you about that particular scene?

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 A: Other than his clothing was down, you know, towards his
2 waist, maybe towards the groin area. The belt was off. I
3 noticed a homemade bat laying on the ground. I noticed his
4 pockets were inside out as if somebody rummaged through it.
5 I noticed a couple cell phones on the -- on the bed of the
6 truck, one of them being -- I believe it was a flip phone.
7 It was broken in two, two pieces. I seen a new cell phone.
8 It was still in its package on the back of the truck.
9 Somebody identified a cigarette butt laying on the ground
10 towards the front of the pickup, towards the front of the
11 truck.

12 Q: Who processed that crime scene?

13 A: I called the State Law Enforcement Division and had
14 their crime scene unit come out and process the vehicle.

15 Q: Did someone keep that scene secure until State Law
16 Enforcement Division arrived?

17 A: Myself, my detectives, patrol stayed. That scene was
18 secured the entire time.

19 Q: Did you do any follow-up work to attempt to develop any
20 suspects?

21 A: I personally didn't. I had some of my detectives go out
22 and do door-to-door interviews. There was an interview that
23 we did with Rachel Hammond, who gave us a statement, who gave
24 us a couple of persons of interest, being -- one being Mr.
25 James David Busby.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 Q: Okay. Is that also Rachel Hammond Gulledge?

2 A: That is also Rachel Hammond Gulledge.

3 Q: Okay. So you developed James David Busby as a possible
4 suspect?

5 A: Yes, ma'am.

6 Q: Okay. Was there anything about Mr. Busby that
7 particularly led to him being a suspect?

8 A: Yes. During her interview, she gave us some information
9 that her -- Mr. Busby and the deceased, Mr. Mickey Short, was
10 having a conflict, having an argument. They were upset at
11 each other or he was upset with Mr. Busby. Mr. Busby had
12 sold him a shotgun. The shotgun was never delivered and Mr.
13 Mickey Short was upset about the shotgun never being in his
14 possession, never getting the gun from David Busby.

15 Q: Did you at some point discover the location of David
16 Busby?

17 A: Yes, I did.

18 Q: And where was he located?

19 A: During the investigation talking with Rachel, she gave
20 us information that he may be hanging out with a Nicole Deese
21 up in the Jefferson area on Plyler Road. I sent a couple of
22 detectives towards her residence and we found a white Chevy
23 pickup truck in the yard of her residence.

24 Q: Did anyone look at the tires on that particular truck?

25 A: Yes. The two detectives did notice the tires on the

1 truck and they stood out to be a mud grip terrain -- terrain
2 tire.

3 Q: Was that significant in any way?

4 A: That was very significant because Sgt. Polson showed me
5 and also -- well, Sgt. Polson showed me a fresh tire track
6 that was at our crime scene that morning.

7 Q: And what was significant about that tire track?

8 A: That tire track resembled very similar to the tire track
9 that would've been on the back of his truck, it being a mud
10 grip all-terrain tire.

11 Q: What did you do after finding out that Mr. Busby's truck
12 was located at Nicole Deese's house?

13 A: The detectives attempted to knock on the door to speak
14 with Ms. Deese. She did not answer. Then we got a follow-up
15 phone call from her. She came in. She did give us a
16 statement and we went from there.

17 Q: Okay. At some point in time, did you interview David
18 Busby?

19 A: Yes, I did.

20 Q: Okay. And in close approximation to the interview, did
21 you also seize that pickup truck?

22 A: Yes, I did.

23 Q: Did you at any point have consent to search that pickup
24 truck?

25 A: Yes, I did.

1 Q: When you first obtained consent to search that truck,
2 what did you do?

3 A: Getting into the -- I talked with Jason Catoe with --

4 Q: Just explain about what happened with the truck when you
5 began to do your search?

6 A: The truck? We took him into custody or we made contact
7 with him inside of Rachel [sic] Deese's house. I asked him
8 about searching the vehicle because I was looking for a
9 particular item. He said it wasn't in that truck. I said,
10 okay, I still need to search the vehicle. He said, okay,
11 it's not in the truck. I said I need your keys to your car.
12 He went into his pants pocket, grabbed his keys, handed them
13 to me. I put him in handcuffs and we walked outside and
14 looked in -- started searching his truck.

15 Q: Okay. Was anything found in the truck at that time?

16 A: Yes.

17 MS. COPELAND-LITTLE: Your Honor, I object to the
18 voluntariness of any consent that my client gave.

19 THE COURT: Noted.

20 BY MS. JOHNSON-LEE:

21 A: During -- during the search of the vehicle, myself and
22 Sgt. Burns started searching the vehicle. I was on the
23 passenger side. He was on the driver's side. While I was on
24 the passenger side looking, I noticed Sgt. Burns searching
25 the rear driver compartment floorboard of this vehicle. He

1 was at a set of boots --

2 MS. COPELAND-LITTLE: Your Honor --

3 A: -- that was in the back.

4 MS. COPELAND-LITTLE: I'm objecting to anything obtained
5 in that search for previous reasons.

6 THE COURT: Noted.

7 BY MS. JOHNSON-LEE:

8 Q: Please continue.

9 A: While he was in the back driver's side compartment, I
10 noticed he was at the boots. There was a set of boots right
11 behind the driver -- driver's seat. I noticed there was a
12 black in color what I -- what I would know to be a T-shirt
13 inside one of the boots. I continued doing my search. I
14 heard Sgt. Burns say look what I found. I looked up. He had
15 two documents in his hand, one being a driver's license, I
16 believe, and one being a debit card. We also found a Social
17 Security card in the boot, and they were all from belonging
18 to Mickey Short.

19 Q: What did you do once those items were discovered?

20 A: At that point, I stopped the search. I advised Sgt.
21 Burns to put everything back in place because we didn't know
22 we were going to find that. I told him to put everything
23 back in place. We locked -- shut the doors and locked the
24 doors. I called for our county wrecker. Lt. Troy Timney at
25 the time came out with the wrecker. He placed it on the back

1 of our county rollback. He secured it and I followed it back
2 to the Sheriff's Office where we secured it in the bay of the
3 Sheriff's Office.

4 Q: Did you request a search warrant for a search of the
5 vehicle?

6 A: I then obtained a search warrant for the -- for the tire
7 impressions on the back and also for the contents inside. We
8 were also looking for a shotgun because we knew at the time
9 our victim, Mr. Short, was shot with a shotgun. So we were
10 looking for that shotgun as well.

11 Q: And who actually processed the interior of that truck?

12 A: Again, I called State Law Enforcement. They sent crime
13 scene out and they processed the vehicle.

14 Q: And who did the tire impressions on that truck?

15 A: State Law Enforcement.

16 Q: Okay. Now, did you take some photos during the course
17 of the investigation?

18 A: Yes.

19 MS. JOHNSON-LEE: Permission to approach?

20 THE COURT: Certainly.

21 BY MS. JOHNSON-LEE:

22 Q: I'm going to show you what's marked for identification
23 as State's Exhibits 26 through 74. Do you recognize those
24 photographs?

25 A: Yes, I do.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 Q: Did you take those photographs?

2 A: Yes, I did.

3 Q: Okay. Are they an accurate depiction of the truck and
4 the scene as you photographed it on the day in question?

5 A: Yes. Yes, they are.

6 Q: And do you know what day you took those photos?

7 A: I'm thinking around the 22nd, June 22nd.

8 Q: Okay. Was it Wednesday or Thursday?

9 A: It was either Wednesday or Thursday. I don't remember
10 exactly.

11 Q: Was it the day before the first interview or the day of
12 the first interview?

13 A: It was the day -- I believe it was the day of the first
14 interview. I believe so.

15 MS. JOHNSON-LEE: The State moves to have those photos
16 entered into evidence.

17 MS. COPELAND-LITTLE: Your Honor, I object to the
18 admission of those as fruits of an unlawful search and
19 seizure, for privacy and unlawful involuntariness of any
20 alleged consent.

21 THE COURT: All right. Objection is overruled. They're
22 in.

23 (WHEREUPON, State's Exhibits Number 26 through 74,
24 photographs, were admitted into evidence.)

25 MS. JOHNSON-LEE: Thank you, Your Honor.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 THE COURT REPORTER: Give me a second. What numbers
2 were they? 16 through --

3 MS. JOHNSON-LEE: Not these. Not these.

4 THE COURT REPORTER: Oh.

5 MS. JOHNSON-LEE: Numbers 26 through --

6 THE COURT REPORTER: 74.

7 MS. JOHNSON-LEE: -- 74.

8 THE COURT REPORTER: Thank you. Okay.

9 BY MS. JOHNSON-LEE:

10 Q: And can you just go briefly through and describe each of
11 those photographs?

12 A: 26 is the driver's side front compartment of the white
13 Chevy vehicle of Mr. Busby's.

14 MS. JOHNSON-LEE: Judge, can we put those on the
15 overhead so that the jurors can look at them as he is
16 describing what they are?

17 THE COURT: You sure can.

18 MS. JOHNSON-LEE: Let me get the screen down.

19 MR. REDMOND: And with the Court's permission, can I dim
20 the lights again?

21 THE COURT: Yes, sir.

22 MS. JOHNSON-LEE: The same is on the screen.

23 BY MS. JOHNSON-LEE:

24 Q: I'm going to hand these back to you. Please read the
25 exhibit number and then describe the photograph for the jury?

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 A: This is 26. It's the interior driver compartment of the
2 white Chevy pickup truck of Mr. Busby.

3 27 is the driver's side. I'm taking a picture of the
4 back floorboard compartment of the driver's side where the
5 boots were that we found the items in.

6 28. 28 is also the back driver's side compartment.
7 It's upside down, but the back driver's side compartment.

8 29 is the back of -- back of the truck.

9 Q: Okay.

10 A: 30 is the back of the truck as well.

11 31 is the -- I believe that's going to be the -- that's
12 the right rear tire of his vehicle and that is on our county
13 rollback right there. I think that's the right rear tire of
14 it.

15 32 is also a picture of the right rear tire.

16 33. 33 is -- I believe 33 is also the right rear tire.

17 34 is a duplicate, right rear tire.

18 35 would be a left rear tire.

19 36 is also a left rear. That's up close of it.

20 37 again is a left rear.

21 38 is also a left rear.

22 39 is an impression. It's a tire impression where the
23 vehicle -- where the vehicle sat when we pulled it off the
24 lot, pulled it out of the front yard.

25 40 is also an impression.

1 41 is an impression from where we towed it from the
2 vehicle -- from the front yard.
3 42 is also an impression.
4 43 is an impression.
5 44 is also an impression.
6 45 is as it -- as it sits in the yard. That picture is
7 where it's sitting in the yard at Nicole Deese's house.
8 46 is also sitting in the yard of Nicole Deese.
9 47 is the impression it left when we rolled it.
10 48 is the driver -- passenger side front rear tire.
11 49 is an up close of that tire.
12 50 is also another up close of that tire.
13 51 is an up close of that tire.
14 52 is the driver's side front tire and the fender.
15 53 is an up close of that tire.
16 54 is also a picture of the tire.
17 55 would be a rear tire because that's the muffler in
18 front of it.
19 56 is an up close of the tire.
20 57 is an up close of the tire.
21 58 is also an up close.
22 59 is a rear shot of the tire because of the muffler at
23 the top of it.
24 60 as well.
25 61 is the right rear tire.

1 62 is the -- is a picture, you know, away from -- away
2 from the -- in the front yard, to the right of the front yard
3 right as I would stand as in the right.

4 Q: In whose front yard?

5 A: Nicole Deese.

6 63 would be the tag number on that vehicle.

7 64 is the passenger side of that vehicle.

8 65 is the driver's side of the vehicle.

9 66 is the left rear.

10 67 is a tire.

11 68 is a tire.

12 69 is an impression from the tire left in the dirt.

13 70 an impression -- 70 a tire.

14 71 is a tire.

15 72 is a tire.

16 73 is a tire.

17 And 74 is a tire. And all those tires were on Mr. James
18 Busby's truck.

19 Q: Did you also do some Google Earth photos of the scene at
20 Hurst Cemetery Lane?

21 A: Yes, I did.

22 Q: The location?

23 MS. JOHNSON-LEE: I'm going to -- permission to
24 approach?

25 BY MS. JOHNSON-LEE:

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 Q: I'm going to show you what's marked as State's Exhibits
2 92 and 93 for identification. Do you recognize those?

3 A: Yes.

4 Q: Okay. And what do those depict?

5 A: This is a Google Earth picture of the incident location.
6 It shows the city of Chesterfield. It shows Wamble Hill. It
7 shows Hurst Cemetery Lane. And we have a -- there's a red
8 dot showing the location where we were at.

9 MS. JOHNSON-LEE: Your Honor, at this time, the State
10 offers those two exhibits for admission into evidence.

11 MS. COPELAND-LITTLE: No objection.

12 THE COURT: In without objection.

13 (WHEREUPON, State's Exhibit Number 92 and State's
14 Exhibit Number 93, Google Earth photographs, were
15 admitted into evidence.)

16 THE COURT REPORTER: 92 and 93?

17 MS. JOHNSON-LEE: Yes, ma'am.

18 THE COURT REPORTER: Okay.

19 BY MS. JOHNSON-LEE:

20 Q: Okay. In looking at the big screen, which exhibit
21 number is that and can you describe it for the jury?

22 A: That's going to be Exhibit Number 93. The dirt road
23 comes off of Wamble Hill, which is the paved road.

24 Q: Let me stop right there.

25 MS. JOHNSON-LEE: Judge, can he come down and point to

1 --

2 THE COURT: Yes, ma'am.

3 MS. JOHNSON-LEE: -- the screen for the jury?

4 (WHEREUPON, the witness complied.)

5 BY MS. JOHNSON-LEE:

6 A: This is Wamble Hill Road. Highway 9 would be back here.

7 The town of Chesterfield would be over in here. This is

8 Hurst Cemetery Lane and this is the approximate location

9 where we found him, Mr. Short.

10 Q: And the next one?

11 A: This is -- this is just a wider picture. This is the

12 city of Chesterfield. Highway 9. This is Wamble -- Wamble

13 Hill Road. This is the dirt road of Hurst Cemetery Lane.

14 Again, this is the approximate location where we found Mr.

15 Short and the vehicle involved.

16 Q: Where would Edwards Elementary School be in relation to
17 that photograph?

18 A: I believe that is it right there.

19 Q: Thank you.

20 (WHEREUPON, the witness returned to the stand.)

21 MS. JOHNSON-LEE: I beg the Court's indulgence.

22 BY MS. JOHNSON-LEE:

23 Q: During the course of your investigation, did you also
24 obtain some cell phone records through search warrants?

25 A: Yes, I did.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 MS. JOHNSON-LEE: I beg the Court's indulgence.

2 Permission to approach?

3 THE COURT: Uh-huh.

4 BY MS. JOHNSON-LEE:

5 Q: I'm going to show you what's marked for identification
6 as State's Exhibits 94, 95, 96, 97, 98, and 99. Can you
7 identify what those items are?

8 A: Yes, ma'am. 94 would be a certificate of authentication
9 from Verizon. I conducted a search warrant for Verizon cell
10 phone records. 95 would be a --

11 Q: Can you tell what records those would be?

12 A: Target number -- it only tells me a target number. I'd
13 have to look through there.

14 Q: And what is the target number?

15 A: The last four is 0492.

16 Q: Okay.

17 A: I'd just have to dig through it. This authentication
18 goes with Exhibit 97.

19 Q: Which is?

20 A: Which is cell phone records.

21 Q: Okay.

22 A: Those are from Verizon. 95 is an authentication from T-
23 Mobile.

24 Q: For what number?

25 A: That's for 704-670-4405. That coincides with Exhibit

1 98, and those are cell phone records as well.

2 And 96, it is a certificate of authentication from
3 Verizon for 2290, and that's for Exhibit 99.

4 MS. JOHNSON-LEE: Your Honor, at this time, the State
5 would move to offer those into admission for evidence.

6 MS. COPELAND-LITTLE: I beg the Court's indulgence for
7 just one moment. No objection.

8 THE COURT: In without objection.

9 (WHEREUPON, State's Exhibit Number 94, Verizon
10 authentication, State's Exhibit Number 95, T-Mobile
11 authentication, State's Exhibit Number 96, Verizon
12 authentication, State's Exhibit Number 97, Busby cell
13 phone records, State's Exhibit Number 98, Parker cell
14 phone records, and State's Exhibit Number 99, Short cell
15 phone records, were admitted into evidence.)

16 BY MS. JOHNSON-LEE:

17 Q: Now, during the course of the investigation, did you
18 conduct interviews with the defendant, James David Busby?

19 A: Yes, we did.

20 Q: Okay. How many interviews did you conduct with him?

21 A: I personally sat in on one of two.

22 Q: Okay.

23 A: I know of two.

24 Q: And as a result of those interviews, did you look for
25 evidence at some location in the county?

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 A: Yes, I did. During our investigation, he led us to Lake
2 Terry up in the Jefferson area, again which is within, I
3 believe, I would say less than a quarter of a mile from where
4 we located him at Nicole Deese's house. There's a lake up
5 there on Lake Terry Road called Lake Terry, and he took us to
6 a wooded area just past Lake Terry and he took us also to the
7 lake itself.

8 MS. JOHNSON-LEE: Permission to approach?

9 THE COURT: Yes.

10 BY MS. JOHNSON-LEE:

11 Q: I'm going to show you what's marked for identification
12 as State's Exhibit 16 through 25. Do you recognize those
13 items?

14 A: I do.

15 Q: And what do those items depict?

16 A: This is going to be the wooded area off of Lake Terry
17 Road just past the lake in the Jefferson area.

18 Q: Okay. Okay. Those didn't make it onto the screen. So
19 if you'll just describe each photograph with the number, just
20 to let the --

21 MS. JOHNSON-LEE: Can he come down and show the jury?

22 THE COURT: He sure can.

23 (WHEREUPON, the witness complied.)

24 BY MS. JOHNSON-LEE:

25 A: Number 16 -- I guess it's 16 -- is a dirt portion of

1 Lake Terry Road. As a matter of fact, the black vehicle seen
2 there is my F-150, department-issued F-150, and that's going
3 to be Lake Terry Road and that's the wooded side.

4 Number 17 would be probably stepping out of my passenger
5 side door on Lake Terry Road. It's a wooded area and, if we
6 follow this washout and dirt path into the woods, this is
7 where Mr. Busby took us where we recovered a shotgun.

8 MR. REDMOND: Your Honor, I hate to interrupt, but
9 actually I thought that was the picture from the lake from
10 the DNR dive. We do have those pictures up. So if the Court
11 would indulge us, we can jump right straight into it.

12 MS. JOHNSON-LEE: We'd move to have those photographs
13 put into evidence, Your Honor.

14 MS. COPELAND-LITTLE: Your Honor, I object for previous
15 reasons of --

16 THE COURT: So noted.

17 MS. COPELAND-LITTLE: -- voluntariness.

18 THE COURT: So noted. But they're in.

19 (WHEREUPON, State's Exhibits Number 16 to 25,
20 photographs, were admitted into evidence.)

21 (WHEREUPON, the witness returned to the stand.)

22 BY MS. JOHNSON-LEE:

23 A: Again 16. This would be 16. Again, this is Lake Terry
24 Road. That's the dirt portion. Again, that's going to be --
25 that's the driver's side of my department-issued F-150 pickup

1 truck.

2 17, again that's probably -- that's going to be at my
3 passenger side door on Lake Terry Road where you walk into
4 the woods where David Busby told us where -- where the
5 shotgun would be at.

6 Number 18 is another close-up shot of the path that we
7 took going towards where the shotgun was buried.

8 Number 19, just on the other side of that little small
9 tree is, like, a -- almost like a cave or a culvert on the --
10 it would be on the left side of that pine tree.

11 20 is a farther back shot of 19.

12 21 is a closer shot where we found and dug up the
13 shotgun.

14 22 is another closer shot.

15 23, if you look ever so closely, you can see the wood
16 barrel of the shotgun laying on its side.

17 MS. JOHNSON-LEE: And if we could have Investigator
18 Jordan come down, because it's difficult to see without
19 pointing out to the jury.

20 (WHEREUPON, the witness complied.)

21 BY MS. JOHNSON-LEE:

22 A: Right there is what I'm talking about.

23 Q: And what is that?

24 A: That is going to be the metal part of the shotgun.

25 Probably it's going to be one of the sides of the shotgun

1 because it was laying side up or on its side.

2 (WHEREUPON, the witness returned to the stand.)

3 BY MS. JOHNSON-LEE:

4 A: 24 is again the -- sort of the big, I guess, hole inside
5 the ground.

6 25, you can see the gun fairly well now because we have
7 moved back some of the pine straw, some of the -- some of the
8 dirt from the gun.

9 Q: Okay. Now, was the gun in one piece?

10 A: It was in -- if I'm not mistaken, it was in two,
11 possibly three pieces.

12 Q: Okay.

13 A: I believe it was in two or three pieces.

14 MS. JOHNSON-LEE: Can I get some assistance?

15 MR. REDMOND: Sure. Permission to approach, Your Honor?

16 BY MS. JOHNSON-LEE:

17 Q: I'll show you what's marked for identification as
18 State's Exhibits 102, 104, and 103. Can you identify those
19 items for the Court?

20 A: This would be a single-barrel shotgun.

21 Q: Are these the items that you recovered from the scene
22 where David Busby told you you would find it?

23 A: Yes, it is.

24 MS. JOHNSON-LEE: At this time, I would ask that the gun
25 be put into evidence, the three pieces, as an exhibit for the

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 State, Numbers 102, 104, and 105.

2 THE COURT: Three.

3 MR. REDMOND: Three.

4 MS. JOHNSON-LEE: Excuse me. I'm sorry, 103.

5 MS. COPELAND-LITTLE: The defense objects as fruit of
6 involuntary statement.

7 THE COURT: Noted. Overruled.

8 (WHEREUPON, State's Exhibits Number 102, 103, and 104,
9 three pieces of a shotgun, were admitted into evidence.)

10 THE COURT REPORTER: Okay. Hold on. Wait. 102, 103,
11 and 104?

12 MS. JOHNSON-LEE: Yes, ma'am.

13 THE COURT REPORTER: Okay.

14 BY MS. JOHNSON-LEE:

15 Q: Now, you also took some pictures up at Lake Terry?

16 A: Yes.

17 MS. JOHNSON-LEE: Permission to approach?

18 Q: I'm going to show you what's been marked for
19 identification as State's Exhibits 75 through 91. Do you
20 recognize those photos?

21 A: Yes, I do.

22 Q: And what do those photos depict?

23 A: Those are pictures that I took out at Lake Terry the day
24 we found the glove, shotgun shell, spent shotgun shell, a
25 wrench, a white plastic bag with these items in it.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 Q: Okay. Who actually recovered those items from Lake
2 Terry?

3 A: The dive team from the DNR department.

4 Q: Department of Natural Resources?

5 A: That's correct.

6 Q: Okay. And you took those photographs?

7 A: I took these photographs.

8 Q: And are they a true and accurate depiction of the scene
9 that day at Lake Terry as those items are being recovered?

10 A: Yes, it is.

11 Q: Okay.

12 MS. JOHNSON-LEE: The State would move to have those
13 items offered into evidence.

14 MS. COPELAND-LITTLE: Continue to object for previously
15 stated reasons.

16 THE COURT: Noted. Overruled.

17 (WHEREUPON, State's Exhibits Number 75 through 91,
18 photographs, were admitted into evidence.)

19 THE COURT REPORTER: Hold on. What's the numbers?

20 MS. JOHNSON-LEE: Number 75 through 91.

21 THE COURT REPORTER: Thank you.

22 BY MS. JOHNSON-LEE:

23 Q: And how did you know to go to Lake Terry to look for the
24 items that were found there?

25 A: Prior to going there, Mr. Busby through an interview

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 with us told us to go out to Lake Terry because he threw
2 these items in there to hide them from another person of
3 interest during the investigation.

4 Q: Now, you did do interviews with him, as you said
5 earlier. Were those interviews recorded?

6 A: Those were recorded video/audio at the Sheriff's Office
7 interview room.

8 Q: And you've had a chance to review those videos?

9 A: Yes, ma'am.

10 Q: Okay.

11 MS. JOHNSON-LEE: I beg the Court's indulgence.

12 BY MS. JOHNSON-LEE:

13 Q: This flash drive is already in evidence as State's
14 Exhibit 1. Does this flash drive contain the interviews?

15 A: If you put them on there, then -- I mean I can't say. I
16 did not put those interviews on that flash drive.

17 Q: Did you turn those interviews over to the Solicitor's
18 Office?

19 A: I sure did.

20 Q: Did you do anything to change those interviews before
21 you turned them over to the Solicitor's Office?

22 A: No, I did not.

23 Q: Did you delete anything or add anything to those
24 interviews before you turned them over to the Solicitor's
25 Office?

1 A: No, I did not.

2 Q: Okay.

3 MS. JOHNSON-LEE: Your Honor, the State requests
4 permission to publish those interviews to the jury.

5 MS. COPELAND-LITTLE: Over my objection, Your Honor.

6 THE COURT: All right. Objection is noted. It's
7 overruled.

8 MS. JOHNSON-LEE: Can they see? I just need to know if
9 I need to move this.

10 (WHEREUPON, there was a pause in the proceedings as
11 counsel conferred.)

12 (WHEREUPON, State's Exhibit Number 1, video statements,
13 was played.)

14 (WHEREUPON, the video was stopped and the jury exited
15 the courtroom and there was a pause in the proceedings,
16 after which the proceedings resumed as follows.)

17 MR. REDMOND: I talked with Ms. Copeland-Little. There
18 are several photos. I've got them in folders individually
19 marked from each scene. One of our witnesses, Dawn Claycomb,
20 took photos from the crime scene, from the Chevy as it was
21 processed, and some tire impressions.

22 Rather than waste the time to mark them all now, the
23 defense isn't going to have objections to the photos and the
24 tire impressions. And as it relates to the photos of the
25 Chevy being processed, the defendant's vehicle, she would

1 only make her objection based upon the previous objections
2 regarding the search.

3 With that said, we are in a position to publish those
4 photos while we have Ms. Claycomb here and if we could mark
5 them after we've finished that since we've agreed that
6 they'll come in, subject to the objection. It's just to save
7 time. We could actually mark them. I've already got them in
8 order in their delineated folders.

9 MS. COPELAND-LITTLE: Yes, sir. Just so long as I can
10 just make that quick objection on the record.

11 MR. REDMOND: We just wanted to make sure that was okay
12 with the Court because that's unusual doing it that way, but
13 to save time.

14 THE COURT: That's fine. Just make sure you get them
15 marked at some point.

16 MR. REDMOND: And I've got them here in order. As a
17 matter of fact, I'll go ahead and put them up there.

18 MS. COPELAND-LITTLE: We might need to ask the court
19 reporter if that's okay with her.

20 MR. REDMOND: Yes. I was going to say is that okay, Ms.
21 Court Reporter? I will keep them in order. I've got them in
22 order here.

23 (WHEREUPON, the photographs later marked as State's
24 Exhibits Number 122 through 198, were admitted into
25 evidence.)

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 MR. REDMOND: Your Honor, with that, I think we're
2 ready. We've got about, I think, 12 or 13 minutes left on
3 the video and then we'll be done with that video and I think,
4 as we discussed during the break, to again save time, we've
5 got Investigator Jordan here, as well as Joey Carnes coming
6 back tomorrow. We can actually play the second interview
7 tomorrow if we recall him or call Investigator Carnes.

8 But with that, Your Honor, I think we're ready to
9 proceed.

10 THE COURT: Bring them in.

11 (WHEREUPON, the jury entered the courtroom.)

12 THE COURT: All right. You may continue.

13 (WHEREUPON, the video resumed playing and was then
14 stopped at the end.)

15 BY MS. JOHNSON-LEE:

16 Q: Investigator Jordan, why do you use foul language when
17 interviewing a suspect?

18 A: Sometimes you have to get on their level so they'll
19 understand what you're saying.

20 Q: Do you lie to suspects in an effort to get to the truth?

21 A: Sometimes we tell them -- sometimes we do lie to them to
22 see if they're going to tell us the truth.

23 Q: And was that done in this situation?

24 A: Some of the -- some of the -- we did. We did. We did
25 fabricate a little bit of it. We didn't fabricate it all.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 Q: And going back to some of what the defendant said, did
2 he initially say that he didn't know anything about the
3 killing?

4 A: That's correct. Initially, he didn't know anything. He
5 didn't know what we were talking about. He didn't have any
6 knowledge of the incident. And then he rolls into giving us
7 a -- you know, putting himself there at the scene.

8 Q: And who does he claim killed Mickey?

9 A: He told -- he tells us that --

10 MS. COPELAND-LITTLE: Your Honor, I'm going to object
11 here because we all just heard what he said and I don't
12 believe that the jury needs him to para -- to rephrase it.
13 The jury heard what was said.

14 THE COURT: I agree. Next question.

15 MS. JOHNSON-LEE: Yes, Your Honor. I beg the Court's
16 indulgence.

17 BY MS. JOHNSON-LEE:

18 Q: Investigator Jordan, did you obtain the cell history and
19 location data on Kenneth Parker's cell phone?

20 A: Yes.

21 Q: And were those records sent to the State Law Enforcement
22 Division?

23 A: Yes.

24 Q: And after those records were examined by the State Law
25 Enforcement Division, were those charges against Kenneth

1 Parker dismissed?

2 A: That's what I was told. I mean I don't have any direct
3 knowledge, but that's what I was told.

4 Q: And who did you receive that information from?

5 A: The deputy solicitor, Mr. Redmond.

6 MS. JOHNSON-LEE: That's all the questions I have today
7 for you.

8 THE WITNESS: Thank you.

9 MS. COPELAND-LITTLE: All right. I think everybody is
10 getting tired. I'm going to try to speak up and wake
11 everybody up and maybe Madam Court Reporter can hear what I
12 say.

13 CROSS-EXAMINATION

14 BY MS. COPELAND-LITTLE:

15 Q: Now, Detective, you did state that sometimes you tell a
16 lie to a defendant during an interview?

17 A: That is an investigation tool. Yes, ma'am.

18 Q: All right. And then so did we hear you tell Mr. Busby
19 that his truck was locked on the day before the interview?

20 A: Yes, you did.

21 Q: Okay. And so did you try to get into his truck on the
22 day before the interview, which would have been June 20th?

23 A: Not physically, but we could look inside and see that it
24 was locked.

25 Q: Okay. So you didn't check it, test the door? You just

1 looked in there?

2 A: No, ma'am. We could look inside the car.

3 Q: All right. Now, you stated that after you picked up Mr.
4 Busby, he gave you permission to search his truck?

5 A: He gave me verbal consent. Yes, he did.

6 Q: All right. And did you preserve that consent on any
7 kind of a recording, body cam?

8 A: No.

9 Q: Anything like that?

10 A: No, ma'am. My unit does not wear body-worn cameras.

11 Q: All right. Were there any law enforcement officers
12 present, uniformed, that would've had a body cam?

13 A: There was one or two on the outside. This was done on
14 the inside in the back rear bedroom.

15 Q: All right. So you were the -- were you the only officer
16 inside the house?

17 A: I was the only officer inside the bedroom. There was
18 one, maybe two more inside the living room quarters, kitchen
19 quarters of the trailer.

20 Q: All right. But it's your testimony that as far as you
21 know nobody else out of all those officers there heard my
22 client give a consent?

23 A: To my knowledge, no.

24 Q: Now, all right. You -- and you've testified, I believe
25 -- wait a minute. I'm sorry. Let me ask you this. How did

WAYNE JORDAN - CROSS BY MS. COPELAND-LITTLE

1 you get the keys to -- from David to go in his truck?

2 A: I asked him for them and he said they were in his pants
3 pocket. He went inside of his pants pocket, retrieved his
4 keys, and handed them to me.

5 Q: Well, isn't it true that he was already in cuffs at that
6 time?

7 A: No, it's not.

8 Q: So you didn't reach in his pocket and pull his keys out?

9 A: No, I did not.

10 Q: All right. The video that we just looked at, did you
11 see the part where some ladies came in and put a swab in Mr.
12 Busby's mouth?

13 A: Yes, I did.

14 Q: All right. Did you hear anybody ask him if he -- if he
15 -- if they had permission to take his saliva?

16 A: Did I hear it? I don't think I did.

17 Q: Okay. Did you -- did you notice if it looked like he
18 signed a form?

19 A: Yes, he did.

20 Q: Did it look like he read the form before he signed it?

21 A: He questioned the form and asked what it was.

22 Q: All right. Well, did anybody read him the form?

23 A: I believe the SLED agent did, yes. She asked his name.
24 She filled it out. She asked his date of birth. She filled
25 that out.

WAYNE JORDAN - CROSS BY MS. COPELAND-LITTLE

1 Q: Did she tell him what the form was for?

2 A: She told him what the form was for, yes.

3 Q: Okay.

4 A: That's what I remember. That's what I remember on the
5 video, a buccal swab of your mouth.

6 Q: All right. Now, when you were present at that interview
7 and when you just watched it now, did Mr. Busby sound like he
8 might've been intoxicated?

9 A: No.

10 Q: You didn't -- you didn't think he sounded doped up?

11 A: No.

12 Q: He wasn't slurring his words?

13 A: Not to me he wasn't.

14 Q: You could understand what he said?

15 A: Sure.

16 MS. COPELAND-LITTLE: No further questions, Your Honor.

17 MR. REDMOND: I beg the Court's indulgence.

18 REDIRECT EXAMINATION

19 BY MS. JOHNSON-LEE:

20 Q: When the videos are made in that interview room at the
21 Sheriff's Office, is there a problem with the sound quality?

22 A: Again, that room has terrible acoustics.

23 Q: Okay.

24 A: It's cinder brick, cinderblock walls. So it's just got
25 terrible acoustics in it.

WAYNE JORDAN - RREDIRECT BY MS. JOHNSON-LEE

1 Q: Okay. Is there a difference in how the sound is
2 watching it on the video here today versus when you're there
3 in person interviewing someone?

4 A: Yes. Because we're face-to-face with them. We're a
5 table away from them, the width of the table away. So we can
6 hear them perfectly inside the interview room.

7 Q: The sound of what we heard today, was it a little bit
8 distorted as compared to the way you heard it on the day in
9 question?

10 A: Yes, it is.

11 MS. JOHNSON-LEE: That would be all. No further
12 questions. Please answer any other questions Ms. Little has.

13 MS. COPELAND-LITTLE: No more, Your Honor.

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

15 MS. JOHNSON-LEE: Anna Tankersley.

16 THE CLERK: Do you swear or affirm to tell the truth,
17 the whole truth, and nothing but the truth, so help you God?

18 THE WITNESS: I do.

19 THE CLERK: Thank you.

20 ANNA TANKERSLEY, being first
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. JOHNSON-LEE:

24 Q: Please state your name?

25 A: My name is Anna Tankersley.

1 Q: Where are you employed?

2 A: I'm a special agent with the South Carolina Law
3 Enforcement Division, commonly known as SLED.

4 Q: Okay. We're having a problem in the courtroom with the
5 sound and the microphones aren't really working. So if you
6 could lean in real close and just talk really loud.

7 A: Is that a little bit better?

8 Q: A little bit. Thank you. How long have you been with
9 the South Carolina Law Enforcement Division?

10 A: For three years.

11 Q: What is your job there?

12 A: I'm a crime scene investigator.

13 Q: How long have you been a crime scene investigator?

14 A: For those three years.

15 Q: Okay. What type of training do you have to have to
16 become a crime scene investigator?

17 A: When I got hired by the crime scene unit, I had to
18 complete in-house training, which took a little over a year.
19 That consisted of training blocks that required me to
20 complete readings, practical examinations, and written tests
21 in different crime scene investigation techniques, such as
22 crime scene documentation, crime scene photography, learning
23 about different types of evidence and how to collect and
24 preserve that evidence.

25 I also had to go to the South Carolina Criminal Justice

1 Academy to the basic law enforcement training program, which
2 was a 12-week program to become a certified police officer.
3 And during crime scene training, I also attended professional
4 training courses, such as a 40-hour week class on crime scene
5 photography and a 40-hour week class on bloodstain pattern
6 analysis.

7 Q: Have you testified in court yet?

8 A: No, ma'am.

9 Q: This is your first time?

10 A: Yes, ma'am.

11 Q: Okay.

12 MS. JOHNSON-LEE: Your Honor, based on all of her
13 training, I would ask that she be declared an expert in the
14 area of crime scene analysis.

15 THE COURT: Any objection?

16 MS. COPELAND-LITTLE: No objection.

17 THE COURT: So qualified without objection.

18 MS. JOHNSON-LEE: Thank you.

19 BY MS. JOHNSON-LEE:

20 Q: Did you have occasion to perform a crime scene analysis
21 in Chesterfield County on or about June 18th through the 26th?
22 And I'm just encompassing those days to cover the period of
23 2017.

24 A: Yes, ma'am. We were called to Chesterfield County
25 referencing a crime scene on June 19th. I also responded to

1 an autopsy on June 20th. I went back to the Chesterfield
2 Sheriff's County Office on the 21st and on June 22nd.

3 Q: Okay. And where did you first respond to on the 19th?

4 A: On June 19th, we responded to Hurst Cemetery Road.

5 Q: And that's here in Chesterfield County?

6 A: Yes, ma'am.

7 Q: What did you see upon arrival on the scene?

8 A: When my partner and I got to the scene, the scene was
9 secured by Chesterfield County Sheriff's Office prior to our
10 arrival. The victim was outside of a vehicle on the ground
11 in a field.

12 Q: And was there -- and I believe Ms. Claycomb is going to
13 get into some additional evidence, but what did you see that
14 stood out to you about this particular victim being on the
15 ground?

16 A: The victim had what appeared to be a gunshot wound to
17 the face. He was on the ground face up.

18 Q: Okay. What did you do when you got there?

19 A: I helped my partner document the scene. I took
20 photographs and I helped her collect and preserve some of the
21 evidence.

22 Q: Okay. What evidence specifically did you collect?

23 A: I don't remember exactly what I collected. I just know
24 that I helped her collect some of the items. I was in
25 training at the time.

1 Q: And she was your supervisor?

2 A: Yes. That's correct.

3 Q: And that is -- her name is?

4 A: Dawn Claycomb.

5 Q: Okay. So everything you did on the 19th was under the
6 direct supervision of Agent Dawn Claycomb?

7 A: Yes, that's correct.

8 Q: Okay. Now, at some point in time, did you go and
9 collect a buccal swab from James David Busby?

10 A: Yes. That is correct. On June 21st.

11 Q: Okay. And where was that done at?

12 A: The Chesterfield County Sheriff's Office.

13 MS. JOHNSON-LEE: I'm going to -- may I approach?

14 BY MS. JOHNSON-LEE:

15 Q: I'm going to give you State's Exhibit 2. Do you
16 recognize that document?

17 A: Yes, I do.

18 Q: And what is that document?

19 A: It's a voluntary consent to search form.

20 Q: Okay. And is that document signed by anyone?

21 A: Yes. It's signed by David Busby, and Dawn and I both
22 wrote our names on this form.

23 Q: Okay. Did you collect a buccal swab from David Busby?

24 A: Yes, I did.

25 Q: And how do you collect a buccal swab?

1 A: A buccal swab is a set of two sterile Q-tips and it is
2 rubbed on the inside of the cheeks and the mouth to collect
3 saliva for DNA.

4 Q: Okay. And what did you do with that buccal swab?

5 A: I took it to Dawn Claycomb, where it was secured.

6 Q: Okay. I'm going to show you -- I'm going to show you
7 what's marked for identification as State's Exhibit 101. Do
8 you know what that item is?

9 A: Yes. It's the buccal swab from James Busby.

10 Q: And you were the one that collected that swab initially?

11 A: Yes, that's correct.

12 Q: Okay. And after items were turned over to Dawn
13 Claycomb, where did they go?

14 A: Back to the laboratory.

15 Q: Which is where?

16 A: The SLED lab in Columbia.

17 Q: Okay.

18 MS. JOHNSON-LEE: At this time, I would move to have
19 both the buccal swab and the consent to collect the buccal
20 swab moved into evidence for the State.

21 MS. COPELAND-LITTLE: The defense objects to the
22 voluntariness of any alleged consent.

23 THE COURT: Okay. I'm going to note the objection and
24 I'm going to overrule it.

25 (WHEREUPON, State's Exhibit Number 2, voluntary consent

ANNA TANKERSLEY - DIRECT BY MS. JOHNSON-LEE

1 to search form, and State's Exhibit Number 101, Busby
2 buccal swab, were admitted into evidence.)

3 MS. JOHNSON-LEE: Thank you, Your Honor.

4 THE COURT REPORTER: The numbers again?

5 MS. JOHNSON-LEE: The swab is State's Exhibit 101 and
6 the consent is State's Exhibit 2.

7 THE COURT REPORTER: Thank you.

8 BY MS. JOHNSON-LEE:

9 Q: Now, you mentioned that you also attended the autopsy;
10 is that correct?

11 A: That's correct.

12 Q: And where was the autopsy done at?

13 A: The autopsy was done at the Newberry County Memorial
14 Hospital.

15 Q: Okay. And did you collect evidence at the autopsy?

16 A: I did not collect evidence. I only observed the autopsy
17 and evidence was transferred to me after the completion of
18 the autopsy.

19 Q: Okay. Now, what is the difference between collecting
20 evidence versus having evidence transferred to you?

21 A: I did not collect anything from the victim. It was
22 given to me by the person who did collect it.

23 Q: Okay. And that would be?

24 A: Dr. Ross.

25 Q: Dr. Janice Ross?

1 A: Yes, ma'am.

2 Q: Okay. I'm going to hand you what's already, I believe,
3 in evidence as State's Exhibit 6. Do you recognize those
4 items?

5 A: The items in the envelopes are items that Dawn and I had
6 collected on scene, but the item in the plastic envelope was
7 transferred to me after autopsy was completed by Dr. Ross.

8 Q: Okay. Which item was transferred to you from Dr. Ross?

9 A: The ballistics from the victim.

10 Q: Okay.

11 THE COURT REPORTER: I didn't hear that.

12 Q: Can you speak up a little louder?

13 A: The plastic envelope labeled ballistics from the victim.

14 Q: Okay. And Dr. Ross gave those directly to you and you
15 carried them where?

16 A: I took them back to the lab.

17 Q: Okay. Now, did you also get a blood standard from Dr.
18 Ross?

19 A: Yes. I believe that was in a tube of blood.

20 Q: Okay. I'm going to show you what's marked as State's
21 Exhibit 7. Do you recognize that item?

22 A: I do recognize the tube of blood, yes. It was
23 transferred to me after autopsy.

24 Q: Okay. And that was transferred to you by Dr. Ross?

25 A: Yes.

ANNA TANKERSLEY - DIRECT BY MS. JOHNSON-LEE

1 Q: And is that a blood standard from the victim, Mickey --
2 Farris Mickey Short?

3 A: Yes.

4 Q: And what did you do with that?

5 A: I took it back to the lab and transferred it to Dawn
6 Claycomb.

7 Q: Okay.

8 MS. JOHNSON-LEE: I beg the Court's indulgence.

9 Thank you, Agent Tankersley. Please answer any
10 questions that Ms. Copeland-Little has.

11 CROSS-EXAMINATION

12 BY MS. COPELAND-LITTLE:

13 Q: Agent Tinkerton [sic], when you went to collect Mr.
14 Busby's saliva at the detention center, he was cuffed, was he
15 not?

16 A: Yes, that's correct.

17 Q: Okay. And do you recall if you told him why you were
18 there and what you were doing?

19 A: I don't recall if I told him that or not.

20 Q: Okay. Did you ever ask him if he agreed to give his
21 saliva?

22 A: The Sheriff's Office told me that he had consented to
23 give his DNA.

24 Q: Okay. But did you ask him yourself?

25 A: No, ma'am, I did not.

ANNA TANKERSLEY - CROSS BY MS. COPELAND-LITTLE

1 Q: Okay. All right. Why did you swab his -- I'm sorry.
2 Wait a minute. Do you recall whether or not he signed a form
3 at that time?

4 A: He did not sign one at that time.

5 Q: Okay. So you admit that you swabbed his mouth before he
6 signed any alleged consent?

7 A: The Sheriff's Office had told me he gave consent.

8 Q: Well, if he already gave consent, why did you ask him to
9 sign that form after you took his saliva?

10 A: I wanted his signature saying he gave consent.

11 Q: After it was already done?

12 A: Yes. That is correct.

13 MS. COPELAND-LITTLE: No further questions.

14 MR. REDMOND: I beg the Court's indulgence.

15 REDIRECT EXAMINATION

16 BY MS. JOHNSON-LEE:

17 Q: Agent Tankersley, if the videotape reflected something
18 different, would you agree that the videotape would be more
19 correct than the recollection?

20 A: Can you rephrase your question?

21 Q: Would you agree that what is on video may be more
22 correct than your recollection today, if it's different?

23 A: Yes.

24 Q: Okay.

25 MS. JOHNSON-LEE: Thank you. No further questions.

1 MS. COPELAND-LITTLE: No.

2 MS. JOHNSON-LEE: And we would ask that Agent Tankersley
3 be excused.

4 THE COURT: Any objection?

5 MS. COPELAND-LITTLE: No objection.

6 THE COURT: Thank you.

7 THE WITNESS: Thank you, Your Honor.

8 MR. REDMOND: Your Honor, the State would next call Dawn
9 Claycomb. And while we're doing that, if I could beg the
10 Court's indulgence.

11 THE CLERK: Do you swear or affirm to tell the truth,
12 the whole truth, and nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Thank you, ma'am.

15 MR. REDMOND: Take the stand, please.

16 Before we talk, I talked with Ms. Copeland-Little and
17 subject to her objections that she's been preserving on
18 issues regarding other matters that were heard earlier, we
19 have agreed that from a foundational standpoint, State's
20 Exhibits 105 -- and they are reflected on Madam Court
21 Reporter's sheet. So if I can avoid having to name each one
22 individual, I'll just refer to the numbers.

23 105 through -- it looks like 105 through -- that's 120
24 and that's --

25 THE COURT REPORTER: That's 121.

1 MR. REDMOND: Okay. Through 121 would be admitted at
2 this time subject to her preserving the objections that she
3 had raised earlier.

4 Now, as it relates to pictures, they are unnumbered
5 pictures at this time. Again, as we stated earlier, to
6 preserve time that she's had a chance to review and again
7 subject to her objections as it relates to her earlier
8 motions, we agree that they are admissible and we will mark
9 those numbers at the appropriate time after with the court
10 reporter after the proceedings today, but I wanted to just go
11 ahead and to save time to go ahead and move those items that
12 we had a chance to view earlier into evidence, subject to her
13 objections.

14 MS. COPELAND-LITTLE: Certainly, Your Honor, just
15 subject to my previous objections about voluntariness of any
16 alleged consent and any fruits of unlawful search.

17 THE COURT: Objections are noted and you may proceed
18 with that agreement.

19 (WHEREUPON, State's Exhibit Number 105, swabs, was
20 admitted into evidence.)

21 (WHEREUPON, State's Exhibit Number 106, bat, was
22 admitted into evidence.)

23 (WHEREUPON, State's Exhibit Number 107, flashlight, was
24 admitted into evidence.)

25 (WHEREUPON, State's Exhibit Number 108, Short Social

1 Security card, was admitted into evidence.)
2 (WHEREUPON, State's Exhibit Number 109, Short driver's
3 license, was admitted into evidence.)
4 (WHEREUPON, State's Exhibit Number 110, Short debit
5 card, was admitted into evidence.)
6 (WHEREUPON, State's Exhibit Number 111, glasses, and
7 State's Exhibit Number 112, glasses lens, were admitted
8 into evidence.)
9 (WHEREUPON, State's Exhibit Number 113, pants, was
10 admitted into evidence.)
11 (WHEREUPON, State's Exhibit Number 114, tire impression
12 transparency, was admitted into evidence.)
13 (WHEREUPON, State's Exhibits Number 115 and 116,
14 photographs, were admitted into evidence.)
15 (WHEREUPON, State's Exhibit Number 117, tire impression
16 boards, was admitted into evidence.)
17 (WHEREUPON, State's Exhibit Number 118, latent swabs,
18 was admitted into evidence.)
19 (WHEREUPON, State's Exhibits Number 119 and 120, latent
20 print reports, were admitted into evidence.)
21 (WHEREUPON, State's Exhibit Number 121, crime scene
22 report, was admitted into evidence.)
23 MR. REDMOND: Thank you, Your Honor. And while we're
24 doing that, Your Honor, before I -- I'm sorry.
25 THE COURT REPORTER: You just -- you admitted something?

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 MR. REDMOND: Yes, 105 through 121. I apologize.

2 THE COURT REPORTER: Okay.

3 THE COURT: They're in.

4 MR. REDMOND: Thank you, Your Honor. And while I'm
5 doing that, there are three -- there are some exhibits that
6 I'm going to be getting into with Ms. Claycomb and while I am
7 getting into other matters with Ms. Claycomb, if Ms.
8 Copeland-Little wants to view these items, I'll be getting
9 into those and we may be able to reach the same agreement,
10 but I'll go ahead and proceed and let her be looking through
11 these while we proceed.

12 THE COURT REPORTER: Okay.

13 MR. REDMOND: All right.

14 DAWN CLAYCOMB, being first duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. REDMOND:

18 Q: Ms. Claycomb, now we're ready to proceed. State your
19 name for the record, please?

20 A: Dawn Claycomb.

21 Q: And by whom are you employed at this time?

22 A: Currently, I'm employed at Duke Energy.

23 Q: Okay.

24 A: In Charlotte, North Carolina.

25 Q: And you came in from Charlotte today?

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 A: That's correct.

2 Q: How, previously, specifically back in June of 2017,
3 where were you employed?

4 A: The South Carolina Law Enforcement Division.

5 Q: And -- and I didn't ask you since you're with Duke
6 Energy, what do you do with Duke Energy now?

7 A: I'm a digital forensics investigator.

8 Q: Okay. And so now back in 2017 -- I would ask you to do
9 something about my light bill, but we'll talk about that
10 later. But as it relates to June of 2017, can you tell us
11 what -- how you became involved in this particular case?

12 A: Sure. We received a call from our operations desk
13 notifying us that the Chesterfield County Sheriff's Office
14 requested our assistance, crime scene assistance, in
15 reference to a death investigation, and that was on June 19th
16 -- June 19th, 2017.

17 Q: Okay. And could you tell us did you prepare a crime
18 scene summary of what you did --

19 A: Yes, I did.

20 Q: -- when you came to Chesterfield?

21 A: A final report, yes, sir.

22 Q: And so let's -- let me back up. Before you, I guess,
23 left to go to Duke Energy, what capacity did you work with at
24 SLED?

25 A: I was a crime scene agent. So I responded to crime

1 scenes and processed crime scenes, but I also did footwear
2 and tire tread analysis.

3 Q: Okay. And let's talk about some of your background and
4 training in that. How long were you at SLED?

5 A: A little over six-and-a-half years.

6 Q: Okay. And did you have any law enforcement experience
7 prior to that?

8 A: I did. Prior to SLED, I worked with the Richland County
9 Sheriff's Department for approximately three years where I
10 worked uniformed patrol.

11 Q: Okay. And now, what training did you go through in the
12 area of, well, crime scene analysis and then specifically as
13 it relates to your footwear and tire impressions?

14 A: Sure. Like Agent Tankersley already mentioned, our
15 internal training consists of six months to a year of
16 internal training, which is separate training walks in which
17 you go through and then you are tested on that, written
18 tests. At that point, once you complete that training, we
19 have to do what we call an additional plus one training,
20 which was my footwear and tire tread examination, and that
21 also consists of additional training and that took me
22 approximately three years to complete that training before
23 you're deemed competent to actually do any casework in
24 footwear and tire tread.

25 Q: Okay. And, of course, did you successfully complete

1 those requirements?

2 A: Yes, I did.

3 Q: Okay. And have you -- have you been certified as an
4 expert in the field of footwear and tire impressions
5 previously?

6 A: Yes, I have.

7 MR. REDMOND: Your Honor, at this time, I would move
8 that former Agent Claycomb be certified and qualified as an
9 expert in the fields of crime scene analysis and footwear and
10 tire impression analysis.

11 MS. COPELAND-LITTLE: Your Honor, I won't object to
12 anybody who has been trained to do something for four years.
13 So I think -- I think no objection.

14 THE COURT: So qualified without objection.

15 MR. REDMOND: Thank you, Your Honor.

16 BY MR. REDMOND:

17 Q: Now, back to the -- I guess the 19th of June, 2017. You
18 were dispatched to come to Chesterfield. Tell us what -- how
19 you ended up getting here and what you did once you got here?

20 A: Sure. Once we receive a notification, our operations
21 desk gives us a notification of this is your point of contact
22 and this is the information that they'll give you. So that's
23 -- I'm provided with a name and a number, and which I
24 contacted Lt. Jordan and he provided that a death
25 investigation was underway and they needed crime scene

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 assistance. At that point, my partner, Special Agent
2 Tankersley, and myself responded to Hurst Cemetery Road.

3 Q: And --

4 A: Once we get there, we make contact with the local agency
5 and they provide us with an initial summary of what they
6 located at the scene.

7 Q: Now, in that -- in this particular case, once you
8 received that briefing, then what do you proceed to do or
9 what did you proceed to do?

10 A: Once we receive that summary or a little walk-through of
11 the scene, we assess the scene. Anything that we locate or
12 any evidence that may have been located prior to our arrival
13 we note. At that point, we photograph the scene as is. So
14 it's -- when we arrive, it's photographed as we have found
15 it. Once we photograph it and document it in that way, we
16 will place markers near evidence, items of evidence within
17 the scene. We will again photograph with the markers down.
18 Once it's photographed and documented, we will then collect
19 that evidence and preserve it to be returned to the lab for
20 further processing.

21 Q: Okay. And -- and so, of course, did that take place
22 here?

23 A: Yes, it did.

24 Q: And did you -- you did take photographs of that?

25 A: Yes.

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 Q: And we'll get into that those a little later. So when
2 -- and so what did you do next? I'm sorry. What did you do
3 next?

4 A: After we processed the scene?

5 Q: Yes.

6 A: Once we processed the scene, that evidence was returned
7 to the laboratory for further -- for further processing. And
8 then on June 21st is when we were notified for additional
9 processing as requested by the Chesterfield County Sheriff's
10 Office.

11 Q: Okay. So just to be clear, you came on the 19th,
12 processed the scene itself?

13 A: Correct.

14 Q: And then went back to Columbia to take the items you had
15 collected back to Columbia for further testing, but you were
16 call back on the 21st, I believe?

17 A: That's correct.

18 Q: Not the 20th, the 21st?

19 A: Correct.

20 Q: Two days later. Why were you dispatched back to
21 Chesterfield County?

22 A: To process a white-in-color Chevy truck.

23 Q: Okay. And tell us about that. Once you got to
24 Chesterfield, tell us what you proceeded to do?

25 A: Once we arrived there, we were already notified that the

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 vehicle was towed to the Sheriff's Office and it was awaiting
2 our arrival to process. Once we got there, we were provided
3 with a search warrant for the vehicle. At that point, once
4 we were provided with the search warrant, we -- the same
5 thing as the initial scene. We started to photograph the
6 vehicle, document it. We then search the vehicle, collect
7 any items of evidence that might be of interest, and again,
8 that evidence is transported to the lab in Columbia.

9 Q: Okay. And -- excuse me. So you process it. Did you
10 photograph that as well?

11 A: Yes, we did.

12 Q: Okay. And so the Chevy is processed, items -- did you
13 collect items of evidence?

14 A: Yes, we did.

15 Q: Okay. And then we'll get into what items were collected
16 at each time once we get past this. So was that the last
17 time you were in Chesterfield on this case or did you come
18 back yet again?

19 A: No. We also responded on the 22nd as well to process an
20 additional vehicle.

21 Q: Okay. And at the time on the 22nd, were you also -- I
22 believe it was the 22nd. Were you given any evidence that you
23 did not actually collect yourself but collected to carry back
24 to Chesterfield County -- or was given to you by deputies to
25 carry back to Chesterfield County?

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 A: Yes. While we were processing that additional vehicle,
2 we were given the -- what you already saw, the barrel, the
3 stock, and the forearm that was provided to us by
4 Chesterfield County Sheriff's Office.

5 Q: Okay. Now, let's talk about what items were collected.
6 So going back to the -- to the 19th, could you tell us about
7 that? As you were doing your processing, what items of
8 evidence were collected? And we'll get into some of them
9 specifically.

10 A: From the initial scene?

11 Q: Yes, from the initial scene. Yes, ma'am.

12 A: Yes. So initially from the initial scene when we
13 processed it, there were three suspected tire impressions
14 within the dirt at the scene. Those were photographed. We
15 didn't collect those directly. Those were just photographed
16 as is.

17 We also collected what appeared to be a small bat and a
18 belt that was laying next to the body. We also collected a
19 pair of eyeglasses, a lens that appeared to be from the
20 eyeglasses. There was also a key that was on scene. We did
21 not collect that. We just swabbed that and that was
22 collected directly by the Sheriff's Office.

23 Q: Okay. And we've got photographs of everything else, but
24 I'm going to show you some of what you had talked about.

25 MR. REDMOND: If I may approach the witness with what is

1 in evidence as --

2 THE COURT REPORTER: Is it the bat?

3 MR. REDMOND: Yeah, the bat.

4 THE COURT REPORTER: 106.

5 MR. REDMOND: You laid it to one side, 106.

6 If I may approach with State's 106 in evidence?

7 BY MR. REDMOND:

8 Q: And if you could take a look at that, Ms. Claycomb, and
9 any of the other identifying marks? Is that the bat that you
10 referred to as having collected?

11 A: Yes.

12 Q: Okay. And while I'm up here, I'm going to hand you what
13 is marked as State's Exhibits 114, 115, and 116.

14 A: Yes. This is my transparency and photos of the unknown
15 tire impressions.

16 Q: Okay. And what's the purpose? While you've got those
17 there, what was the purpose of that?

18 A: So at the scene -- at the initial scene where we
19 photographed the suspected tire impressions, they are a
20 little different than any overall photographs. You have to
21 take them 90 degrees. A scale has to be in the photo and you
22 have to make sure that you are 90 degrees to that impression
23 because later this photo obviously is blown up in a scale
24 ratio of 1 to 1, meaning there is one inch actually equals
25 one inch. So I should be able to lay the scale down here and

1 that's equal to what it is in real life. That way the
2 examination can be done.

3 Q: Okay. And does that -- if you have to do an analysis --
4 well, you just said the examination. That -- does that aid
5 you in being able to do as accurate an examination as
6 possible?

7 A: Yes.

8 Q: Okay. Thank you. And I'll just hold State's 117. Do
9 you recognize this?

10 A: Yes, yes. These are the -- so when we collect known
11 inked impressions from the tires of the vehicle, these are
12 white foam boards that are cut and they are laid underneath
13 of a tire and that tire is inked with black ink and we
14 basically push the truck or the wheel over top of these white
15 boards, which gives us an inked impression to compare it to
16 the unknown impression.

17 Q: And that's already in evidence. I didn't want to mess
18 it up so I didn't take anything out, but again, it's already
19 in evidence if the need arises. Now, so we talked about you
20 also took some swabs and some other items, glasses and
21 whatnot. I'm not going to show you everything because that
22 stuff is already in evidence. So then you come back on the
23 20th and tell us what items you collected at that time?

24 A: On the --

25 Q: On the 20th.

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 A: On the 21st?

2 Q: 21st. I said 20th. 21st.

3 A: We processed a white vehicle.

4 Q: Yes.

5 A: The white truck?

6 Q: Yes.

7 A: On that day, the same thing, photographed, collected
8 evidence. We did collect -- there was a pair of boots in the
9 front of the vehicle. There was also a pair of jeans, a T-
10 shirt, and some other clothing items in that front seat of
11 the truck. We visibly searched what we could, looking for
12 suspected blood on those items. The pair of blue jeans that
13 we located appeared to have what we thought was suspected
14 blood on the bottom pant leg. And those items were
15 collected.

16 Q: Okay. And did you photograph the -- the -- what you
17 suspected as blood on the pant leg?

18 A: Yes, we did.

19 Q: Okay. I'm not going to -- because it's biological, I'm
20 not going to ask you to open it, but I'm going to ask you to
21 look at your labeling to see if you recognize this as a --

22 MR. REDMOND: This is, for the record, State's 113 in
23 evidence. And I can give you a pair of gloves. Oh, you got
24 them. Okay.

25 BY MR. REDMOND:

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 A: When we collect evidence, we write the description of
2 it. These are my initials, the date and time. It's a pair
3 of blue jeans that's matching the description, one pair of
4 blue jeans from front passenger seat of Chevy truck.

5 Q: Okay. So are those the blue jeans that you had the
6 suspected blood on?

7 A: Yes.

8 Q: Now, let me explain something. Let me ask you
9 something. Now, when you take those back, because they would
10 be cuttings from that particular area, would that be correct?
11 After -- not you taking them, but when it's taken back to
12 SLED and further processed, is it taken back and further
13 processed from DNA for DNA based on your experience?

14 A: Correct. I collect it, package it, and then it's
15 forwarded to our evidence processing or DNA department for
16 further processing.

17 Q: Okay. Thank you. And what other items did you collect
18 from the Chevy that were of note? There were items collected
19 obviously for blood and whatnot, but what items did you
20 collect and carry back to Columbia?

21 A: There was also a Social Security card, a debit card, and
22 also a driver's license that were bearing the name of Farris
23 Short.

24 Q: Okay. And was there anything else? I don't know if you
25 mentioned a flashlight before, but was there a Maglite that

1 was found?

2 A: Yes. There was a Mag flashlight in the rear bench seat
3 of the truck, which also had what appeared to be suspected
4 blood on it.

5 Q: Okay.

6 MR. REDMOND: If I may approach with what is in evidence
7 as State's -- the Maglite, State's 107.

8 BY MR. REDMOND:

9 Q: And I should've told you to keep your gloves on.

10 A: Yes. Same thing, initials, date, time, one Maglite
11 flashlight from the rear bench seat with the suspected blood.

12 Q: Okay. Now --

13 MR. REDMOND: Court's indulgence.

14 BY MR. REDMOND:

15 Q: I'm going to show you what's marked as State's 108, 109,
16 and 110 that were in the bag. Could you tell us what those
17 were?

18 A: It's a Social Security card bearing the name of Farris
19 Mitchell Short, a South Carolina driver's license bearing the
20 name of Farris M. Short, and also a Woodforest National Bank
21 debit card bearing the name Farris M. Short.

22 Q: And to be clear, the Maglite and those cards, in which
23 vehicle were those found out of?

24 A: The white Chevy truck.

25 Q: Okay. That was processed on the 21st?

1 A: Yes.

2 Q: Thank you. Now -- and again, we talked about swabs that
3 were taken. Those are already in evidence. On the 22nd when
4 you came back, you mentioned that you were given something.
5 I'm going to show you what's in evidence, State's 102, -3,
6 and -4. Do you recognize those?

7 A: Yes. This is what was turned over to us from the
8 Chesterfield County Sheriff's Office, the barrel, the fore
9 end, and then the stock was also turned over to us.

10 Q: Okay. And did you -- everything that you've discussed
11 that they collected, did you carry all of that to SLED and
12 per your standard operating procedures deposit them for
13 further testing at the appropriate department?

14 A: Yes.

15 Q: Okay. Now, moving to the tire impressions that you
16 took, did you do any testing on those items? And when I say
17 testing, let me back up. Examinations with the tire
18 impressions. Did you do any examinations of those?

19 A: Yes, I did. I did the examination of the known tires
20 with the unknown impression that was photographed at the
21 scene.

22 Q: And did you generate a report based on your examination?

23 A: Yes, I did.

24 MR. REDMOND: And if I may approach with State's 121 in
25 evidence?

1 BY MR. REDMOND:

2 Q: Is that a copy of the report that you generated in this
3 -- in this case?

4 A: Yes, it is.

5 Q: Okay. And could you explain for the ladies and
6 gentlemen of the jury what your findings were as it relates
7 to the examinations of the impressions?

8 A: Sure. For the Item 63.1 impression, which is the
9 unknown impression, it corresponds in tread design and
10 dimensions with Item 49 through 52, tires from the white
11 Chevy truck. Therefore, the impression could have been made
12 by that tire or by another tire that displays the same
13 combined class characteristics.

14 Q: Okay. And -- and so -- and why is it worded that way?
15 Why is -- why are your findings worded that way in your
16 report?

17 A: Being that tires are mass-produced, there's -- there's
18 several tires that may have the same tread design. That
19 being said, there was nothing in the unknown impression as
20 far as wear or individual random characteristics that were
21 seen that was able to -- that I was able to say that it was
22 the tire or that it was not the tire. There were just
23 several characteristics that were similar to the tires for
24 the Chevy truck, meaning the overall tread design, the shape
25 of those blocks, the pitch sequence or the size of those

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1 blocks, those were all similar to it, but there was nothing
2 -- the unknown impression was not good enough in order to
3 give me any random characteristics or any wear pattern to say
4 that it was exactly these tires.

5 Q: Okay. Now, during your examination of the -- and I'm
6 going to go back a little bit initially. The phone -- were
7 there phones that you found at the scene that were left with
8 Chesterfield that weren't sent to SLED initially, but could
9 you tell us about any cell phones that you found at the crime
10 scene on the 19th?

11 A: Sure. There were two cell phones collected from the bed
12 of the truck at the scene and those were collected by
13 Chesterfield County Sheriff's Office.

14 Q: Okay. And --

15 MR. REDMOND: Court's indulgence.

16 BY MR. REDMOND:

17 Q: Let me show you what's marked as -- at this point I
18 haven't marked them yet.

19 MR. REDMOND: Let me mark 121, 122, 123, 124 at this
20 point for ID only.

21 THE COURT REPORTER: No, no. Give me a second.

22 MR. REDMOND: Sorry about that, Ms. Claycomb, ladies and
23 gentlemen. We marked through all of this stuff and, of
24 course, I would forget these three.

25 BY MR. REDMOND:

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1 Q: Let me show you what's been marked as State's 199 --
2 199, 200, and 201. Do you recognize those items based upon
3 the testimony as it relates to the phones?

4 A: Yes, I do.

5 Q: And could you tell us what those are?

6 A: These were the two cell phones collected from the
7 initial scene from the bed of the truck and then also that
8 one from the initial scene and these two were collected from
9 the white-in-color Chevy truck.

10 MR. REDMOND: The State would move these into evidence
11 at this time.

12 MS. COPELAND-LITTLE: Over my objection.

13 MR. REDMOND: Okay. Certainly. Over -- over the
14 defense objections.

15 THE COURT: Noted. They're in.

16 (WHEREUPON, State's Exhibits Number 199, 200, and 201,
17 cell phones, were admitted into evidence.)

18 MR. REDMOND: Thank you.

19 THE COURT REPORTER: That was what?

20 MR. REDMOND: Yeah. Those are --

21 THE COURT REPORTER: 199, 200, and 201?

22 MR. REDMOND: That's it.

23 THE COURT REPORTER: Okay.

24 BY MR. REDMOND:

25 Q: At this point in time, we talked about pictures that you

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1 had done, Ms. Dawn, and did you provide those pictures to the
2 State as a part of your normal operating procedure?

3 A: Yes.

4 MR. REDMOND: At this time, we would move to introduce
5 at this point the unmarked pictures that we referred to in
6 the evidence at this time and then publish them to the ladies
7 and gentlemen of the jury, subject to the objections.

8 MS. COPELAND-LITTLE: I got a little confused. I
9 thought they were already in evidence.

10 MR. REDMOND: Well, they -- I'm sorry. They are in
11 evidence subject to the objections. I'd move to publish at
12 this time. And if I may dim the lights a little bit.

13 Ms. Claycomb, I'm going to do this a little different
14 given the lateness of the hour. I'm going to scroll through
15 and I'll stop at the ones I want you to further explain. Or
16 if there's one you need to explain, please feel free to stop
17 me.

18 THE WITNESS: Okay.

19 MR. REDMOND: For the sake of time.

20 BY MR. REDMOND:

21 Q: Is that the vehicle? Is that the scene that you saw
22 upon your arrival?

23 A: Yes. That is standing from the roadway looking into the
24 field.

25 Q: Okay.

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 MR. REDMOND: Right there.

2 Q: What -- what is that a picture of, to the best of your
3 recollection?

4 A: Just an overall picture of where the suspected tire
5 impression was observed.

6 Q: Okay.

7 MR. REDMOND: Keep going. Keep going. All right.
8 Stop.

9 BY MR. REDMOND:

10 Q: And could you tell us what that's a picture of?

11 A: That's a pair of eyeglasses that were located on the
12 passenger side of the truck.

13 Q: Okay. And --

14 A: That's a pair -- or that's a lens that was suspected to
15 be from the eyeglasses on the passenger side of the truck.

16 Q: Okay.

17 MR. REDMONE: And keep going. All right. Stop. Go
18 back one. Okay.

19 BY MR. REDMOND:

20 Q: What's --

21 A: That's a photo from the driver's side of the vehicle
22 looking in through the driver's window to the interior of the
23 vehicle.

24 Q: Okay. And in that picture, what -- what is suspected at
25 that point?

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 A: There you can see suspected blood on the steering wheel,
2 on the interior windshield of the vehicle, and on the dash.

3 Q: Okay.

4 MR. REDMOND: And stop right there.

5 BY MR. REDMOND:

6 Q: Also, what does that picture reflect?

7 A: That's also taken from the driver's side window looking
8 to the interior of the truck.

9 Q: Okay. And was there any suspected blood noted in that
10 picture?

11 A: Yes.

12 Q: Okay. And where was that at?

13 A: All through the vehicle on the interior.

14 Q: Okay.

15 MR. REDMOND: All right. Keep going. Stop.

16 BY MR. REDMOND:

17 Q: Again, what does this picture represent?

18 A: The same angle from the driver's window of the vehicle
19 looking into the center console. You can see the volume of
20 blood down into the cupholders and even into the center
21 console.

22 Q: Okay. Now, based upon your -- you've been qualified as
23 an expert in crime scene analysis, as well as tire and foot
24 impressionism. As it relates to your qualifications as a
25 crime scene analysis, based on what you viewed inside the

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 truck, did you formulate any opinions as to where the
2 shooting took place?

3 A: In my opinion, Mr. Short would've been inside the
4 vehicle because there was obviously a volume of blood in that
5 center console and in the cupholders. That means the blood
6 source had to be within that area at the time bloodletting
7 occurred. So he had to be within that vehicle at some point
8 for all that blood to be in that location.

9 MR. REDMOND: Keep going. All right. Stop.

10 BY MR. REDMOND:

11 Q: I see markers there. Could you explain what that
12 picture represents?

13 A: That's an overall photograph from the road area of the
14 scene and you can see markers 1 and that's 2 on the left and
15 3 on the right. Those are the suspected tire impressions
16 that were located.

17 Q: Okay.

18 A: That's kind of a midrange photo.

19 Q: Okay.

20 MR. REDMOND: And now keep going. Stop. Okay.

21 BY MR. REDMOND:

22 Q: What does that represent, the markers?

23 A: You can see markers 7 and 8. That's the belt and the
24 bat that was located next to the vehicle and the body.

25 Q: Okay.

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 MR. REDMOND: All right. Stop.

2 BY MR. REDMOND:

3 Q: And, of course, could you tell us what that photo
4 represents?

5 A: That's --

6 Q: What you found interesting about that picture?

7 A: That photo shows his jeans. The button was unfastened
8 and also you can see the pockets were pulled out and visible.

9 Q: Okay.

10 MR. REDMOND: All right. Keep going. Keep going. Keep
11 going. Okay. Stop.

12 BY MR. REDMOND:

13 Q: Marker 4?

14 A: Marker 4 was a silver key that was located on the
15 passenger side of the vehicle.

16 Q: Okay. And were swabs taken from that?

17 A: Yes.

18 Q: And I didn't ask you this, but were swabs also taken
19 from the door handles and different other parts of the truck?

20 A: Yes. From the interior and exterior of the door
21 handles.

22 MR. REDMOND: Go ahead. And stop.

23 BY MR. REDMOND:

24 Q: What are those markers?

25 A: Marker 2 and 3 are the suspected tire impressions and

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 then 9 was a cigarette butt that was located.

2 Q: Okay. Okay. And is that the cigarette butt?

3 A: That's a close-up of the cigarette butt at marker 9,
4 yes, sir.

5 Q: And?

6 A: That is a close-up photo of marker 1, which was the
7 suspected tire impression.

8 Q: Okay.

9 MR. REDMOND: Is that that last one?

10 MS. THURMAN: Uh-huh.

11 MR. REDMOND: Okay.

12 BY MR. REDMOND:

13 Q: And is that the Chevy you referred to?

14 A: Yes. That was the white Chevy that was processed.

15 Q: And where is it located at the time that it's being
16 processed?

17 A: It's inside the bay at the Sheriff's Office.

18 Q: Okay.

19 MR. REDMOND: And stop.

20 BY MR. REDMOND:

21 Q: And that's the back of the vehicle?

22 A: Yes.

23 Q: I mean the bed of the vehicle?

24 A: That's in the bed of the truck.

25 Q: Okay.

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 MR. REDMOND: All right. Stop.

2 BY MR. REDMOND:

3 Q: Now, could you explain what is represented in this
4 particular photo?

5 A: Yes. That's on the driver's side of the vehicle. The
6 driver's door is open and that's looking into the driver's
7 compartment area of the truck.

8 Q: Okay.

9 A: And you can see the .22 ammo sitting on the driver's
10 seat, as well as a camouflage backpack and a pair of brown
11 boots were on the back rear driver's floorboard.

12 Q: Okay. And we'll get to those in a minute.

13 MR. REDMOND: Okay. Keep going. Keep going. All
14 right. Stop. Go back one.

15 BY MR. REDMOND:

16 Q: You talked about the jeans that's been introduced into
17 evidence. Does that reflect where the jeans were when you
18 found them?

19 A: Yes.

20 Q: Okay.

21 MR. REDMOND: And the next one. And stop.

22 BY MR. REDMOND:

23 Q: And you take a picture of -- what does that picture
24 represent?

25 A: That's the bottom of the pant leg. You can see those --

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 what looks like brown reddish stains on the bottom of the
2 pant leg, which was suspected blood.

3 Q: Okay.

4 MR. REDMOND: And go back one.

5 BY MR. REDMOND:

6 Q: And --

7 A: That's just zoomed in, a closer photo of the one that we
8 just saw.

9 Q: Okay.

10 MR. REDMOND: All right. And stop.

11 BY MR. REDMOND:

12 Q: And what does that picture represent?

13 A: Additional suspected bloodstains.

14 Q: Okay. And are those the back of the same jeans? Are
15 those the same jeans?

16 A: Correct.

17 Q: Okay.

18 MR. REDMOND: All right. Stop.

19 BY MR. REDMOND:

20 Q: What does that represent, that picture?

21 A: That's another area higher up towards the knee area of
22 the blue jeans that was also what was suspected blood.

23 Q: Okay.

24 MR. REDMOND: Keep going. Stop. All right.

25 BY MR. REDMOND:

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 Q: And --

2 A: That's a photograph of the Maglite flashlight that was
3 in the back with suspected blood.

4 Q: Okay.

5 MR. REDMOND: And keep going. Stop.

6 BY MR. REDMOND:

7 Q: And is that a picture of the suspected blood?

8 A: Yes. You can see some near the serial number, there to
9 the right of the serial number, and down further where the
10 glare on the flashlight is as well.

11 Q: Okay. All right. And is that another shot of that?

12 A: That's just another angle there near the serial number
13 and right below it with suspected blood.

14 Q: Okay. And that picture?

15 A: Additional suspected blood on the flashlight.

16 Q: Okay. And that?

17 A: Additional suspected blood at the end of the flashlight.

18 Q: Okay.

19 MR. REDMOND: Now, go ahead and zoom it. Keep going.

20 BY MR. REDMOND:

21 Q: Now, what does that represent? We saw the picture
22 before that. What does that picture represent?

23 A: This is a picture of the right rear tire of the Chevy
24 truck with the scale in it to show the tread design of the
25 tire.

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 Q: Okay. I'm going to stop right there for a second and --
2 well, I don't have to go back to it, but I'll ask you. The
3 spots on the jeans and whatnot, are you familiar with the
4 term blood spatter?

5 A: Yes.

6 Q: Okay. What is that?

7 A: Blood spatter is just a term to describe any kind of
8 blood that during an impact or any type of bloodletting
9 incident where blood contacts another item --

10 Q: Okay.

11 A: -- and spatter can be created from that.

12 Q: Okay. And is that part of the reason why you would take
13 pictures of that to see if there was close proximity to the
14 time that the wound was inflicted?

15 A: Yes. Sometimes the bloodstains themselves can tell
16 certain things about the incident.

17 Q: Okay. And I didn't clarify that earlier. So now back
18 to this. All right. Again, are these just pictures of the
19 tires that you ended up getting --

20 A: Yes.

21 Q: -- and the impressions off of it?

22 A: It's documenting the tread design of each tire --

23 Q: Okay.

24 A: -- on the truck.

25 Q: We can roll through these. And stop us if there's one

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 we need to stop for clarification, but -- okay. I think --
2 is that the VIN number?

3 A: That's just -- yeah, a photo -- photograph of the VIN
4 number on the dash.

5 Q: And we're almost done. Okay. Now, what is this, this
6 group of pictures? Are those taken at the scene on the 19th?

7 A: Yes.

8 Q: Okay.

9 A: Those were taken then.

10 Q: Okay. And if we can scroll through them? Well, what
11 does that represent? What does the first picture represent?

12 A: That's just an overall of the actual tire impression
13 that was located.

14 Q: Okay.

15 A: These are all just different angles with different
16 lighting so we can get different areas of the actual
17 impression to be able to see the detail.

18 Q: Okay. And does that help you in your examination?

19 A: Yes.

20 Q: Okay.

21 MR. REDMOND: Keep going.

22 BY MR. REDMOND:

23 Q: And I see -- is that a second -- is that -- it says 2 on
24 there. What does that -- is that a second marker?

25 A: Yes. One, 2, and 3 were suspected tire impressions.

DAWN CLAYCOMB - DIRECT BY MR. REDMOND

1 Q: Okay.

2 MR. REDMOND: Go ahead.

3 A: You can see these aren't as good as the first one, but

4 --

5 Q: Still something to be able to examine?

6 A: Still something to photograph.

7 Q: Okay.

8 MR. REDMOND: Go ahead.

9 MS. THURMAN: That's it.

10 MR. REDMOND: Oh, that's it. Okay. I beg the Court's
11 indulgence.

12 That would be all the questions I have. Please answer
13 any questions that Ms. Copeland-Little may have. Thank you
14 so much.

15 MS. COPELAND-LITTLE: I don't have any questions of
16 Special Agent Claycomb.

17 THE COURT: May she be excused?

18 MR. REDMOND: Absolutely, Your Honor.

19 THE COURT: Thank you.

20 THE WITNESS: Thank you, Your Honor.

21 MS. JOHNSON-LEE: Michelle Eichenmiller.

22 THE COURT REPORTER: I'm ready.

23 THE CLERK: You're ready?

24 Do you swear or affirm to tell the truth, the whole
25 truth, and nothing but the truth, so help you God?

1 THE WITNESS: I do.

2 THE CLERK: Thank you, ma'am.

3 MICHELLE EICHENMILLER, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. JOHNSON-LEE:

7 Q: Please state your name for the record?

8 A: My name is Michelle Eichenmiller.

9 Q: I need you to lean in and speak up. Thank you.

10 A: Michelle Eichenmiller.

11 Q: Where are you employed?

12 A: I work with the South Carolina Law Enforcement Division
13 in the forensic laboratory in the firearms department.

14 Q: Okay. How long have you been with SLED?

15 A: Approximately 13 years.

16 Q: And has all of that been in the firearms department?

17 A: Yes, ma'am.

18 Q: Okay. What are your duties in the firearms department?

19 A: In the firearms department, we examine any evidence
20 submitted to the lab from any agency in the state of South
21 Carolina as it relates to a firearm. So a firearm, any fired
22 ammunition components, any serial number restorations is also
23 something else we do and we also do any tool mark
24 identification.

25 Q: Okay. What is a firearms identification or a firearms

1 ID? What does that mean?

2 A: It's the branch of forensic science that deals with
3 firearms. So we -- when we receive a firearm, we test fire
4 it and we compare those test fires to any evidence from the
5 scene in an attempt to conclude if the ammunition components
6 were fired by that firearm.

7 Q: What is your educational background?

8 A: I have a bachelor's degree in biology. I also have a
9 Master of Science in forensic science.

10 Q: Do you have any specialized training in your present
11 work?

12 A: In order to be a firearms examiner, there's no college
13 you can attend. You have to complete an in-house training
14 program. So once I was hired at SLED, I completed the in-
15 house training program, which is approximately 3 to 4 years.
16 It's an apprenticeship program where I learned with all the
17 examiners that were currently employed at SLED. I learned.
18 I watched how they did the job. I also did practical exams
19 and a lot of reading on my own. At the end, I completed the
20 competency and then was deemed competent to do casework on my
21 own.

22 Q: Have you testified previously in the field of firearms
23 examination?

24 A: I have.

25 Q: Have you been declared an expert in the past?

1 A: Yes, ma'am.

2 Q: How many times have you testified?

3 A: Approximately 85.

4 MS. JOHNSON-LEE: Your Honor, at this time, the State
5 would move to have Ms. Michelle Eichenmiller declared to be
6 an expert in firearms examination.

7 MS. COPELAND-LITTLE: No objection.

8 THE COURT: So qualified without objection.

9 BY MS. JOHNSON-LEE:

10 Q: I'm going to show you what -- well, it's up there next
11 to you. Do you need gloves?

12 A: No.

13 Q: Okay.

14 MS. JOHNSON-LEE: Permission to approach?

15 THE COURT: Okay.

16 BY MS. JOHNSON-LEE:

17 Q: Items 102, 103, and 104. Can you please tell the jury
18 if you have seen those items before?

19 A: Whenever I receive evidence, I will mark it with the
20 case number, the item number, and my initials.

21 Q: Do those items have markings that were placed on there
22 by you?

23 A: Yes. These are the items I examined.

24 Q: Okay. Under what circumstances did these items come
25 into your possession in order for you to put those markings

1 on them?

2 A: They were brought to the SLED forensic lab by our crime
3 scene unit. They go into the lobby department. When I am
4 notified that I have evidence downstairs, I go pick it up.
5 Once I pick it up from downstairs, I bring it back up to my
6 office. I document any -- the condition I receive it in. I
7 do worksheets on it to document what I see and what it looks
8 like when I get it, and then I do -- complete my
9 examinations.

10 Q: And describe in detail the examination you made on this
11 gun, which is actually in three pieces?

12 A: I examined this firearm, tried to determine if we could
13 put it back together in order to fire it. Before this
14 though, I did receive other evidence in this case that I had
15 examined and reached conclusions on those before I looked at
16 this firearm. When I looked at this firearm, we decided that
17 we could probably put it back together and get it to fire if
18 we needed to.

19 Q: Okay. Since you mentioned the other items, let's go
20 ahead and address those now as well.

21 MS. JOHNSON-LEE: Let's see.

22 THE COURT REPORTER: What are you looking for?

23 MS. JOHNSON-LEE: I am looking for the fragments.

24 BY MS. JOHNSON-LEE:

25 Q: Do you have items before you that are labeled SLED Items

1 1, 2, 3, and 4?

2 A: Yes, I do.

3 Q: Okay. And how can you identify SLED Items 1, 2, 3, and
4 4?

5 A: When I received them, they were in individual envelopes.
6 I marked them with my initials and then, when I completed my
7 examination, I sealed them with a heat sealer and wrote the
8 date and my initials on them.

9 Q: Okay. And is there an evidence packet that those all
10 came out of?

11 A: Yes. They came out of container C, which container C
12 has its own barcode in our computer system. When we scanned
13 that barcode, it told me that Items 1 through 4 were in that
14 heat-sealed package.

15 Q: Okay. And let's go through each item. What is Item
16 Number 1?

17 A: Item Number 1 was labeled one piece of fragment from
18 left middle finger of victim.

19 Q: So is that something that would come from autopsy?

20 A: I believe this came from the scene.

21 Q: From the scene? Okay. What was Item Number 2?

22 A: Item 2 was labeled one piece of suspected wadding from
23 the driver's seat. So this was also at the scene.

24 Q: What is Item Number 3?

25 A: Number 3 was one piece of fragment from front passenger

1 seat.

2 Q: Okay. And what were your results of your examination on
3 Items 1 through 3?

4 A: I physically and microscopically examined them, looking
5 for any marks that I could use to determine if they were
6 fired by a certain firearm. Items 1 and 3, which are the two
7 fragments, had no marks of value on them and they were
8 unsuitable for identification to any other firearms evidence.
9 Item 2 was most consistent with being a 12-gauge shotgun -- a
10 wad from a 12-gauge shot shell. It also had no marks of
11 value for identification purposes.

12 Q: And what does it mean that it has no marks of value and
13 is unsuitable for identification in layman's terms?

14 A: It means it has no marks that I could use to say it was
15 fired by a particular firearm. We can do general
16 characteristics to say that, yes, it's a 12-gauge shot shell
17 wad, but I can't say which firearm fired it.

18 Q: And the item that is labeled as SLED Item Number 4, what
19 is that?

20 A: These are the items from autopsy. They were buckshot
21 pellets.

22 Q: Okay. How many pellets?

23 A: I have -- I received 14 buckshot pellets and then one
24 additional lead fragment.

25 Q: And did you examine those items?

1 A: I did.

2 Q: What were the results?

3 A: They were physically examined. The 14 buckshot pellets
4 were consistent with being either single buck or double-ought
5 buck based on their physical characteristics. And if the
6 lead fragment was a shot pellet, I couldn't determine what
7 size it was originally. It was just a fragment. I
8 microscopically examined these pellets as well. They all
9 bore no marks of value for identification purposes.

10 Q: And again, that means in layman's terms?

11 A: Identification to a firearm or other fired evidence.

12 Q: Okay. And just to clarify, those three pieces of the
13 gun, is that a receiver with a wooden butt stock? Is that
14 one of the items?

15 A: Yes.

16 Q: Okay. And the barrel that is in there, what is it
17 labeled as or marked as?

18 A: It's marked Winchester Model 370, 12-gauge, two and
19 three-quarter and three chamber full choke, Winchester proof
20 steel made in Canada.

21 Q: And the third item is a wooden forearm?

22 A: Yes.

23 Q: And again, you did physically examine those items and
24 determine they could be assembled to make a complete shotgun?

25 A: Correct.

1 Q: So this is an item that could work if put together?

2 A: Correct.

3 Q: Thank you. And did you make a report based on your
4 findings and containing those findings?

5 A: I did.

6 Q: Okay. I'm going to show you what's marked for
7 identification as State's Exhibit 100. Do you recognize that
8 document?

9 A: This is a copy of the report that I completed for this
10 case.

11 Q: Okay. And is your signature on that report?

12 A: It is.

13 Q: Okay.

14 MS. JOHNSON-LEE: At this time, I would move to have the
15 report marked as evidence for the State.

16 MS. COPELAND-LITTLE: Can I just see it briefly?

17 MS. JOHNSON-LEE: Certainly.

18 THE COURT REPORTER: What number is it?

19 THE COURT: In without objection.

20 THE COURT REPORTER: What number is it?

21 MS. JOHNSON-LEE: This number is 100.

22 MS. COPELAND-LITTLE: No objection.

23 (WHEREUPON, State's Exhibit Number 100, firearms
24 examiner report, was admitted into evidence.)

25 MS. JOHNSON-LEE: I beg the Court's indulgence.

MICHELLE EICHENMILLER - CROSS BY MS. COPELAND-LITTLE

1 The State has no further questions. Please answer any
2 questions Ms. Copeland-Little might have.

3 MS. COPELAND-LITTLE: Thank you.

4 CROSS-EXAMINATION

5 BY MS. COPELAND-LITTLE:

6 Q: Special Agent Eichenmiller, I was listening to you
7 testify because I'm fascinated with firearms and I think that
8 would be a really interesting job to have. I believe you
9 testified that y'all decided you could probably get that gun
10 to fire if it was put together; is that correct?

11 A: Yes. With probably some cleaning and --

12 THE COURT REPORTER: Say that again, please?

13 THE WITNESS: Yes, I could.

14 A: With cleaning and probably a little bit of TLC.

15 Q: Okay. So -- so it needed a little work before it would
16 fire?

17 A: Yes. Because it had a lot of dirt on when I was
18 examining it.

19 Q: All right. And just to be clear in everything that you
20 testified to, you were not able to decide whether or not
21 those items that came into your possession, the buckshot
22 pellets, the fragment, you were not able to tell what gun
23 fired those; is that correct?

24 A: That's correct.

25 Q: So I believe you stated, I think, that it could've been

1 a 12-gauge?

2 A: The one wad was consistent with being a 12-gauge wad.

3 Q: Right. But no particular gun; correct?

4 A: Correct.

5 MS. COPELAND-LITTLE: Thank you. No further questions.

6 MS. JOHNSON-LEE: May this witness be excused?

7 MS. COPELAND-LITTLE: Certainly. No more questions.

8 THE COURT: Thank you.

9 MR. REDMOND: Tom Darnell. And, Your Honor, just as a
10 housekeeping matter --

11 THE COURT: It is almost 5:30. This jury has been here
12 since nine this morning.

13 MR. REDMOND: Yes, sir. These next witnesses will be
14 pretty short.

15 THE COURT: Well, now we --

16 MR. REDMOND: Mr. Darnell -- we've gotten most of it in.
17 I can have him done in five minutes, Your Honor.

18 THE COURT: Come on.

19 THE COURT REPORTER: What's his name?

20 MR. REDMOND: Tom Darnell.

21 THE CLERK: Do you swear or affirm to tell the truth,
22 the whole truth, and nothing but the truth, so help you God?

23 THE WITNESS: I do.

24 THE CLERK: Thank you, sir.

25 TOM DARNELL, being first duly

TOM DARNELL - DIRECT BY MR. REDMOND

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. REDMOND:

4 Q: And could you state your name for the record?

5 A: My name is Thomas Edward Darnell.

6 Q: And by whom are you employed?

7 A: I work at SLED in Columbia in the forensic laboratory.

8 Q: Okay.

9 MR. REDMOND: And fortunately, everything we've got with
10 you is already in evidence, but just for the chain of custody
11 purposes.

12 May I approach the witness, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. REDMOND:

15 Q: With State's 118, 119, and 120. Could you take a look
16 at those and tell me if you recognize those particular
17 exhibits?

18 A: Yes, I can.

19 Q: And could you tell us what they represent?

20 A: 120 and 119 are laboratory reports which I issued from
21 the latent print fingerprint department. State's 118 is a
22 sealed bag containing a brown envelope that contains swabs
23 that I made from submitted evidence.

24 Q: Okay. And I didn't do this because I guess for the sake
25 of time, but let me at least go ahead and do some

TOM DARNELL - DIRECT BY MR. REDMOND

1 qualification as it relates to your qualifications as an
2 expert in the field of latent analysis. Could you give us
3 your background as it relates to how long you were at SLED?
4 A: Well, I've got about 37 years total in the law
5 enforcement field. About 27 or 28 of those have been at SLED
6 with the majority of that being in the latent print forensic
7 science crime scene field. I completed in-house training.
8 I've also completed a number of courses outside of the state
9 as well as in-state. I've also completed some FBI training
10 in Quantico, Virginia.

11 Q: Okay. And how many times would you say you've been
12 qualified as an expert?

13 A: I'm going to say in excess of 140 to 150 times
14 throughout the state.

15 MR. REDMOND: With that, Your Honor, I would move to
16 introduce Mr. Darnell as an expert in the field of latent
17 print analysis.

18 MS. COPELAND-LITTLE: No objection.

19 THE COURT: So qualified without objection.

20 MR. REDMOND: Thank you, Your Honor.

21 BY MR. REDMOND:

22 Q: Now, let's go to your report from the 19th of August of
23 2017. I forget which State's exhibit that is, but is that
24 exhibit before you at this time?

25 A: Yes, sir.

1 Q: Okay. And did you -- at that time, could you tell us
2 what your role was in this particular investigation, what
3 items were submitted to you, and what were your findings?

4 Q: Okay. I -- I received a number of items to process for
5 latent prints and also I was asked to swab or collect any
6 potential DNA evidence that might be present. I received a
7 belt, I received a small bat, and I received some cards. I
8 also received several cell phones and cell phone boxes.

9 Q: Okay. And did you -- what -- what analysis or what
10 tests did you perform on those items?

11 A: I did a visual examination, as I do with all evidence,
12 to see if I can notice any visible prints that might be
13 there. I did that with each of these items of evidence.
14 Prior to doing any processing using different techniques and
15 chemicals, lights, prior to that I would make any -- I would
16 swab any certain areas. I swabbed any areas of what appeared
17 to be blood. I collected those for further DNA analysis.

18 Q: Okay. And again, based on your -- based on your review,
19 were there any prints of any value that you were able to
20 identify?

21 A: I was unable to develop any prints that I could
22 identify. I was able to develop areas of prints, but there
23 just was not enough clarity. There wasn't enough detail to
24 be able to compare them to anyone.

25 Q: Okay. And is that unusual, given the type of surfaces

1 that you may have been dealing with as far as your testing?

2 A: That's not unusual. You know, as we all watch
3 television where we always get fingerprints, in the real
4 world it just doesn't happen. There are lots of factors that
5 cause that, but it's very, very common for us to process
6 evidence and not get prints.

7 Q: And so with that, at that time in 2017, those items were
8 swabbed and the swabs were sent to DNA per your standard
9 operating procedure?

10 A: Yes, sir, they were. They were swabbed by me and I
11 allowed them to air dry, packaged them, sealed them, and then
12 transferred them on to the DNA department.

13 Q: Okay. Now, let's move on to your examination this year
14 and I'm going to show you what has been marked as State's
15 201, 200, and 199, and I'm going to show you first -- I'm
16 going to hold off on 199. We'll do that one last.

17 MR. REDMOND: And I forgot to ask the Court's permission
18 to approach the witness.

19 THE COURT: Certainly.

20 BY MR. REDMOND:

21 Q: State's 200 and 201. Would you take a look at those,
22 please, and see if you recognize those in reference to your
23 2019 analysis?

24 A: Yes. I recognize each of these. They have my initials
25 and laboratory number and the SLED item number that was

1 assigned to the items when they came into the laboratory.

2 Q: And with the -- and we'll get into it, including 199.

3 All of these items are already in evidence, but what

4 examinations did you do back in -- I guess that was in March

5 of 2019, March of this year?

6 A: I was asked to process them for prints and also collect

7 any potential DNA evidence on -- on State's 201.

8 Q: And I misspoke. I said March. I meant to say May. I

9 apologize.

10 A: That's okay.

11 Q: But continue, please?

12 A: Okay. On State's 201, I processed this broken cell

13 phone for latent prints. I found prints of no value. Again,

14 there were prints, but there just wasn't enough clarity.

15 There wasn't enough detail to be able to compare it to

16 anyone. There was also the presence of what appeared to be

17 blood stains on the phone and I swabbed those as well. I

18 also swabbed the keypad or where you would dial the numbers

19 for any potential touch DNA as well.

20 Q: And were those -- were those samples and swabs sent on

21 to -- again, those swabs are in evidence, but were they

22 already sent in?

23 A: Yes.

24 Q: To DNA? Now, I'm saving 119 -- 199 on purpose. This is

25 one that testimony has borne out was found in the defendant's

1 Chevy vehicle. Did you have an opportunity to do an analysis
2 on 199?

3 A: Yes, I did.

4 Q: And could you tell us were there any findings and did
5 you do any swabs? What did you do as it relates to that
6 exhibit?

7 A: On State's 199, again it's a cell phone, as well as a
8 box that I'm assuming the cell phone came in, but they are
9 both marked as State's 199.

10 Q: Okay.

11 A: I processed the phone for latent prints. Again, no
12 value for comparison was my result as it relates to
13 fingerprint evidence. And I swabbed the sides of the cell
14 phone for touch DNA and also on this particular item I did
15 not observe any reddish-brown stains or I did not observe
16 what appeared to be blood on this particular item.

17 Q: Okay. But on the box, did you swab the box, I believe?

18 A: Yes. I swabbed the box as well and processed it for
19 prints. Again, no value for prints. And I did swab, like I
20 said, the edges and the corners of the box for touch DNA.

21 Q: Okay. And were those swabs that you took on both of
22 these items -- were they forwarded to DNA for further
23 testing?

24 A: Yes, they were.

25 MR. REDMOND: I beg the Court's indulgence.

KENDALL CHAVEZ - DIRECT BY MS. JOHNSON-LEE

1 That would be all the questions I have. Please answer
2 any questions Ms. Copeland-Little may have.

3 MS. COPELAND-LITTLE: I don't have any questions for
4 this agent.

5 THE COURT: You're excused. Thank you, sir.

6 MR. REDMOND: Your Honor, may we approach briefly?

7 (WHEREUPON, a bench conference was held in the presence
8 of the jury but out of the hearing of the jury off the
9 record, after which the proceedings resumed as follows.)

10 THE CLERK: Come over here. Place your left hand on the
11 Bible and raise your right hand. Do you swear or affirm to
12 tell the truth, the whole truth, and nothing but the truth,
13 so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Thank you, ma'am.

16 KENDALL CHAVEZ, being first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. JOHNSON-LEE:

20 Q: Please state your name for the record?

21 A: Kendall Chavez.

22 Q: And where do you work at?

23 A: The South Carolina Department of Natural Resources.

24 Q: And what is your job there?

25 A: I'm a law enforcement officer, commonly known as a game

1 warden.

2 Q: Okay. Do you also dive or participate with dives as
3 part of your job with DNR?

4 A: Yes. I've been a diver since 2009. I've been a dive
5 team leader since 2012, and I am now second in command of our
6 dive unit called the investigations and recovery unit.

7 Q: Okay.

8 THE COURT REPORTER: She needs to speak up.

9 MS. JOHNSON-LEE: Speak up real loud into the
10 microphone.

11 THE WITNESS: Yes, ma'am.

12 BY MS. JOHNSON-LEE:

13 Q: Thank you. And where do you work at now? In which
14 county?

15 A: Right now, I'm in Oconee County. I used to be in
16 Berkeley and Charleston for eight years and I've been over
17 there for the remaining of the twelve-and-a-half years.

18 Q: And did you participate in a dive here in Chesterfield
19 County at Lake Terry on June 26th, 2017?

20 A: Yes, ma'am, I did.

21 Q: Okay. And I'm going to show you quickly what is marked
22 as State's --

23 MS. JOHNSON-LEE: May I approach?

24 Q: State's Exhibit 203 and 202 for identification. Do you
25 recognize those items?

1 A: Yes, ma'am, I do.

2 Q: Okay. And how do you recognize those items?

3 A: The first one, this pipe wrench right here, one of our
4 divers, Officer Norris, was diving first in the location that
5 was indicated by the Sheriff's Office that they needed
6 cleared and he brought this item up. The second bag here,
7 our second diver, Josh Walters, dove at a secondary location
8 on Lake Terry and he brought up a plastic bag containing
9 these items and then went back down and recovered the whole
10 shotgun shell right there.

11 Q: Okay.

12 A: He dove twice.

13 THE COURT REPORTER: I didn't hear the last part, what
14 she said.

15 BY MS. JOHNSON-LEE:

16 Q: And he went -- repeat?

17 A: Josh Walters went down two times. Well, he started
18 where Officer Norris was and then we had a secondary location
19 that we were asked to check. And when he went down, he came
20 up with a bag that had all of these items except for the
21 whole shotgun shell. He went back down and found that a
22 second time.

23 Q: Okay. And was there --

24 A: He passed them off to me.

25 Q: Okay. Was there both a spent and an unspent shotgun

1 shell found?

2 A: Yes, ma'am. An unspent shotgun shell was inside one of
3 the gloves that was inside the plastic bag.

4 Q: Okay.

5 MS. JOHNSON-LEE: At this time, I would move to have
6 these items put into evidence for the State.

7 MS. COPELAND-LITTLE: Your Honor, over defense's
8 previously noted objection as to voluntariness of the
9 statement.

10 THE COURT: So noted. So noted and they're in. They're
11 in.

12 (WHEREUPON, State's Exhibit Number 202, pipe wrench, and
13 State's Exhibit Number 203, bag of recovered items, were
14 admitted into evidence.)

15 MS. JOHNSON-LEE: Thank you, Your Honor.

16 THE COURT REPORTER: That was 202 and 203?

17 MS. JOHNSON-LEE: And due to the lateness of the day,
18 I'm not going to ask any further questions, but just ask that
19 you answer any questions Ms. Copeland-Little has.

20 THE WITNESS: Yes, ma'am.

21 MS. COPELAND-LITTLE: I don't have any questions.

22 MS. JOHNSON-LEE: And I would ask that the witness be
23 excused and also another DNR agent is here. I'm going to
24 release him from his subpoena also.

25 MS. COPELAND-LITTLE: No objection.

1 THE COURT: All right. The witnesses are excused.

2 Thank y'all.

3 THE WITNESS: Yes, sir.

4 THE COURT: All right. Ladies and gentlemen of the
5 jury, we're way past the time I told you we try to stop at
6 5:30. I thought I was going to have to step back and call
7 Columbia to go ahead and get my scolding. Nah, I'm just
8 teasing about that. Hopefully, they're all gone home by now.

9 I'll tell you what we're going to do. The lawyers are
10 going to come in here at 9 o'clock in the morning and they
11 are going to work together and go ahead and get all these
12 other things marked to try to save us some time. I'm going
13 to have you all come back at 9:30 and we'll start from there.

14 Remember my instructions. Don't allow anybody to
15 discuss this case with you, nor do y'all discuss it with
16 anyone.

17 I can't let you leave though without thanking you for
18 your patience today. I know it's been a long day and we've
19 accomplished a lot as far as getting this case moving. Thank
20 you for your cooperation.

21 Y'all have a good evening. See you in the morning at
22 9:30.

23 (WHEREUPON, the jury was released for the day and exited
24 the courtroom.)

25 (WHEREUPON, the proceedings adjourned for the day.)

1 JULY 17, 2019

2 (WHEREUPON, the proceedings resumed.)

3 MR. REDMOND: But during the wait to get started, we
4 actually did meet and there's several items I think we can
5 agree, subject to the previous objections as it relates to
6 fruit of the poison tree made by the defense.

7 We've got State's Exhibit 204. That's a landline
8 information from SLED. 205, some call histories. 206, 207,
9 208, 209, and actually, I think we forgot to mark one. We
10 must have skipped one. I don't see it marked, but we've gone
11 over this one. But we'll mark that I guess the next
12 corresponding number after I finish, but that's some records
13 between Busby and Parker.

14 Then, we've got 210 is cellular analysis. 211 is a
15 cellular analysis. 212 is a cellular analysis. 213 is a
16 call log from the defendant's phone. 214 are text messages
17 that were dumped from the defendant's phone. 215 is Facebook
18 postings by Kenneth Parker that are the actual archived
19 posts.

20 And then we've got 216. 216, at this time, we are
21 holding off on until she can actually play it during a break,
22 play some audio clips during a break. 217 is the defendant's
23 actual phone. So I guess 218 would be the call logs from
24 Busby that -- from Busby to Parker that inadvertently didn't
25 get marked and that was my fault. I think they were all

1 clipped together. And I will go ahead and do that now.

2 THE COURT REPORTER: Oh, good, more exhibits. What
3 else?

4 MR. REDMOND: And I would move these items into evidence
5 subject to the defense's previous objections.

6 MS. COPELAND-LITTLE: Your Honor, just for the record,
7 being inclusive of what we consider being fruit of an
8 unlawful search, obviously, and seizure, we would object to
9 and we also object to anything obtained as a result of
10 statements that we allege were involuntary.

11 THE COURT: Gotcha. Objection is noted as previously
12 ruled on. I'll overrule the objections. In.

13 (WHEREUPON, State's Exhibits Number 204 through 213,
14 cell phone records, was admitted into evidence.)

15 (WHEREUPON, State's Exhibit Number 214, text messages,
16 was admitted into evidence.)

17 (WHEREUPON, State's Exhibits Number 215 and 216,
18 Facebook messages, was admitted into evidence.)

19 (WHEREUPON, State's Exhibit Number 217, cell phone
20 records, was admitted into evidence.)

21 MS. COPELAND-LITTLE: Your Honor, at the appropriate
22 time, you know, obviously subject to them laying the proper
23 foundation, but at the appropriate time if the Court is
24 inclined, I would just say object to voluntariness and fruits
25 of an unlawful search to preserve it.

1 MR. REDMOND: And, Your Honor, if we can take just a
2 second to mark this, I think 218, and then we'll be ready to
3 get started. Okay. It's actually 236 is going to be the
4 call logs between Busby and Parker. We would move these into
5 evidence along with the other call logs previously noted and
6 admitted.

7 THE COURT: All right. With that correction, still note
8 and overrule the objection. Of course, they're in.

9 (WHEREUPON, State's Exhibit Number 236, call logs
10 Busby/Parker, was admitted into evidence.)

11 THE COURT REPORTER: What numbers were they?

12 MR. REDMOND: Okay. 204 through 217 and then 236.

13 THE COURT: Now, you correctly stated those to the
14 defense?

15 MR. REDMOND: I did. I did.

16 THE COURT: All right. So we're fine.

17 MR. REDMOND: Your Honor, I think we were going to
18 proceed at this time with recalling Lt. Jordan since we did
19 not publish the second video. So we were going to get into
20 that. I think we were going to get into that today, as we
21 were trying to save time yesterday.

22 So at this time, I would yield to Ms. Johnson-Lee when
23 the Court brings the jury back in.

24 THE COURT: All right. I need the jury.

25 (WHEREUPON, the jury entered the courtroom.)

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 THE COURT: Good morning.

2 THE JURORS: Good morning.

3 THE COURT: Thank you for your patience once again.

4 Through the time that's elapsed this morning, we were able to
5 go ahead and get a lot of the exhibits pre-marked to save
6 time later on today.

7 Madam Solicitor?

8 MS. JOHNSON-LEE: Your Honor, the State recalls
9 Investigator Wayne Jordan.

10 THE CLERK: Do you swear or affirm to tell the truth,
11 the whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 WAYNE JORDAN, being first duly
14 sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. JOHNSON-LEE:

17 Q: Can you restate your name for the jury?

18 A: Anthony Wayne Jordan.

19 Q: Now, yesterday, Investigator Jordan, we played a video
20 from June 21st, 2017, with the defendant, David Busby. Was
21 there another interview again on June 22nd of 2017 with David
22 Busby?

23 A: There was. There was a second interview.

24 Q: And have you watched that second interview?

25 A: I have.

1 Q: What did he tell the Sheriff's Office in that second
2 interview?

3 A: I was in the observation room in this interview when he
4 was talking with Sgt. Burns. He was just telling us that he
5 didn't -- he didn't do it. He didn't know what was going on.
6 He was scared because Clint Gulledge and Kenneth Parker were
7 the ones that killed Mickey and he didn't -- if Busby didn't
8 help them out by taking care of some of the items that they
9 were -- that he was afraid and he was scared that they were
10 going to take his family out and take him out as well.

11 Q: What items did he tell you he did something with?

12 A: He talked about the shotgun. He said it wasn't his. It
13 was Clint's. He talked about the wallet. He talked about
14 the forms of identification that he kept for his -- for
15 himself. He was telling us he was going to protect himself
16 with them to show that I didn't kill him, but I kept the
17 property to show the police and that's why he put it in the
18 boot.

19 And he told us about going to Lake Terry and that one of
20 the guys had a .45 caliber or a .40 caliber pistol on him
21 making him throw this stuff into the lake. And instead of
22 throwing the gun in the lake, he hid it and what he threw in
23 the lake -- actually threw in the lake was the big orange
24 crescent wrench that's in evidence, along with going to what
25 he called the point of the lake where he took us and put the

1 stuff in a plastic bag and threw it off into the lake. He
2 talked about not throwing it at a certain part of the lake
3 because it would go down -- go down into the -- he called it
4 the crater. I believe that's what he called it. And it
5 would go into the creek and it would wash away and stuff, you
6 know, staying there on the floor of the water.

7 Q: What items did he say he threw into Lake Terry?

8 A: He talked about the crescent wrench, of course, and what
9 was in the plastic bag, the wallet. He used a two-inch ball
10 for weight. He talked about the gloves. He talked about the
11 shotgun shell. And I believe he also talked about forms of
12 identification that was left inside of the wallet.

13 Q: Now, was the wallet itself actually found in the lake
14 when the bag was brought up?

15 A: I think it was.

16 Q: Do you recall?

17 A: I don't recall. I don't remember.

18 Q: And the gun itself, he told you what he did with that?

19 A: Yes. He told us that he took it, where he took it and
20 buried it, and he took us to the gun, of course, and he --
21 what he said was he threw the wrench into the water to make
22 it sound like he threw the gun into the water so they would
23 think he threw the gun in, but he later went back later on
24 after he got away from them and took the gun and hid the gun.

25 Q: Was the gun found at the location where he told you it

1 would be?

2 A: The gun was found at the location. He's the only one
3 that could have took us to it. He took us to the gun.

4 There's no way of us -- there's no way we would have found
5 that gun if he wouldn't have took us to that gun.

6 Q: And the items at Lake Terry, he is the one that told you
7 specifically where in Lake Terry those items would be?

8 A: In the interview, he told us where we needed to search
9 for the -- for the items that he threw into Lake Terry, yes.

10 Q: And the three items of the victim's he said he kept, was
11 that the driver's license --

12 A: The debit card and Social Security card. That's
13 correct.

14 Q: And did he claim anyone other than Clint Gulledge or
15 Kenneth Parker killed Mickey?

16 A: He just kept telling us -- you know, he started the
17 interview by yesterday all the stuff I told you was
18 fabricated, was a lie, and he went into the part of Clint
19 Gulledge. Clint Gulledge is crazy. Kenneth Parker is --
20 he's on dope bad. And he just kept blaming them two for the
21 -- for the shooting and trying to distance himself, but he
22 did talk about, again, intimate details of the -- of the
23 incident, you know, the shooting of the face, the rummaging
24 through the pockets. He just kept continuing talking about
25 that.

WAYNE JORDAN - DIRECT BY MS. JOHNSON-LEE

1 MS. JOHNSON-LEE: I beg the Court's indulgence.

2 At this time, the State would like to publish the video
3 from June 22nd to the jury and we're going to put it on the
4 television because the sound is a little bit better on the
5 television.

6 MS. COPELAND-LITTLE: Your Honor, the defense objects
7 for previous reasons noted to the voluntariness and the
8 fruits of an unlawful search.

9 THE COURT: So noted. As before, I will overrule it.

10 MS. COPELAND-LITTLE: Your Honor, do you have any
11 objection if I go stand near the bailiff over here?

12 THE COURT: No problem at all. Wherever you --

13 MS. COPELAND-LITTLE: Thank you, Your Honor.

14 THE COURT: -- find it most comfortable. Counsel, you
15 may be more comfortable to take that seat right there.

16 MS. COPELAND-LITTLE: Yes, sir. I was just looking at
17 that. Thank you.

18 (WHEREUPON, the interview video from June 22nd, 2017, was
19 played, after which the proceedings resumed as follows.)

20 MS. JOHNSON-LEE: Please answer any questions that Ms.
21 Little has for you, please.

22 CROSS-EXAMINATION

23 BY MS. COPELAND-LITTLE:

24 Q: Good morning, Detective Jordan.

25 A: Good morning.

WAYNE JORDAN - CROSS BY MS. COPELAND-LITTLE

1 Q: I just really have one or two questions. When you
2 arrested David Busby, did he have a large amount of cash on
3 his person?

4 A: No, he did not.

5 Q: Okay. And did he have a large amount or any drugs on
6 his person?

7 A: No, he did not.

8 Q: All right.

9 MS. COPELAND-LITTLE: Thank you.

10 MS. JOHNSON-LEE: I beg the Court's indulgence.

11 REDIRECT EXAMINATION

12 BY MS. JOHNSON-LEE:

13 Q: Investigator Jordan, in follow-up, did the victim have
14 any cash on his body or in his truck?

15 A: On the scene?

16 Q: On the scene.

17 A: No, he did not.

18 Q: Was a gun found on the victim or at the scene?

19 A: No gun was found on the scene, no.

20 Q: And were any drugs found on the victim or at the scene?

21 A: No drugs were found on the scene, no.

22 MS. JOHNSON-LEE: Thank you. No further questions.

23 MS. COPELAND-LITTLE: Nothing further.

24 THE COURT: You may step down.

25 MR. REDMOND: The State would next call Chris Johnson,

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 Lt. Chris Johnson.

2 THE CLERK: Place your left hand on the Bible and raise
3 your right. Do you solemnly swear to tell the truth, the
4 whole truth, and nothing but the truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you. Have a seat.

7 MR. REDMOND: I'll go ahead and cut that on.

8 CHRIS JOHNSON, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. REDMOND:

12 Q: Lt. Johnson, by whom are you employed?

13 A: South Carolina State Law Enforcement Division.

14 Q: And how long have you been so employed?

15 A: Right at a little over 15 years.

16 Q: Fifteen years?

17 A: Yes, sir.

18 Q: And how -- I guess in what capacity do you work with
19 SLED?

20 A: I am currently a lieutenant supervisor on our -- one of
21 our surveillance and intelligence units.

22 Q: Okay. And tell me what that entails. Tell the ladies
23 and -- because it factors into why we're here today.

24 A: Yes, sir. So one of the things that we are most often
25 asked to do is to take call detail records and perform

1 analysis as far as call patterns, anything in that kind of a
2 realm, but we also get mapping tower data that cell phones
3 may use in the transaction of phone calls and text messages.

4 Q: Okay. And could you tell the ladies and gentlemen --
5 well, before we get into that, let me go through some
6 qualifications. And do you have any prior law enforcement
7 experience before the 15 years at SLED?

8 A: No, sir.

9 Q: Okay. And in your 15 years as SLED, could you tell us
10 what training and any other, I guess, training certifications
11 in relation to cellular analysis?

12 A: Yes, sir. So I started my career in computer crimes for
13 the first four years before transferring to our surveillance
14 and intelligence unit. During that time, I've taken numerous
15 classes through a company called PenLink, which is a program
16 that we use to conduct our wiretapping software, as well as
17 pen registers, and it also does analysis of call records as
18 far as, again, allowing us to sort through, you know,
19 hundreds of thousands of lines of phone calls. So we've had
20 training there.

21 I've had different classes through cellular data
22 analysis, through other agencies. One being one program that
23 we use is called CASTViz, which is a program that was
24 developed by the FBI that they utilize with their CAST
25 program, which is their cellular analysis and survey team.

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 And so we utilize that same software with our mapping, and I
2 have been through that basic training as well.

3 Continuing with PenLink, I've been through their PLX,
4 which is their newest version of software, their advanced
5 training, as well as their administrator's course.

6 Q: Okay. Now, have you ever been qualified as an expert in
7 the field of cellular analysis in court?

8 A: Yes, sir.

9 Q: And about how many times have you been qualified in that
10 field?

11 A: I believe I'm right at four or five now.

12 Q: Okay.

13 MR. REDMOND: At this time, I would move to -- to
14 qualify Detective Johnson as an expert in the field of
15 cellular analysis.

16 MS. COPELAND-LITTLE: I beg the Court's indulgence. No
17 objection.

18 THE COURT: So qualified without objection.

19 MR. REDMOND: Thank you, Your Honor.

20 BY MR. REDMOND:

21 Q: Now, I started to get into how it is you do what you do
22 and I'm going to be specific to this case. Were you asked to
23 do an analysis on cell phone records both for call -- I guess
24 call histories, for lack of a better term, and for location
25 data?

1 A: Yes, sir, I was.

2 Q: Okay. Now, before we get into your findings in this
3 particular case, let's explain a little bit in a rudimentary
4 sense of how it is you make that analysis. Could you explain
5 to the ladies and gentlemen of the jury first as it relates
6 to how you evaluate the call histories in relation to what
7 you did in this case?

8 A: Yes, sir. So to start with, different phone companies
9 will present their records in different formats. Each
10 company has a different way. For instance, Verizon, when
11 they send their records to you, they always come in Eastern
12 Daylight Time or Eastern Standard Time. However, a company
13 like T-Mobile or AT&T, they send their records in UTC time.

14 And so we have to initially look at that and, again,
15 knowing what company we're dealing with, and then we can
16 adjust that time frame to make sure that the times that we're
17 looking at are, you know, matching up to the times of the
18 incident that we're investigating.

19 Q: Okay. And were you able to do that in this case?

20 A: Yes, sir.

21 Q: Okay. And as it relates to location data, which is
22 going to be really important as well, but how do you go about
23 -- explain to the ladies and gentlemen of the jury how do you
24 go about -- I guess we would call it ping data, but how do
25 you go about getting that data.

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 A: So it's cellular tower data. Each -- and different
2 companies, again, maintain different records. Verizon, they
3 do not maintain location information for text messages,
4 whereas AT&T and some other companies, they do. And so what
5 they do or what they're able to do is provide a transaction
6 history of phone calls, text messages, and we're able to take
7 those records and you'll be able to see what tower that that
8 phone utilizes, but it will also provide what sector of the
9 tower.

10 And so a tower is split up into three sectors, what we
11 call sectors, and that's based off of a compass heading from
12 0 to 360 degrees. Each sector will have what they call an
13 azimuth, and that's that sector. It may be zero degrees. It
14 may be 120 degrees. It may be 240 degrees. And so each
15 number of that sector corresponds to what we call the azimuth
16 or the degree off the compass heading. And so with that
17 information, we are able to generate maps that will show that
18 that phone utilized a tower with that sector and produce that
19 on a map that will show a general area where that phone may
20 or should have been when it received service.

21 Q: And that's when -- when you say general area, just to
22 make sure it's clear, does it give you a precise location?
23 Like I've got my phone on now. If I get a text message,
24 email or any data utilizing on my phone, will it tell anybody
25 that I'm sitting right here in this courthouse?

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 A: No, sir.

2 Q: Okay.

3 A: In general, it is just the tower. There is some -- some
4 information that's coming out with newer records that is per
5 call measurement data that will give you a distance off the
6 tower, but again, it is a general location. It is not an
7 exact point.

8 Q: Okay. Now, in this particular case -- and let me --
9 well, let me ask you this. If I may, with the Court's
10 permission, I'm going to approach you with State's exhibits
11 205, 206, 207, 208, 209, and 236, and they are already
12 admitted into evidence, but do you recognize those as copies
13 that you -- as copies of what you provided to the State?

14 A: Yes, sir. Those are products of our PenLink or PLX
15 software.

16 Q: Okay. And now I'm going to show you what's been marked
17 as State's Exhibit 204, 210, 211, and 212, and could you take
18 a look at those and tell us what those are? And those are
19 also already admitted into evidence.

20 A: Yes, sir. These are the report form app that we utilize
21 for creating our location-based information as far as tower
22 data and that information.

23 Q: Okay. And I believe --

24 MR. REDMOND: If I may approach the witness?

25 BY MR. REDMOND:

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 Q: 204, is that an email you sent to me as it relates to
2 information regarding the phone number 843-258 -- I think
3 it's 3626?

4 A: Yes, sir. 3626 and actually a second number, 658-3515
5 as well.

6 Q: Okay. And on both of those numbers, especially the 2636
7 or 3626 number, were those cell lines or land lines? Or was
8 that a cell line or landline?

9 A: This appears to be a landline based off of the
10 information search that was performed.

11 Q: Okay. And landline I think the service was provided by
12 Sandhills Telephone, if I'm correct?

13 A: Yes, sir.

14 Q: Okay.

15 MR. REDMOND: Now, with the Court's indulgence -- okay.
16 Now, I'm going to start with what is marked as -- if I may go
17 ahead and publish, Your Honor? And I'm going to dim the
18 lights again.

19 BY MR. REDMOND:

20 Q: And are those the copies?

21 MR. REDMOND: And start back up for a second now. I'm
22 sorry.

23 Q: Could you explain what -- and this is -- and I don't --
24 I apologize for not having the exhibit number right in front
25 of me, but these are the calls between Short and the

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 defendant, David Busby. Mickey Short, the victim, and David
2 Busby. Could you explain the form as to what this
3 represents?

4 A: Yes, sir. So this is -- what we are able to do is take
5 what is typically hundreds of thousands of lines of phone
6 calls and we can sort out with the PLX just those phone
7 conversations that we are interested in, whether it be
8 witnesses, suspects, you know, that type thing. And so it
9 makes it a little bit easier for us to read instead of having
10 to sort through every line.

11 Q: Okay. And on the far left, that number, is that 843-
12 680-2290?

13 A: Yes, sir. That should be Mr. Short's telephone number.

14 Q: That's Mr. Short, the victim's telephone number? Now,
15 interestingly, I'm going to direct your attention down to the
16 next to the last line, I guess at that 00.09.09. What does
17 that represent?

18 A: So that is going to be a voice phone call that occurred
19 on June 19th, 2017, at -- that's basically nine minutes after
20 midnight on the morning of the 19th.

21 Q: And could you tell us does that form tell you who
22 actually was making the call, who it was that called Mr.
23 Short?

24 A: Based off of this report, this should be an incoming
25 call from 803-729-0492, which was identified as Mr. Busby's

1 telephone number.

2 Q: Okay. The defendant's phone number?

3 A: Yes, sir.

4 Q: Okay. So from this, we can deduce that at 12:09 the
5 defendant called the victim, Mr. Short?

6 A: It appears that he attempted to, although there is no
7 cell tower location information, which indicates to me that
8 it was not a completed phone call.

9 Q: Thank you. I was going to get to that.

10 A: I'm sorry.

11 Q: Thank you. No, no, that's great. I'm glad that you
12 explained that. So in essence, the defendant did attempt to
13 call Mr. Short at 12:09.

14 MR. REDMOND: And let's see. Let's move to the next
15 one. The next. Now, X out of it.

16 MS. THURMAN: Sorry.

17 MR. REDMOND: Yeah. All right. Go to the next one.

18 MS. THURMAN: Yes, sir.

19 BY MR. REDMOND:

20 Q: Now, this is -- and again, I apologize for not having an
21 exhibit number, but these are the calls between the victim,
22 Mickey Short, and the 843-658-3626 number. Are all these
23 calls that are being made either incoming and outgoing
24 between that number and the victim, Mickey Short?

25 A: Yes, sir.

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 Q: Okay. And at this point, I'm not going to get into who
2 that belonged to. We'll get into that through other
3 witnesses, but in looking down here -- and could you give the
4 jury a range? And of course, this is in evidence and they
5 will have it, but specifically after midnight, starting on
6 the 19th after midnight, what time range do you have calls
7 being made between that phone -- between the 843-658 number
8 and the victim's number, Mr. Short?

9 A: As far as -- as far as completed calls -- excuse me.
10 I'm sorry. As far as completed calls, it appears that calls
11 originated at June 18th, 2017, at 10:39:18, and the last
12 completed call is June the 18th, 2017, at 11:15:06 in the
13 evening.

14 Q: Okay. And so the 19th. So as an expert witness, if the
15 body had been found of Mickey Short at about 7:15 or 7:30
16 a.m. on the 19th, does it appear that that number, the 658
17 number is actually still calling in essence a dead person's
18 phone up until the afternoon of the 19th, several hours after,
19 in fact, he was found dead?

20 A: It appears that it was attempting to, yes, sir.

21 Q: Yes, sir. Okay. Thank you. Now, these are phone calls
22 between -- that are being made to the victim, Mickey Short,
23 from a 704-670-4405 number. Do you have that information as
24 to who that phone belonged to?

25 A: It was indicated to me that it belonged to Mr. Parker.

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1 Q: Okay. And in this particular situation -- and actually,
2 it's in evidence. Let me go back. The 658 number, 843-658
3 number, since it's in evidence, who did that reflect that it
4 belonged to?

5 A: Based off of an open records search, it came back to an
6 Angela Safaris [ph].

7 Q: Okay. And in that -- and that's the 658-3626 number?

8 A: Yes, sir.

9 Q: Is that correct?

10 A: Yes, sir.

11 Q: Okay. Based on the information that you were given in
12 relation to the case, is that a phone that was utilized by
13 Deese, Nicole Deese?

14 A: I believe so. That was what was identified to me as
15 belonging -- being her number.

16 Q: Okay. Thank you.

17 A: That person's number.

18 Q: Just to clarify that. So now let's move back to this.
19 So this is Kenneth Parker either calling or receiving calls
20 from the victim, Mickey Short. Let me direct your attention
21 starting at about I guess I -- I mean about 2045 on the 18th.
22 I'm sorry, 1915 on the 18th. Are there several calls between
23 both Mr. Short and Kenneth Parker in this particular
24 situation?

25 A: Yes, sir. There appears to be three, two incoming and

1 one outgoing.

2 Q: Okay. And let's see. And in looking at 2111, that
3 being a little bit after -- well, what time is 2111?

4 A: That is 9:11:46 p.m. on June 18th.

5 Q: Okay. And then there's one right below that that's also
6 9:11. I guess it's an outgoing. It says 33 seconds. With
7 that, could you explain that, the fact that you've got one
8 above that that says 21:11:46 and then the next one says
9 21:11:48?

10 A: It may have been -- again, without looking at the
11 original records, it very well could have been that the phone
12 call was attempting to go out on a market that wasn't his
13 home market for that number.

14 Q: Okay.

15 A: So, therefore, sometimes it's going to attempt to locate
16 a tower on its home market. When it doesn't see that tower,
17 then it's going to go to the -- this is all within, you know,
18 hundreds of milliseconds. It's going to go to the tower that
19 it sees that's in its area.

20 Q: Okay.

21 A: But because the area code is 704, that tells me it's not
22 a local number. So it's going to look for its home market
23 normally, which usually occurred back when we had to deal
24 with roaming charges and that type thing.

25 Q: Okay. And the reason I wanted to clarify that, that's

1 not two separate charges. That's actually the same. With
2 the times being that close, you can deduce that's the same
3 call?

4 A: Yes, sir. Most likely.

5 Q: Okay. But again, that 2111, that would be about 9:11 in
6 the evening on the 18th; is that correct?

7 A: Yes, sir.

8 Q: All right. Now, after that, when is the next time that
9 there are any calls being attempted between those two
10 numbers?

11 A: It appears there are some incoming attempts at 1:07 a.m.
12 on the 19th and then 1:08 and 1:14, one of those being an
13 incoming text message.

14 Q: And those are all incoming?

15 A: Yes, sir.

16 Q: And the text messages listed here. Hey, this is Kenny,
17 Nicole's people. Have you heard from her since? I note --

18 THE COURT REPORTER: Slow down.

19 MR. REDMOND: Oh, I'm sorry.

20 BY MR. REDMOND:

21 Q: I know -- I know said you might pick her up to ride in
22 with you. That's the text message you're referring to?

23 A: Yes, sir.

24 Q: All right. Now, all of these are incoming calls. Are
25 there any outgoing calls between Mr. Short and Mr. Parker

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1 after 9 o'clock or a little after 9 o'clock?

2 A: No, sir. Not based on the phone records that were
3 provided to me.

4 Q: And is that 1:14 a.m. call, is that the last time that
5 Mr. Parker attempted to contact Mr. Short?

6 A: Yes, sir. Based off the call records that I had.

7 Q: Okay. Thank you.

8 A: Yes, sir.

9 Q: Now, let's go to calls between -- now, let's go to calls
10 between Mr. Busby and Ms. Deese. Again, we've got the target
11 number, that being Mr. Busby's number. The 658 is Ms.
12 Deese's number. Now, right about here, a little bit after
13 midnight, does it appear that Mr. Busby makes a call to Ms.
14 Deese at about 12:08 a.m.?

15 A: Yes, sir.

16 Q: Okay. And there are several more outgoing calls and are
17 those times -- and what are the times of the outgoing calls
18 after the 12:08 call? I mean about 12 -- yeah, the 12:08
19 call. I apologize.

20 A: Yes, sir. So there is a call at 12:47 p.m. on the 19th
21 of June. One at 12:49. Again, it appears to be a duplicate
22 record at 12:49. Then another one at 12:54, 1:39 p.m.,
23 another duplicate record there, and 3:03 p.m.

24 Q: Okay. So the interesting thing I want to point out is
25 that you've got a gap of about 12 -- 12-plus hours between

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1 Ms. Deese making any calls to Mr. Busby. Does it appear to
2 be that way?

3 A: Yes, sir.

4 Q: Now, during this time -- I guess during this -- this
5 interval, let's see. Oh, actually, I need to -- I'm sorry.
6 I need to flip to the next one. I apologize.

7 MS. THURMAN: The next person?

8 MR. REDMOND: Yeah, the next person. It's going to be
9 Parker. Yeah.

10 I was about to ask you a question before I moved on to
11 the next screen. Okay.

12 Yes, go to right there.

13 BY MR. REDMOND:

14 Q: Now, during this time -- so we talked about the interval
15 between -- between Ms. Deese and Mr. Busby attempting to
16 contact each other, but this is the phone -- who are these
17 calls between? We've got the target number that's Mr.
18 Busby's call, but who is actually calling him here?

19 A: This should be interaction between Mr. Busby and Mr.
20 Parker.

21 Q: All right. And I'm going to direct your attention to --
22 well, I mean -- I mean let me just say this. You've got the
23 17th. I guess phone calls there start on the 17th. Is that
24 about 9 o'clock -- 9:20 on the 17th when he it appears got a
25 call from Mr. Parker on the 17th?

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1 A: Yes, sir. There appears to be some --

2 Q: A text message. I said call, but that was a text
3 message?

4 A: Yes, sir. That's a text message.

5 Q: All right. So then there's nothing else until a few
6 hours later on the 18th at about -- a couple outgoing calls to
7 Mr. Parker at about just a little bit before 1 o'clock on the
8 18th?

9 A: Yes, sir.

10 Q: That would mean the early morning hours of Father's Day.
11 Now, here's the interesting thing and then, of course, about
12 1 o'clock in the morning too there was an outgoing call to
13 Mr. Parker about 1 o'clock the next morning. Do you note
14 that?

15 A: On the 19th, yes, sir.

16 Q: Okay.

17 A: At 1:30.

18 Q: I said the 18th. I'm sorry. Let me go back. On the
19 18th?

20 A: On the 18th.

21 Q: About 1:13 the 18th?

22 A: Yes, sir. At 1:13, there is an outgoing call.

23 Q: Okay. Now, this is where I want to direct your
24 attention. So you've got on the 18th at 1 o'clock in the
25 morning there's an outgoing call. Is it almost 24 hours

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1 before Mr. Parker starts trying to get in touch with Mr.

2 Busby?

3 A: It appears yes, sir.

4 Q: Just short of 24 hours. It looks like the next time was
5 an incoming call from Busby -- from Parker to Busby at 1:03
6 a.m. Does that seem correct?

7 A: Yes, sir.

8 Q: All right. And then there's another call at 1:17, 1:35,
9 and the last call is at -- oh, I guess at 1:35 is the last
10 call?

11 A: Yes, sir.

12 Q: Does that appear to be accurate? Okay. So I guess the
13 reason I'm highlighting that is we saw Ms. Deese. She
14 stopped calling it appeared a short period before that. Now,
15 Mr. Parker is actually trying to get in touch with Mr. Busby.
16 Does that appear to be the case?

17 A: Yes, sir.

18 Q: All right. Thank you.

19 MR. REDMOND: All right. Okay. Now, let's go to the
20 mapping. Let's start -- not that one. Let's go to Short's
21 first. I'm sorry. Short's mapping, 2290. All right.

22 BY MR. REDMOND:

23 Q: Let's start with Mr. Short's, and this is in evidence,
24 but is this a cell data analysis of Mickey Short's phone?

25 A: 2290? Yes, sir.

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1 Q: Okay. 2290. All right.

2 MR. REDMOND: You can scroll on up.

3 MS. THURMAN: Up?

4 MR. REDMOND: I mean scroll down. I'm sorry.

5 BY MR. REDMOND:

6 Q: And what is that form?

7 A: That is Verizon's call detail explanation form. It
8 helps some individuals as they go through the spreadsheets to
9 know what columns are what and what that information is that
10 is provided.

11 Q: Okay. All right. And that form, what is that form?

12 A: That's the same thing except that report is for VoLTE
13 records, which is your voice over LTE records.

14 Q: Okay. Call data explanation form. The call detail
15 records. Now, what is that?

16 A: That is the original format that Verizon sends the
17 records in. As you can tell, based off of that compared to
18 the PenLink report that we have, it's a lot different report,
19 a lot more data that we are able to kind of clean up.

20 Q: Okay.

21 A: And sort through.

22 Q: All right.

23 MR. REDMOND: You can go ahead. And you can go ahead
24 and keep scrolling. All right. Stop right there.

25 BY MR. REDMOND:

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1 Q: Now, explain this to us?

2 A: So as we discussed earlier, that is the representation
3 of a cell tower. So that is the azimuth of that tower and,
4 again, some towers will have multiple numbers because they
5 will have multiple antennas on them. So you may have a tower
6 that may have, you know, two or three different numbers, but
7 it's the same GPS location.

8 Q: Okay. Now, what does this -- I guess the times and
9 dates reflected here, what does that represent?

10 A: So that is date and times that we were able to indicate
11 that there were calls made that utilized that particular
12 tower and that particular sector.

13 Q: Okay. And now, would that mean that they would have to
14 be within this range to do that or is that -- just explain
15 that?

16 A: No. That is -- that is the general direction. It could
17 be a little further. It could actually -- based off of --
18 without getting into a lot more information, based off RF
19 signals, it could actually go to a little bit left of that
20 purple line or a little bit right of that purple line
21 depending upon terrain, topography, buildings, you name it.

22 Q: Okay. But somewhere in this area?

23 A: Yes, sir.

24 Q: Okay. All right. And again, those are the times that
25 are reflected where -- and we see here this is Mount Croghan.

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1 Is that represented being in Mount Croghan?

2 A: Yes, sir. Just to the west.

3 Q: West of Mount Croghan? Okay.

4 MR. REDMOND: Scroll down.

5 BY MR. REDMOND:

6 Q: Now, this is at about 8:45 and, again, this is the
7 victim's phone. Could you tell us what this represents?

8 A: So again, we were able to indicate the tower and sector
9 that the phone was utilizing when that call was made and we
10 were able to also show the incident location as it was
11 reported in comparison on the map.

12 Q: Okay.

13 MR. REDMOND: You can scroll. All right. There. All
14 right.

15 BY MR. REDMOND:

16 Q: And this is at -- and I'm assuming that's a --

17 A: It's a typo, yes, sir. I apologize.

18 Q: 2256 I guess, about 10:56?

19 A: Yes, sir.

20 Q: Okay.

21 MR. REDMOND: Oh, put that back up.

22 BY MR. REDMOND:

23 Q: Okay. And what does this represent?

24 A: Again, it represents the tower and sector. As you can
25 see, it has changed and, again, showing the incident location

1 as it relates to it.

2 Q: As to the area? Okay. All right. And again, at about
3 8:59 and 9:01?

4 A: Yes, sir. It's back on that original tower.

5 Q: Now, let me ask you this. Does that mean that the --
6 and when we talk about the towers that it may be bouncing off
7 of, does that mean that Mr. Short is moving during this time?

8 A: Most likely.

9 Q: Okay.

10 A: Without -- again, without having the protocol motion
11 data and that type thing and the fact that it hits three
12 different sectors, I would say that it was moving.

13 Q: Okay.

14 A: Or either it was very close to the base of the tower.

15 Q: Okay. Is it possible that there are times where it
16 might be two towers but the person might not be moving, it's
17 just a question of it finding a different tower?

18 A: Yes, sir. So there is a slide toward the front of the
19 PowerPoint that we put in every one of our reports that shows
20 how towers network. And anybody that's familiar, that's old
21 enough with the older cellular technology, when you first got
22 a cell phone, you would get on a phone call. If you were
23 driving down the road, you would always drop the phone call.

24 Q: Uh-huh.

25 A: Well, consumers got extremely upset with it. They would

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1 voice their concerns to the phone companies and so they
2 adjusted the networks so that you have what is called an
3 overlap area. And so now as you move, that phone call is
4 allowed to hand off from one tower to the next so that the
5 coverage kind of overlaps so that you don't drop those calls
6 as often.

7 Q: And of course, I forgot to include that part, but would
8 that be reflected where you might have a -- when you say
9 overlap, there's an area where two towers --

10 A: Right.

11 Q: -- are able to access you?

12 A: Yes, sir.

13 Q: Okay.

14 A: And we've had instances where it's more than two.

15 Q: Okay.

16 A: Just because phone companies want that coverage so that,
17 you know, they obviously keep their consumers happy.

18 Q: Okay. All right.

19 MR. REDMOND: You can scroll to the next one. Okay.

20 BY MR. REDMOND:

21 Q: And now, where is this located?

22 A: Again, it appears based off the towers on this, it's the
23 same tower. It's just a different sector.

24 Q: Okay. Different sector? So again, we're talking in an
25 area west of Mount Croghan?

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1 A: Yes, sir.

2 Q: Okay. And then 2315?

3 A: So, again, it appears back on the same sector, same
4 tower that we started with.

5 Q: All right.

6 MR. REDMOND: Scroll on up.

7 BY MR. REDMOND:

8 Q: And then, of course, 9:17?

9 A: Yes, sir. Back again to the tower 1887, which was in
10 Ruby.

11 Q: In Ruby? All right.

12 MR. REDMOND: And keep scrolling.

13 BY MR. REDMOND:

14 Q: Now, this is interesting. Well, let me -- before we get
15 into this slide, now if -- around the time after midnight and
16 whatnot, every time that we see a call on Mr. Short's call,
17 for instance, the incoming call that he received at about --
18 that came in at a little after midnight, does it
19 automatically mean that it's going to reflect what tower it
20 is on the readout that we get?

21 A: If it connect -- if the call completes and makes a
22 connection, then yes, sir, you should have -- the initiating
23 tower should be the tower that is -- you know, has the
24 strongest service signal to that phone.

25 Q: Okay. But if it doesn't connect?

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1 A: Then you may not see a tower connection. Well, you
2 won't see a tower connection if it doesn't connect.

3 Q: Okay.

4 A: Which could be indicating that the phone was going
5 straight to voicemail or that the phone call was being
6 ignored and it doesn't make a connection.

7 Q: Okay. Now, at --

8 THE COURT: Hold on.

9 MR. REDMOND: Oh, I'm sorry.

10 THE COURT: We need to take a recess.

11 MR. REDMOND: Oh, I'm sorry. I'm sorry.

12 THE COURT: Everybody stand at ease. We'll take about a
13 10- or 12-minute recess.

14 (WHEREUPON, the jury exited the courtroom.)

15 (WHEREUPON, there was a break in the proceedings, after
16 which the proceedings resumed as follows.)

17 THE COURT: Bring them in.

18 (WHEREUPON, the jury entered the courtroom.)

19 MR. REDMOND: May it please the Court, Your Honor.

20 THE COURT: Yes, sir.

21 BY MR. REDMOND:

22 Q: I think we left off talking about this. I think this is
23 the last slide as it relates to Mr. Short's mapping data.

24 And notice this date and time, the 19th at 3:07 -- excuse me
25 -- 3:18 and 3:19. I'd asked you to take a look at those

1 specifically earlier. Did -- where does that reflect that
2 phone -- Mr. Short's phone bouncing off of?

3 A: It appears to be in the area or that tower services the
4 area of the town of Jefferson.

5 Q: Okay.

6 A: To the north.

7 Q: So it's outside of Chesterfield several miles away from
8 the scene?

9 A: Yes, sir.

10 Q: From Hurst Cemetery Lane? Now, when we're talking about
11 cellular mapping data, does that mean automatically that the
12 person is there or that the phone is there?

13 A: No, sir. The only thing that I can tell you is
14 generally where the device is at.

15 Q: Okay. And the device at that time is in Jefferson or
16 near Jefferson in the vicinity of Jefferson?

17 A: Yes, sir.

18 Q: Okay. And that's at 3:18 and 3:19 in the morning. Now,
19 in looking at the calls that came in, did Mr. Short make any
20 calls at 3:08 and -- at 3:18 and 3:19?

21 A: No, sir. That, I believe, was an incoming call and
22 very, very short duration.

23 Q: Okay.

24 A: Like, three seconds.

25 Q: Okay.

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1 A: And I think one was eight seconds.

2 Q: And does that mean that he actually answered the phone
3 or that the phone was actually answered?

4 A: No, sir. So when we're doing pen registers, I can
5 actually make a device register just by what we call one
6 ringing it. So I can -- as long as that phone will ring and
7 not go to voicemail and I hang up, it will -- it will
8 indicate a tower, but it will show that very, very short
9 duration.

10 Q: Okay. So in essence, does it reflect that that call was
11 actually answered?

12 A: No, sir, not necessarily.

13 Q: Okay.

14 MR. REDMOND: Now, so let's move on to the next one.

15 I'm sorry. The next one. I said that.

16 BY MR. REDMOND:

17 Q: Now, this is the one I really want to highlight and
18 we'll get back to that one in a little while as well, these
19 last two. 3:23, does it appear that that phone is still
20 moving? Now, it's at tower 17 -- I guess it's 1785 at 3:23
21 in the morning?

22 A: Yes, sir.

23 Q: And what does that represent and about what location is
24 that?

25 A: It's tower 1785. I'm not sure exactly where that's at.

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1 Q: Okay.

2 A: Without having a zoomed-out map.

3 Q: And it's into evidence. It looks like that's South
4 Pearl Street and Highway --

5 MS. COPELAND-LITTLE: Object to the solicitor
6 testifying.

7 MR. REDMOND: Okay.

8 BY MR. REDMOND:

9 Q: Does that appear to be 151 and Pearl Street?

10 MS. COPELAND-LITTLE: Objection. Leading.

11 MR. REDMOND: It's reflected on the --

12 BY MR. REDMOND:

13 Q: Can you make out on your -- on this what highway I'm
14 pointing at right now? This would be the last slide at 3:23.

15 A: At 3:23, the major intersection there appears to be
16 Highway 151 at South Pearl Street.

17 Q: Okay.

18 MR. REDMOND: I'd ask the Court take judicial notice
19 that that would be the town of Pageland.

20 THE COURT: Okay.

21 BY MR. REDMOND:

22 Q: And so, in essence, with that being established, would
23 then tower 85 be in the vicinity of Pageland?

24 A: Yes, sir.

25 Q: And, of course, Pageland is several -- is Pageland

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1 several miles from Jefferson?

2 A: Yes, sir. I believe so.

3 Q: Yes. Okay. And would then it be fair to say that the
4 phone, Mickey Short's phone at the very least, is still
5 moving at about 3:23 in the morning?

6 A: Yes, sir. Based off of records.

7 Q: Okay. And I think that's the last one. No, there is
8 one more. I'm sorry. And 3:38. I'm sorry, 3:38, what tower
9 is that bouncing off of again?

10 A: It is back on the north side of the tower servicing
11 Jefferson.

12 Q: Okay. All right. Now --

13 MR. REDMOND: All right. Now, X out and let's go to --

14 MS. THURMAN: This one?

15 MR. REDMOND: Huh-uh. The top one. There we go. Now,
16 scrolling through. Okay. Stop right there. Go back. All
17 right. Actually, I did put it on there.

18 BY MR. REDMOND:

19 Q: Could you explain that again? You were talking about
20 the overlapping. Is that what you're referring to?

21 A: Yes, sir. It is. So obviously, a cellular network is
22 made up of multiple towers and those towers are going to
23 typically have a service area that will hand off into another
24 tower. So you will have at least three that are going to
25 make up the general area so that as a phone were to move in

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1 the outer limits of each one of those towers, it would still
2 maintain service.

3 Q: And is this an example of where -- let's say that a
4 phone was right here. This is an example of where one might
5 be bouncing off of any one of these three towers?

6 A: Yes, sir.

7 Q: If I was right about there?

8 A: Yes, sir. Typically, if it's sitting still, we would be
9 able to see on the records that, you know, multiple -- if
10 multiple calls are made in a short time frame, then you can
11 typically possibly see that call hit three different towers
12 and that would usually indicate that it's sitting still and
13 it's in the hand-off area if it's over, you know, a
14 significant amount of time.

15 Q: Okay.

16 MR. REDMOND: Now, let's scroll down.

17 BY MR. REDMOND:

18 Q: And again, is that -- is this the analysis that was done
19 on David Busby's phone?

20 MR. REDMOND: Scroll up a little bit. The number -- to
21 the number. Up a little bit more. A bit more. There you
22 go. Right there.

23 A: Yes, sir. 0492. Yes, sir.

24 Q: So these are the -- this is the data from the
25 defendant's phone.

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1 MR. REDMOND: You can scroll on down. I'll take it.

2 I'm sorry. You can scroll down.

3 BY MR. REDMOND:

4 Q: And again, these are the call detail records?

5 A: Yes, sir.

6 Q: Okay.

7 MR. REDMOND: Stop. All right.

8 BY MR. REDMOND:

9 Q: So at about 9:10 to 9:24, where is this tower
10 indicating?

11 A: Again, it appears to be the same. Let me make sure I
12 can see it good. It appears to be the same tower, 1785,
13 which is near the intersection of 151 and South Pearl Street,
14 which I think they identified as Pageland.

15 Q: Okay.

16 MR. REDMOND: All right. Right there.

17 BY MR. REDMOND:

18 Q: Now, at about 2138, which tower is this indicating? Of
19 course, it's in evidence. You see that's the town of
20 Pageland. Tower 1880 -- 1809, again, what does that reflect?

21 A: Again, it is using the south sector of that tower, which
22 is there, like I said, in the town of Pageland.

23 Q: All right. And 2150, that being 9:50, where is this
24 located?

25 A: Again, this is tower 1886 on the second sector, which is

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1 south of Highway 9, I believe coming out of Pageland.

2 Q: Okay. Coming east of Pageland?

3 A: Yes.

4 Q: East of Pageland. All right. And now we are up to
5 11:17. Where is the defendant's phone? What area is his
6 phone bouncing off of?

7 A: It is utilizing tower 1887 on sector one. It is north
8 of the tower and that tower appears to be located near
9 downtown Ruby.

10 Q: Okay. Now, we get to 12:08 and 12:09. Where is the
11 defendant located?

12 A: He is now utilizing that same tower, but he is now on
13 the east side of that tower, east of Ruby.

14 Q: Okay. East of Ruby?

15 MR. REDMOND: And hold that. Hold that for a second.

16 BY MR. REDMOND:

17 Q: And is that also in the vicinity heading toward Hurst
18 Cemetery Lane?

19 A: Yes, sir.

20 Q: Okay. And again, that's at 12:08 and 12:09. And just
21 to be clear, we established earlier, but were there -- were
22 there calls between Mr. Short and Mr. Busby during that time?

23 A: Yes.

24 Q: About 12:08 and 12:09?

25 A: Yes, sir. Thank you. Now, we get to 1:35 a.m. Where

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 is the defendant's phone located at that time?

2 A: It is now back on tower 1894 on sector one, which is the
3 north side of the tower located in or covering the town of
4 Jefferson.

5 Q: All right.

6 MR. REDMOND: You can scroll up.

7 BY MR. REDMOND:

8 Q: At 3:44 -- we've seen tower 1785 before when we were
9 talking about Mr. Short's calls after 3 a.m. What tower is
10 the defendant bouncing off of after 3 o'clock in the morning
11 as well?

12 A: At 3:44 a.m. on the 19th, he is utilizing tower 1785,
13 which is also on sector two, which is also the tower that was
14 identified as Pageland covering Highway 151 and South Pearl
15 Street.

16 Q: And is that the same tower -- one of the same towers
17 that we discussed as it relates to those pings with Mr.
18 Short's phone during that same time frame?

19 A: Yes, sir.

20 Q: Okay.

21 MR. REDMOND: Scroll. Is that the last one? Okay.

22 And finally, let's go to Mr. -- 4485, that being Mr.
23 Parker's. We can scroll up. And stop.

24 BY MR. REDMOND:

25 Q: And which phone was analyzed in this particular group of

1 slides?

2 A: This was target number 704-670-4405, I think which we
3 had identified in call records as belonging to Mr. Parker.

4 Q: All right. Mr. Parker, whose name we've heard then
5 already.

6 MR. REDMOND: You can scroll on up.

7 BY MR. REDMOND:

8 Q: And is that Mr. Parker's call history?

9 A: It is. And again, those are T-Mobile numbers and so the
10 timestamps that are in the call records, the original call
11 records, are in UTC time.

12 Q: Okay.

13 A: The times that you will see indicated on the slides with
14 the maps are going to be converted to Eastern time.

15 Q: Gotcha. Okay. Now, that's just a map overview?

16 A: Yes, sir.

17 Q: Okay.

18 MR. REDMOND: Now stop right there.

19 BY MR. REDMOND:

20 Q: All right. At about 9:57 and 10:04 -- and we've seen
21 this area before, but what tower and what area is that that
22 he's bouncing off of, he being Mr. Parker?

23 A: Yes.

24 MS. COPELAND-LITTLE: Your Honor, I'm going to object to
25 the solicitor saying that a person is pinging.

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 Q: What area was his phone in?

2 MR. REDMOND: I'll rephrase.

3 BY MR. REDMOND:

4 Q: Where is his phone pinging?

5 A: So the device is utilizing T-Mobile tower 12062 and that
6 tower, again, is consistent off of the southeast side of
7 tower in Pageland that covers the South Pearl Street and
8 Highway 151 area.

9 Q: All right.

10 A: The tower is a little bit different location than the
11 Verizon tower, but the general area is the same.

12 Q: And I didn't mention that. This is a -- is his phone a
13 T-Mobile phone?

14 A: Yes, sir. His phone is T-Mobile.

15 Q: Okay. Now, to the objection that was made, since you
16 are qualified as an expert and I was going to mention or ask
17 you this a little later, but I'll ask you now.

18 Hypothetically speaking, I've got my phone with me. I'm
19 making calls on my phone. You've got data like that that's
20 pointing to where I am. If I'm able to establish that the
21 phone is in my possession and you've got that data showing
22 where my phone is pinging, then as an expert, would it stand
23 to reason that I am actually in the location reflected on
24 these reports?

25 A: In that general location, yes.

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1 Q: Yes. Thank you. Now, so -- but -- and again, for this
2 purpose at this point in time, Mr. Parker's phone is ping-
3 around Pageland at 9:57 p.m. and 10:04 p.m.?

4 A: Yes, sir.

5 Q: Okay.

6 MR. REDMOND: The next one.

7 BY MR. REDMOND:

8 Q: And then we've got 10:04 p.m. as well and we've got
9 Highway 9 and could you tell us about that -- about this
10 slide from 10:04:39?

11 A: Yes, sir. So again, that is a T-Mobile tower number
12 76621 and it appears to be servicing the east side of
13 Pageland off of Highway 9.

14 Q: Okay. All right. Now, we get into this area here.

15 MR. REDMOND: Go on up.

16 BY MR. REDMOND:

17 Q: Now, which tower is this and where is this tower
18 located?

19 A: It is tower 76619.

20 Q: Okay.

21 A: Based off of what I can see on the map, I would say it's
22 Pageland because of Highway 151.

23 Q: Exactly.

24 A: But I'm not that familiar with this area.

25 Q: All right. So -- and again, we are talking at 10

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1 o'clock. So this is after 10 going into 11 o'clock. All of
2 these, I guess, phone interactions, for lack of a better
3 term, are he's pinging right in this area?

4 A: Yes, sir.

5 Q: All right.

6 MR. REDMOND: The next one.

7 BY MR. REDMOND:

8 Q: And again, 10:49 into 10:50, is that the same tower that
9 we just testified about?

10 A: Yes, sir. I just didn't have enough room on the other
11 slide.

12 Q: All right. Then at 11:02, Highway 601? Well, just tell
13 us about that tower?

14 A: So yes, sir. That is tower 12082. Again, it is a tower
15 located just off of Highway 9 facing to the southeast back
16 toward Highway 601.

17 Q: Okay. And being that it's 601 and Number 9, is that
18 actually west of Pageland?

19 A: Yes, sir.

20 Q: Okay. And just to be clear, is Chesterfield, Hurst
21 Cemetery Lane, actually several miles east of Pageland?

22 A: I believe it is. Yes, sir.

23 Q: Okay. So just to be clear, it appears that the phone,
24 Mr. Parker's phone, is starting to move in a westerly
25 direction?

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1 A: Yes, sir.

2 Q: Not east?

3 A: Yes, sir.

4 Q: All right.

5 MR. REDMOND: You can scroll down.

6 BY MR. REDMOND:

7 Q: Then at 11:25, tell us about tower 74382?

8 A: That is tower 74382 and, again, it is pointing in a
9 western direction back toward Highway 9 and Highway 903.

10 Q: Highway 903? And is that in Chesterfield County?

11 A: I'm not sure. I know it's considered Pageland Highway,
12 but again, I am not familiar with this area that well.

13 Q: And in looking at the map, is that 903, Highway 903 and
14 the junction with 903 and Number 9?

15 A: Yes, sir.

16 MR. REDMOND: Your Honor, at this time, these items are
17 in evidence. I would ask the Court to take judicial notice
18 that this is actually outside of the town of Lancaster in
19 Lancaster County.

20 MS. COPELAND-LITTLE: Your Honor, I'm going to object to
21 the solicitor testifying basically and saying where he thinks
22 things are. He has an expert here who can say what town it
23 is.

24 MR. REDMOND: And if he doesn't have that, Your Honor,
25 we do have the map in evidence. My response would be the map

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1 clearly states 903 and Number 9, and the Court knows and is
2 entitled to as a matter of law take judicial notice of those
3 matters that are abundantly clear based on Google Earth and
4 what we've got here. Again, I would ask the Court to take
5 judicial notice this is actually east of the town of
6 Lancaster.

7 THE COURT: I'll take judicial notice of it. I
8 recognize it.

9 MR. REDMOND: Okay.

10 THE COURT: Number 9 and 903.

11 MR. REDMOND: All right.

12 BY MR. REDMOND:

13 Q: So let's move to the next slide. So that's at 11:20.
14 Now, at 11:30, now we've got Highway 9 and -- well, tell us
15 about this tower?

16 A: Okay. Yes, sir. This tower is tower 73287.

17 Q: And -- and where is that located?

18 A: That appears to be just north of Lancaster. The sector
19 utilized is facing to the south.

20 Q: Okay. And that's at 11:30, 11:33. Whatever
21 interactions he's making, he's actually making in the
22 vicinity of Lancaster?

23 A: Yes, sir.

24 Q: Okay. Not Chesterfield County, but actually Lancaster
25 in Lancaster County?

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 A: Yes, sir. Based off that tower location.

2 Q: All right.

3 MR. REDMOND: Scroll up.

4 BY MR. REDMOND:

5 Q: Now, then we get to 1:03 and 1:07 in the morning and
6 could you tell us about this tower?

7 A: It's tower 74472 and it is pointing in a northeastern
8 direction off of Mickle [ph] Wayne Road.

9 Q: Oh.

10 THE COURT REPORTER: Mickle?

11 A: I believe that's how you pronounce it.

12 Q: Mickle Wayne Road. Okay. And is that still -- are we
13 still in Lancaster County?

14 A: I am not sure.

15 Q: Okay. Well, we can get into that later.

16 MR. REDMOND: Move on. Scroll on down. Let's go --
17 slow down. All right.

18 BY MR. REDMOND:

19 Q: And what tower are we bouncing off of here?

20 A: It looks like this is going to be the same tower, 74472.

21 Q: And again, these are all locations that -- in all of
22 these interactions, is this the area that the -- that Mr.
23 Parker is located?

24 A: Yes, sir.

25 Q: Okay.

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1 A: He's just on a different sector. Tower number is the
2 same, but it's a different sector of that tower.

3 MS. COPELAND-LITTLE: Object to that characterization of
4 a person being there, Your Honor. He's testifying about a
5 phone.

6 BY MR. REDMOND:

7 Q: Is the phone, Mr. Parker's phone, at these times in this
8 particular area?

9 A: Yes, sir.

10 Q: All right.

11 MR. REDMOND: Scroll up.

12 BY MR. REDMOND:

13 Q: And now we get into 9 o'clock in the morning, tower 744
14 -- I guess that's 74472. Again, we've got Blossom Street in
15 the immediate vicinity, but again, is that where the -- where
16 Mr. -- Robert Kirk Road -- is that -- excuse me -- where Mr.
17 Parker's phone is bouncing at that time?

18 A: It appears, yes, sir. It looks like he's just changing
19 sectors back and forth, which is possibly indicating he's
20 somewhere along that eastern line.

21 Q: Okay.

22 A: Between two sectors.

23 Q: All right.

24 MR. REDMOND: Then scroll up.

25 BY MR. REDMOND:

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 Q: And then at 11 in the morning into the next morning is
2 -- again, is he still in the vicinity of Lancaster County?

3 A: Yes, sir. He has moved back to tower 73287, which the
4 south side of that tower services the town of Lancaster.

5 Q: Okay. And at any time does -- and based on your review
6 of the documents, at any time does the -- does the phone
7 belonging to Mr. Parker end up in the vicinity of Hurst
8 Cemetery Lane?

9 A: No, sir. Not off of the analysis that we performed.

10 Q: And based on the analysis that you performed, does that
11 phone -- does it indicate that phone gets any further east
12 than just outside of the town limits of Pageland?

13 A: No, sir. Not based off of the tower usage.

14 Q: And based on that tower usage that you saw, does that
15 phone end up heading west going into Lancaster County during
16 the times that we've discussed?

17 A: Yes, sir.

18 Q: Okay.

19 MR. REDMOND: I beg the Court's indulgence. That would
20 be all the questions I have.

21 Lt. Johnson, please answer any questions that Ms. -- no,
22 no. There is one other question I have. I forgot to ask
23 this.

24 BY MR. REDMOND:

25 Q: Again, just to be clear, if Mr. Parker is using that

CHRIS JOHNSON - DIRECT BY MR. REDMOND

1 phone and if he is actually in possession of the phone with
2 the location data, would that then, based on your expert
3 opinion, place Mr. Parker in the -- in the areas indicated on
4 your map?

5 A: Yes, in the general areas of those towers.

6 MR. REDMOND: Thank you. That would be all the
7 questions I have.

8 THE COURT: Ms. Little?

9 MS. COPELAND-LITTLE: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. COPELAND-LITTLE:

12 Q: Lt. Johnson, bear with me because --

13 A: Yes, ma'am.

14 Q: -- I'm not a technologically inclined person, but I
15 thought I heard you testify one time that if no connection is
16 made, then there's no tower ping?

17 A: Yes, ma'am.

18 Q: Okay.

19 A: If it's a voice call.

20 Q: Okay.

21 A: Now, you may have -- again, with some phone companies,
22 they do not provide tower data for text messages.

23 Q: All right. But then I thought -- and correct me if I'm
24 wrong. I thought I heard you testify that there didn't have
25 to be a connection for you to say where the phone was

1 located?

2 A: As far as the connection, as far as an actual someone
3 answering it. The phone -- if it only rings a couple times,
4 then it will see a tower, but if it goes straight to
5 voicemail or the phone is off, then there's no connection and
6 then it will not produce a tower.

7 Q: All right. And just to be clear, isn't it true that
8 while you can identify a phone number, you can't identify who
9 was using the phone?

10 A: Not at a particular time unless they -- you know, they
11 have the phone on them. So for all those times --

12 Q: Exactly.

13 A: -- you have to confirm that they have it.

14 Q: So you're talking about phones here, not people?

15 A: Right. Yes, ma'am.

16 MS. COPELAND-LITTLE: Thank you.

17 THE COURT: Anything else?

18 MR. REDMOND: Oh, no. And we have no objection to Lt.

19 Johnson being excused.

20 THE COURT: Ms. Little?

21 MS. COPELAND-LITTLE: No objection.

22 THE COURT: Thank you, sir. You're excused.

23 MS. JOHNSON-LEE: David Eddins.

24 THE CLERK: Place your left hand on the Bible and raise
25 your right. Do you swear or affirm to tell the truth, the

DAVID EDDINS - DIRECT BY MS. JOHNSON-LEE

1 whole truth, and nothing but the truth, so help you God?

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Thank you. You can have a seat in the
4 witness stand.

5 DAVID EDDINS, being first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. JOHNSON-LEE:

9 Q: Please state your name for the record?

10 A: David Eddins. Excuse me.

11 Q: Mr. Eddins, where do you live?

12 A: In Ruby.

13 Q: Okay. And how long --

14 A: Creek Street.

15 Q: What street?

16 A: Creek Street.

17 Q: Thank you, sir.

18 A: Yes, ma'am.

19 Q: Do you know or did you know Farris Mickey Short?

20 A: Yes, ma'am.

21 Q: How long had you known Mr. Short?

22 A: Originally, it was -- I had some dealings with him in
23 probably 1975. We bought a Honda 360 motorcycle. My father
24 purchased it from Mr. Short in -- it seemed like the early
25 summer part of '75.

1 Q: Okay. And so you've known him for several decades at
2 least?

3 A: Yes, ma'am.

4 Q: Okay. On -- I'm going to take you back to Father's Day
5 of 2017. Do you recall whether or not you saw Mickey Short
6 on that date?

7 A: Yes, ma'am.

8 Q: Do you recall what part of the day it was when you saw
9 Mickey?

10 A: Yes, ma'am. In the p.m.

11 Q: In the p.m. hours?

12 A: Yes, ma'am.

13 Q: Was it before dusk? After dusk?

14 A: After dusk.

15 Q: Was he by himself?

16 A: In his vehicle, he was alone, but he had someone
17 following when he came to my house.

18 Q: Okay. And what was Mickey doing at your house?

19 A: He had purchased an electrical box that he wanted hooked
20 up to a new location he had moved his camper and I done air
21 conditioning work and worked on his camper heater and so
22 forth numerous times. He was going to bring the box by and
23 show me what he had bought. He didn't know the name. I
24 said, well, it's got to be a Square D or a GE box. You just
25 need breakers to go in it. And I said you probably need four

1 or five, depending on what you're going to hook up.

2 And he said he'd be there earlier, but he didn't make it
3 until about 11 o'clock or a little after maybe, something
4 like that, 10:30, 11. Somewhere around in that area. But he
5 -- he brought that box for me to inspect to see, you know,
6 what I needed to do to hook up his power and air conditioning
7 system. I don't know if there was a well pump. Something
8 maybe about four breakers I think, but it was a little bit of
9 a surprise when he got there with that box.

10 Q: Now, you said you had done some work at his camper
11 before. Where is his camper or where was his camper located?

12 A: It was located in the Mount Croghan area. I think his
13 mother's house was the house right beside of it, but it was
14 sitting in her, like, side yard at the time that I worked on
15 it.

16 Q: Now, you said he wasn't alone. Someone else was in
17 another vehicle?

18 A: Yes, ma'am.

19 Q: Please tell the jury about that?

20 A: Yes, ma'am. I'm seeing him come down the driveway. I
21 recognized the truck from different things that we had worked
22 on at that time, but he had a vehicle following him and I was
23 kind of -- it was strange because I lived in an area where
24 you can't see my house from the road. It's actually
25 secluded, and this vehicle was following him when he came

1 down the driveway and I was kind of concerned because
2 normally he would come by himself for something like that.

3 I didn't recognize the vehicle. I did recognize his
4 vehicle, but this vehicle was following him in. And he had
5 his normal -- just pulled up and parked and I noticed this
6 vehicle pulled in kind of behind or beside him or whatever,
7 just in the general area because, you know, my driveway is
8 pretty wide and you can park in the yard pretty much anywhere
9 you wanted to. But I didn't recognize the vehicle. It was a
10 white Chevrolet, kind of a loud muffler. I'd say a king cab
11 or extended cab or something it seemed, not a -- not a real
12 attractive truck. It looked like it may have been a work
13 truck or something. Kind of -- I wouldn't say beat up, but
14 maybe the paint was rough or something on it.

15 Q: What kind of truck?

16 A: A Chevrolet, I would say.

17 Q: A pickup truck?

18 A: Yes. Yes, ma'am.

19 Q: And can you describe the -- was it -- who was in that
20 truck? Did you know that person's name?

21 A: I did not know that person's name. I was inquisitive,
22 but I asked Mr. Short who -- who is in the truck behind you
23 and he quickly shunned me, aw, ain't nobody, don't worry
24 about him, he's with me. He said he probably won't even get
25 out.

1 So I just, you know, not normally have somebody else
2 coming in my house or whatever, but he never really called a
3 name. I noticed the person. I had a streetlight in my yard
4 right at the corner of my house, but I really couldn't get a
5 good view of who it was. I don't know if I -- if I would
6 have recognized him if I would have known him. I have no
7 idea really who he was.

8 Q: But you're sure about that truck being --

9 A: Yes, ma'am. Color ways, a king cab or extended cab, not
10 four-door, but it was white in color. But it was kind of
11 dingy white looking, maybe roughed up a little bit, like a
12 work truck would be.

13 Q: Now, when they left, did they leave at the same time?

14 A: Basically. The white truck backed around and left first
15 and then Mickey followed in his Toyota truck.

16 Q: So Mickey followed the white truck out?

17 A: Yes, ma'am. Out of the driveway.

18 Q: Did you ever see Mickey again after that?

19 A: No, ma'am, I did not.

20 Q: Did you ever see that person in the white truck again?

21 A: Yes, ma'am, I did. About, if I'm guessing, my best
22 guess would say 12:30 or something like that, maybe something
23 until one, in that general area. I was laying down. I had
24 been sleeping on the couch. That's where I fall asleep at a
25 lot of times, but I heard this vehicle, not knowing what it

1 was, coming down my driveway, which is -- I have gravel,
2 slate or whatever kind of gravel. Driving across it, it
3 makes noise and you just can hear it, but I heard the
4 muffler, the sound of the truck, and I thought, now, who in
5 the world is this and what time is it.

6 So I get up and go into the kitchen, which is a double
7 window where you can see anyone driving up my driveway that
8 comes up in the backyard. Through these double windows, you
9 can see the vehicle easily, especially with the streetlight.
10 And I noticed that it was the same white truck that had
11 followed Mickey in the driveway earlier that evening and I
12 thought, now, I don't know this fellow and what does he want
13 at this time of morning.

14 So I go to the back door and kind of halfway open the
15 door and standing partially in the doorway behind the door
16 and partially out the door and just, you know, wondering what
17 was going on, and he started to exit the truck. He had the
18 window rolled down or something and he asked me have you seen
19 Mick, and I said, no, not since y'all left. You know, he
20 left following you. He said, well, we went over here in the
21 country and he lost me somewhere. I don't know these roads
22 or something to that effect.

23 He acted like he had -- they had got separated somewhere
24 in the -- in the time they'd been gone. And I said, you
25 know, did you call his phone and he said, no, my phone is

1 dead or his phone is dead. I don't remember which it was,
2 but he said you haven't seen him, he hasn't come back my
3 hair, and I said no, I haven't seen him since, you know,
4 earlier in the night. You know, you don't know where he's
5 at, and he said no, but if he comes back by here, tell him
6 that I'm going to my grandmother's house to spend the night
7 in Jefferson. I said can do.

8 He asked me he didn't leave you anything and I was,
9 like, no, he took the box with him, you know, as far as I
10 really didn't understand that, but I stepped back in the
11 door. I didn't cleanly close it, but just kind of eased it
12 to because I wanted to make sure he would get in the vehicle,
13 which I didn't have anything much to steal or anything, but
14 he acted a little antsy, just kind of, but to me I can't say
15 that I know him. You know, that that was not his normal way
16 of acting because that's the first time I ever met him was
17 that night that I know of.

18 He got in the truck and backed around and started to
19 exit, and I walked to the kitchen so I could see out the
20 window to make sure he was leaving my driveway. And he goes
21 20 or 30 feet maybe, something like that, and stops. The
22 door opened and I'm thinking what's going on. He gets out,
23 goes around in front of the truck, and picks up a -- I
24 thought it was a red bag or something in my yard. Later to
25 find out the next morning because I picked it up and put it

1 in the trash, it was a fertilizer bag that I had emptied from
2 my shop because I was weed and feed stuff to put on the
3 grass, but he picked this bag up and took it back to the
4 truck with him. I thought, you know, just -- you know,
5 what's the purpose, but he got back in the truck, put the
6 truck back into gear, and he goes on out the driveway.

7 Well, I'm curious. By this time, it's just got my
8 curiosity stirred. I go back to the back door and open the
9 door where I can hear. You could hear the truck because it
10 was not really loud loud, but, you know, you could easily
11 determine it in the morning at 12:30. Creek Street is a
12 dead-end street.

13 So when he got to the end of my driveway, which is
14 probably 200 yards long, something like that, I knew he would
15 go to the right if he was going back to Number 9, and I just
16 listened to make sure that, you know, that's the way he was
17 traveling, but my real curiosity was which way is he going to
18 go when he leaves here because you could go to Jefferson
19 either way, 109, 265, and that way back toward Ruby Church
20 and then down 265 and go to Jefferson or you could run Number
21 9 to Pageland and go.

22 Of course, there's many ways to get to Jefferson, but I
23 just wanted to see in general out of curiosity which way the
24 truck, you know, went when he left. And he turned and went
25 up toward 9 toward Pageland and I listened to him pull off,

DAVID EDDINS - DIRECT BY MS. JOHNSON-LEE

1 not in a hurry, didn't sound a big hurry or whatever, but
2 until it went out of my hearing more or less. So I went back
3 in the house, shut the door and locked it, and went back and
4 laid down on the couch and that was pretty much all of the
5 events on this.

6 MS. JOHNSON-LEE: Thank you so much, Mr. Eddins. Please
7 answer any questions Ms. Copeland Little has for you.

8 MS. COPELAND-LITTLE: Just one moment, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. COPELAND-LITTLE:

11 Q: Mr. Eddins, you testified that you had somewhat of a --
12 kind of a business relationship with Mr. Short and you've
13 done some work for him?

14 A: Yes, ma'am.

15 Q: Worked on his camper?

16 A: Yes, ma'am.

17 Q: Did you ever purchase drugs from Mr. Short?

18 A: No, ma'am, I did not.

19 Q: All right. So you don't use methamphetamines?

20 A: No, ma'am.

21 Q: All right.

22 MS. COPELAND-LITTLE: Thank you. No further questions.

23 MS. JOHNSON-LEE: We would ask that the witness be
24 excused, Your Honor.

25 MS. COPELAND-LITTLE: No objection.

CLINT GULLEDGE - DIRECT BY MS. JOHNSON-LEE

1 THE COURT: Thank you, Mr. Eddins. You're excused.

2 THE WITNESS: Thank you.

3 THE COURT: You're welcome to stay if you'd like.

4 THE WITNESS: Thank you.

5 MR. REDMOND: Your Honor, may we approach for
6 scheduling?

7 (WHEREUPON, a bench conference was held in the presence
8 of the jury but out of the hearing of the jury off the
9 record, after which the proceedings resumed as follows.)

10 MS. JOHNSON-LEE: We need Clint Gullledge. I think he's
11 upstairs.

12 (WHEREUPON, there was a pause in the proceedings, after
13 which the proceedings resumed as follows.)

14 THE COURT: You can come on up, Mr. Gullledge.

15 THE CLERK: Place your left hand on the Bible and raise
16 your right. Do you swear or affirm to tell the truth, the
17 whole truth, and nothing but the truth, so help you God?

18 THE WITNESS: I do.

19 THE CLERK: Thank you. You can have a seat up in the
20 witness stand.

21 CLINT GULLEDGE, being first
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. JOHNSON-LEE:

25 Q: Please state your name for the record?

CLINT GULLEDGE - DIRECT BY MS. JOHNSON-LEE

- 1 A: Daryl Clinton Gulledge.
- 2 Q: Do you go by Clint?
- 3 A: Yes, ma'am.
- 4 Q: Are you married?
- 5 A: Yes, ma'am.
- 6 Q: Who is your wife?
- 7 A: Rachel Gulledge.
- 8 Q: What's her maiden name?
- 9 A: Rachel Hammond.
- 10 Q: Which city do you live in now?
- 11 A: Hartsville.
- 12 Q: Did you live in Chesterfield County in June of 2017?
- 13 A: Yes, ma'am.
- 14 Q: Did you live here specifically on Father's Day in June
- 15 of 2017?
- 16 A: Yes, ma'am.
- 17 Q: Did you know the victim in this case, Farris Mickey
- 18 Short?
- 19 A: Yes, ma'am.
- 20 Q: How did you know Mickey?
- 21 A: Well, he was -- he was my cousin. He was family. He
- 22 was -- he was a great friend.
- 23 Q: Were you and Mickey close?
- 24 A: Yes, ma'am. Very.
- 25 Q: Did Mickey ever spend the night at your house?

1 A: Yes, ma'am.

2 Q: How often would that happen?

3 A: At least three times a week.

4 Q: Would he just show up?

5 A: Yes, ma'am.

6 Q: Did you talk to him on the phone often?

7 A: I did.

8 Q: About how often each week?

9 A: Every day.

10 Q: Every day?

11 A: Yes, ma'am.

12 Q: During that Father's Day weekend, that Friday the 17th

13 through Sunday the -- Friday the 16th through Sunday the 18th,

14 did Mickey spend the night at your house any of those nights?

15 A: Yes, ma'am.

16 Q: Which nights did he spend the night?

17 A: He stayed at my house -- he had stayed the -- he had

18 stayed Friday. He had stayed Friday night and Saturday

19 night.

20 Q: Now, on Sunday, which was Father's Day, did he leave the

21 house any that day?

22 A: Yes, ma'am.

23 Q: Okay. What would he leave the house for?

24 A: Well, his daughter came and got him to go get something

25 to eat on Father's Day.

1 Q: Did he come back to the house after that?

2 A: Yes, ma'am.

3 Q: How long did he stay at the house after he got back?

4 A: Not long at all.

5 Q: Did he leave again?

6 A: Yes, ma'am.

7 Q: Did he ever come back after leaving that second time on
8 Father's Day?

9 A: No, ma'am.

10 Q: Did you ever see him again alive after he left that
11 second time on Father's Day?

12 A: No, ma'am.

13 Q: Now, when Mickey came to spend the night that Saturday
14 night, the night before, did he have a gun with him?

15 A: Yes, ma'am.

16 Q: What kind of gun was it?

17 A: It was a .22 Ruger.

18 Q: Had you ever seen him with that particular gun before?

19 A: No, ma'am.

20 Q: Okay. Did he shoot that gun at your house?

21 A: Yes, ma'am.

22 Q: Tell the jury about that?

23 A: He -- he showed up with the gun. It was -- it was that
24 night and we -- we went out in the yard and we just -- we
25 popped off a few rounds out of it, just testing it out

1 because he had just bought it.

2 Q: What were y'all shooting at?

3 A: I think it was a milk jug.

4 Q: Do you know if he had any -- had any bullets left when
5 he left your house?

6 A: No, ma'am. He had a couple shells left, but he left
7 them at my house. He didn't have any with him when he left.

8 Q: So if he had gotten any, that would have been after he
9 left you?

10 A: Yes, ma'am.

11 Q: Now, when Mickey didn't come back to your house that
12 night, was that out of the ordinary?

13 A: Well, I mean sometimes he wouldn't come back, but, you
14 know, I -- he would always be in contact with me.

15 Q: Well, were you expecting him back on Father's Day night?

16 A: Yes, ma'am.

17 Q: Did you hear from him that night?

18 A: No, ma'am.

19 Q: Did you hear from him the next morning?

20 A: No, ma'am.

21 Q: What did you do, if anything, when you didn't hear from
22 Mickey and he had not come back?

23 A: I tried to call him several times.

24 Q: And did you get an answer from any -- from anyone on
25 that line?

1 A: No, ma'am.

2 Q: Okay. Do you know about any type of dispute that Mickey
3 may have had with the defendant, David Busby?

4 A: Yes, ma'am. He -- he had purchased a shotgun from
5 David, but he never got the gun.

6 Q: Did you ever get information that Mr. Busby left the gun
7 with you or at your house?

8 A: Yes. He had said that he left the gun out behind my
9 barn, but it was never found.

10 Q: Did you tell law enforcement about that dispute between
11 them about that gun?

12 A: Yes, ma'am.

13 Q: Now, do you know who Mickey usually would hang out with
14 other than the family? Was there any that stood out to you
15 as far as someone he would hang out with?

16 A: Well, yeah. I mean he -- I mean he hung out with
17 several people other than I mean family. I mean he -- he'd
18 hang out -- he hung out with a friend of ours named Mal.
19 Yeah, several people.

20 Q: Do you know a young lady named Nicole?

21 A: Oh, yes, ma'am, I do.

22 Q: Do you know if Mickey hung out with her?

23 A: Yeah, he did a good bit.

24 Q: Had Nicole ever been to your house?

25 A: Yes, ma'am.

1 Q: And is that Nicole Deese?

2 A: Yes, ma'am.

3 Q: Did you give her name to law enforcement as somebody he
4 hung out with?

5 A: I did.

6 Q: Do you know if they were very close from your personal
7 knowledge?

8 A: Yeah, they were pretty close.

9 Q: Okay. Now, at that time when you lived in Chesterfield,
10 specifically where was your home located?

11 A: It was -- it was on Clyde's Loop. It was off of Wamble
12 Hill.

13 Q: Was it in close proximity to Hurst Cemetery Lane where
14 Mickey was killed?

15 A: Yes, ma'am. It was close.

16 MS. JOHNSON-LEE: I beg the Court's indulgence.

17 Permission to approach the witness?

18 MS. JOHNSON-LEE: I'm going to show you what's marked as
19 State's Exhibit 92 which is a Google Earth map.

20 Could I have the witness come down and stand in front of
21 the jury with that Google Earth map, Your Honor?

22 THE COURT: Sure.

23 MS. JOHNSON-LEE: Please come stand down here and bring
24 that map with you.

25 THE COURT: Watch your step.

CLINT GULLEDGE - DIRECT BY MS. JOHNSON-LEE

1 (WHEREUPON, the witness complied.)

2 MS. JOHNSON-LEE: Just take a seat. We can put it on
3 the -- well, come on down.

4 MR. REDMOND: He can come on down.

5 MS. JOHNSON-LEE: Come on down. Do we have that
6 pointer?

7 MR. REDMOND: Let's see.

8 MS. JOHNSON-LEE: Okay. Just come over here.

9 MR. REDMOND: Which one do you want? Do you want both
10 of them or just this one? I'd start with that one and then I
11 can go to that one. Yeah.

12 MS. JOHNSON-LEE: Okay.

13 BY MS. JOHNSON-LEE:

14 Q: What's displayed on the overhead screen is actually
15 State's Exhibit 93. Okay. Hold that just a second. Okay.
16 Do you see what's marked as Hurst Cemetery Lane right there?

17 A: Yes, ma'am.

18 Q: Okay. And what road would this be that Hurst Cemetery
19 Lane veers off of?

20 A: Wamble Hill.

21 Q: Okay. And your house is off of Wamble Hill or it was?

22 A: Yes, ma'am.

23 Q: Okay.

24 MS. JOHNSON-LEE: If we could go to the other map?

25 MR. REDMOND: Your Honor, if they could speak up a

CLINT GULLEDGE - DIRECT BY MS. JOHNSON-LEE

1 little bit since their backs are to the jury? They're having
2 trouble hearing.

3 MS. JOHNSON-LEE: Okay.

4 THE WITNESS: I'm sorry.

5 MS. JOHNSON-LEE: Just turn around.

6 BY MS. JOHNSON-LEE:

7 Q: And your house, is it close by Hurst Cemetery Lane?

8 A: Yes, it is.

9 Q: Okay. And this road that I'm indicating here, is that
10 Wamble Hill road?

11 A: Yes, ma'am, it is.

12 Q: Okay.

13 MS. JOHNSON-LEE: And if we could go to the other map?

14 BY MS. JOHNSON-LEE:

15 Q: Okay. All right. Again, is this Hurst Cemetery Lane
16 right there that's labeled on the map?

17 A: Yes, it is.

18 Q: Okay. So would that be Wamble Hill right here?

19 A: Yes, ma'am.

20 Q: Okay. And this highway running along here that Wamble
21 Hill comes off of, is that Highway 9?

22 A: Yes, ma'am.

23 Q: Okay. Do you know what that road is right there? And
24 turn around and speak up for the jury.

25 A: That's -- is that Clyde's Loop? That's Clyde's Loop?

1 No.

2 Q: Just use the pointer and show the jury where your house
3 would be located on that map?

4 A: Okay. My house is -- my house is right in --

5 Q: Okay. Speak up so the jury can hear, please.

6 A: My house is right in this area right -- right here.

7 Q: So almost a stone's throw from the incident location?

8 A: Yes.

9 Q: Thank you. You can have a seat now.

10 (WHEREUPON, the witness complied.)

11 BY MS. JOHNSON-LEE:

12 Q: Now, let's talk a little -- just a little bit about
13 Mickey. Now, you were close to him, he's your cousin, and
14 you talked to him every day just about; correct?

15 A: Yes, ma'am.

16 Q: Did Mickey use drugs?

17 A: Yes, ma'am.

18 Q: Okay. And did he ever share drugs with any other folks?

19 A: Yes.

20 Q: Okay. Do you know if Mickey normally would have any
21 drugs on him or in his truck?

22 A: Yes.

23 Q: Do you know if Mickey would normally have money on him?

24 A: Yes.

25 Q: And is that something you know from your personal

1 experience in seeing him at least three times a week and
2 talking to him on an almost daily basis?

3 A: Yes.

4 Q: Did you know the defendant, David Busby?

5 A: Yes, I did.

6 Q: And how did you know him?

7 A: Mickey and I had met him through another friend of ours.

8 Q: About how long before Mickey's passing did you meet
9 David Busby?

10 A: Maybe about a month.

11 Q: So not very long?

12 A: Not very long at all.

13 Q: When did you find out that Mickey had died?

14 A: It was around maybe 11:30 the day after Father's Day.

15 Q: How did you find out?

16 A: My Uncle Grady came and told me on his lunch break.

17 Q: How did you feel about that?

18 A: It shocked me. It hurt.

19 Q: Did you at any point in time call David Busby?

20 A: I did.

21 Q: What did you and David Busby talk about?

22 A: Well, I asked David if he had heard about Mickey's
23 murder and he told me no. And you know, he kind of said, you
24 know, hey, man, we need to find out, you know, who did this,
25 you know, but I don't know. He just -- he acted funny on the

1 phone when I talked to him.

2 Q: Did anything else stand out to you about that phone
3 call?

4 A: Yeah. There was a lot of commotion in the background.
5 I could hear Nicole. She was -- I mean she was distraught,
6 crying, loud, and he told her to be quiet.

7 Q: Did he tell her to be quiet or something else?

8 A: He told her to shut up.

9 Q: Did you ever talk to David Busby after that phone call?

10 A: No, ma'am.

11 Q: Now, do you know how many telephones Mickey had?

12 A: No, I really don't. He -- he may have had several.

13 Yeah, he could have had a few.

14 Q: Did he -- did you ever know him to change his telephones
15 out?

16 A: Yes.

17 Q: How often would he change his phones out?

18 A: Quite often.

19 Q: Would he use the same number though?

20 A: Yes.

21 Q: Do you know if Mickey preferred a flip phone versus an
22 iPhone?

23 A: He liked the flip phone. He -- he didn't -- he didn't
24 want a touchscreen at all.

25 MS. JOHNSON-LEE: I beg the Court's indulgence.

1 BY MR. JOHNSON-LEE:

2 Q: Why was it that you called David Busby once you found
3 out about your cousin being murdered?

4 A: Because I had received a phone call from Busby at -- it
5 was around 1 o'clock in the morning I think, but we -- we
6 didn't answer the phone.

7 Q: Did it come from Busby's number?

8 A: I think it was Nicole's.

9 Q: And why did you think it was David Busby calling?

10 A: Because he was staying over at Nicole's and Nicole never
11 -- I mean she never called me on the phone.

12 Q: Okay. And you said you did try to call Mickey a couple
13 times that morning?

14 A: Yes, ma'am.

15 Q: And there was no answer?

16 A: Yes.

17 Q: Okay. Did you have anything to do with the murder of
18 your cousin, Mickey?

19 A: No, ma'am.

20 Q: Were you involved in any way before, during or after
21 Mickey's murder?

22 A: No, ma'am.

23 Q: Did you tell anybody to hide things that were at the
24 murder scene?

25 A: No, ma'am.

CLINT GULLEDGE - DIRECT BY MS. JOHNSON-LEE

1 Q: Did you threaten anyone to do anything related to that
2 murder or the aftermath?

3 A: No, ma'am.

4 Q: Do you recall what your phone number was at the time?

5 A: Yes. It was 843-287-2511.

6 Q: Okay. Is that a Verizon number?

7 A: Yes, ma'am.

8 Q: Okay.

9 MS. JOHNSON-LEE: Thank you. Please answer any
10 questions that Ms. Copeland-Little has.

11 CROSS-EXAMINATION

12 BY MS. COPELAND-LITTLE:

13 Q: Mr. Gulledge, you stated your full name is Daryl Clinton
14 Gulledge; is that right?

15 A: Yes, ma'am.

16 Q: Would you spell your last name for me, please?

17 A: G-u-l-l-e-d-g-e.

18 Q: And, Mr. Gulledge, a lot of people don't like to tell
19 how old they are, but just for my records would you mind
20 giving me your date of birth?

21 A: 3/10/80.

22 Q: Okay.

23 MS. COPELAND-LITTLE: Thank you, sir. No further
24 questions.

25 THE COURT: Anything further?

1 MS. JOHNSON-LEE: Nothing from the State. May this
2 witness be excused?

3 MS. COPELAND-LITTLE: No objection.

4 THE COURT: Thank you, Mr. Gullledge. You're excused.
5 You're welcome to stay, if you'd like.

6 All right. Ladies and gentlemen, it is right at 1
7 o'clock and Madam Clerk has very graciously arranged a lunch
8 for you all. We will have transportation if you need it.
9 Otherwise, you can drive your own car because you may want to
10 take a minute or two and attend to any business or whatever
11 over lunch. The bottom line, she's arranged lunch for us up
12 at the Carolina Restaurant. Does anybody not know where the
13 Carolina Restaurant is?

14 Okay. You go out like you're going towards Pageland on
15 Number 9. It's out there about a mile maybe beyond the city
16 limits on the right in case anybody might be confused. They
17 are waiting on us now. You can either drive your car or if
18 you want to ride with, you know, security staff, they will
19 arrange a vehicle for you. I'll let you handle that with the
20 bailiff staff, but we do plan to meet out there and it will
21 take about an hour. So let's plan on being back here at
22 2:20.

23 All right. Everybody else remain seated while the jury
24 departs.

25 Remember, don't discuss the case with anyone and, as far

1 as counsel, does counsel waive any oath required of the
2 bailiff staff?

3 MR. REDMOND: No, sir, Your Honor. The only thing I
4 would add is that if the Court -- before anybody leaves, if I
5 could have something briefly as it relates to the audience.
6 So once the jury departs, I would ask the judge to just issue
7 an admonishment to the audience, but I can get into that once
8 the jury departs.

9 MS. COPELAND-LITTLE: No, sir.

10 THE COURT: Okay. All right. The jury may step out
11 with the bailiffs. Thank you.

12 (WHEREUPON, the jury exited the courtroom.)

13 MR. REDMOND: Everybody knows where the jurors are going
14 for lunch. I would ask the Court to make sure everybody in
15 earshot and beyond stay away from where the jury is going to
16 be having lunch today.

17 MS. COPELAND-LITTLE: So we're all banned from Carolina
18 Restaurant? Is that right?

19 MR. REDMOND: Just out of an abundance of caution, Your
20 Honor. There are a lot of folks here. Just to avoid
21 anything getting hinky. So I think it'll be appropriate.

22 THE COURT: We'll be there.

23 MR. REDMOND: At least for the Court to consider that.

24 THE COURT: Well, it would be probably the safest route
25 that anybody interested in this trial as far as the gallery

1 find somewhere else to eat. I can't sit here and order you
2 not to go there, but if you do, you'd better sit away from
3 the jury. They will be in a back room anyway. So if you do
4 go out there, just stay away from the jury because I don't
5 want anybody getting in trouble over jury contact. Okay?

6 MR. REDMOND: Thank you, Your Honor.

7 MS. COPELAND-LITTLE: Thank you, Your Honor.

8 (WHEREUPON, there was a break in the proceedings, after
9 which the proceedings resumed as follows.)

10 THE COURT: Contrary to popular belief, we're actually
11 starting on time.

12 MS. JOHNSON-LEE: The State calls Nicole Deese.

13 Instead of Nicole Deese, Rachel Hammond Gulledge is
14 going to be next.

15 THE COURT: All right.

16 THE CLERK: Right here. Place your left hand on the
17 Bible and raise your right. Do you swear or affirm to tell
18 the truth, the whole truth, and nothing but the truth, so
19 help you God?

20 THE WITNESS: I do.

21 THE CLERK: Go around and have a seat right up there on
22 the witness stand.

23 MR. REDMOND: May it please the Court, Your Honor.

24 THE COURT: Yes, sir.

25 MR. REDMOND: And I apologize for my tardiness. I was

RACHEL HAMMOND GULLEDGE - DIRECT BY MR. REDMOND

1 organizing and making sure we had our witnesses in order for
2 this afternoon.

3 THE COURT: All right.

4 MR. REDMOND: So I apologize for being a little tardy.

5 RACHEL HAMMOND GULLEDGE, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. REDMOND:

9 Q: Ms. Gulledge -- or is it Rachel Hammonds Gulledge?

10 A: My legal last name is still Hammond.

11 Q: Hammond? Okay.

12 A: I haven't changed it.

13 Q: But do you refer to yourself as Gulledge?

14 A: A lot of times, yes.

15 Q: Okay. And is that because of your relationship with
16 Clint Gulledge?

17 A: Yes. Because we've been married for nine years.

18 Q: Okay. And -- and so did y'all reside together -- well,
19 do y'all reside together at this time?

20 A: We do.

21 Q: And I think we've heard that y'all reside in Hartsville,
22 in the Hartsville area?

23 A: We do.

24 Q: But in June of 2017, where did you reside?

25 A: Chesterfield.

RACHEL HAMMOND GULLEDGE - DIRECT BY MR. REDMOND

1 Q: Okay. And did you reside off of Wamble Hill Road -- off
2 Wamble Hill Road here outside of Chesterfield?

3 A: Yes.

4 Q: And did you know Mickey Short?

5 A: I did.

6 Q: About how long would you say you've known Mickey?

7 A: I only knew him really well for about a year, a year and
8 a half.

9 Q: Okay. And with -- during that time, when you say well,
10 describe how would you define doing well during that time?

11 A: During -- during that time, he and my husband -- as you
12 know, they're related. They had just started spending a lot
13 more time together and he was just around us a lot. During
14 that time, he had started coming to the house regularly and
15 we were speaking to him every day pretty much.

16 Q: Okay. And did you speak with him on the 18th of June,
17 2017?

18 A: Which is what?

19 Q: That's Father's Day.

20 Q: Yes.

21 Q: Father's Day of 2017.

22 A: Yes, sir.

23 Q: Now, had you seen him leading up to that point, up to
24 Father's Day?

25 A: Yes.

1 Q: Okay. Had he stayed at the house during that weekend at
2 some point?

3 A: He had.

4 Q: All right. Now, moving to the 18th, had you -- tell us
5 about the -- when was the last time that you saw him before,
6 of course, he was killed?

7 A: On Father's Day, he had stayed at the house that night
8 before, that Saturday, and we woke up that morning and his --
9 after a little while, his daughter, Heather, came to pick him
10 up and took him out to eat for Father's Day. My husband and
11 I stayed at home.

12 After they went and ate, she brought him back and they
13 stayed about 30 minutes and then Heather left. Mickey stayed
14 on for a while after that and it was about 2:30 or 3 that
15 afternoon he got a phone call and he left then.

16 Q: Now, going back to, I guess, Friday or Saturday,
17 sometime that weekend, did you see Mickey with a pistol?

18 A: I did.

19 Q: And could you -- did you know what kind of pistol it
20 was?

21 A: No. I didn't look at it real close and I'm not -- not
22 --

23 Q: Was it a big pistol? Small pistol?

24 A: It was a small --

25 Q: Okay.

1 A: Small handheld pistol.

2 Q: All right. And was that the first and only time that
3 you'd seen it?

4 A: Yes.

5 Q: Okay. Now, let's talk about David Busby. Did you know
6 the defendant?

7 A: I did.

8 Q: Okay. And is that David Busby seated next to his
9 attorney?

10 A: Yes.

11 Q: Okay. How long had you known the defendant?

12 A: I had only known him for a short time, about a month or
13 so. That's -- that's all, about a month.

14 Q: And do you remember how you met the defendant?

15 A: He and my husband and Mickey had met somewhere and they
16 -- he had come back over to our house with them and that's
17 how I met him.

18 Q: Now, when you would see him, would the victim, Mr.

19 Short, be with him often when you'd see the defendant, Mr.
20 Busby?

21 A: Yes, during that month.

22 Q: Okay. Now, when was the last time you saw the
23 defendant?

24 A: The last time I saw him was approximately a week or so
25 before Mickey died. That weekend, my mother-in-law had come

RACHEL HAMMOND GULLEDGE - DIRECT BY MR. REDMOND

1 to pick up our son to spend the weekend with her in
2 Hartsville and we were in the process of moving at that time.
3 We were putting some boxes in the back of her car, and he
4 pulled up in the yard in his truck.

5 Q: Okay. Now, let me ask you this. Did you -- were you
6 aware that there was some tension between the defendant and
7 Mr. Short over a shotgun?

8 A: Yes. There was an incident over a shotgun.

9 Q: And just tell us what your knowledge of that is?

10 A: My knowledge of that is David had a shotgun. I have no
11 idea what kind. I didn't never look at it.

12 Q: Okay.

13 A: But Mickey purchased the shotgun from David. He gave
14 David the money for it and David was supposed to give it to
15 him the next time he saw him. Well, David never gave him the
16 shotgun and Mickey was, you know, trying to find out when he
17 would get it, why hadn't he got it, and I mean he -- you
18 know.

19 Q: Was Mickey happy about the fact that he didn't have the
20 shotgun?

21 A: Of course not. He wasn't happy.

22 Q: Okay.

23 A: But he -- he was just getting a little irritated, you
24 know, by the runaround.

25 Q: I understand. Now, we've talked about the time that you

RACHEL HAMMOND GULLEDGE - DIRECT BY MR. REDMOND

1 know the defendant. Was there ever a time that the defendant
2 actually stayed over at your house?

3 A: Yes. He spent the night at our house a couple times.

4 Q: Okay. And who was usually with him when that happened?

5 A: Well, myself and my husband at the house.

6 Q: Okay.

7 A: David and most of the time Mickey.

8 Q: Okay. Now, there was one time that we've discussed in
9 particular that, of course, involves Hurst Cemetery Road.
10 Could you tell the ladies and gentlemen of the jury about
11 that? Well, let me ask you this. About how long before
12 Mickey's death, to the best that you can remember, did that
13 occur?

14 A: The best that I can remember, it was two or three weeks
15 before.

16 Q: Okay. All right. So -- but tell us what -- what your
17 recollection is?

18 A: Okay. My son was also at his grandparents' house this
19 weekend. They got him about every other weekend. Well, that
20 night, David, Mickey, Mickey's friend Chrissy, had spent the
21 night at our house and my husband and I were there also. We
22 just hung out that night to talk and Clint and Mickey ended
23 up falling asleep and Chrissy and I were up still the next
24 morning and so was David. We wanted some coffee and I didn't
25 have any; so we decided to go to the store and get some.

1 David took Chrissy and I.

2 Well, we went to Curtis' over here. I'm not sure the
3 exact name of it now, but that's what we called it, and got
4 coffee. Well, when we were coming out, the sun was rising
5 and the sky was really pretty that morning. So we decided to
6 just ride around for a minute and watch the sunrise.

7 Well, when we were on our way back to my house about to
8 turn on my dirt road, you can see this other dirt road off my
9 dirt road. Well, one of them asked me what was down that
10 road, had I ever been down it, and I told them no, my whole
11 life living here, I had never been down that road. We
12 decided to drive down to see what was down there.

13 So we proceeded to ride down the road just a little bit
14 and we ended up turning around and the sun was just -- we
15 turned around into a spot on the left side, on our left-hand
16 side, and we could see the sun rising. It was just really
17 pretty. And then we went back to my house.

18 Q: Okay. Now, let's talk about Clint for a moment. And
19 moving to the night -- after the last time y'all saw Mickey,
20 did Clint ever leave the house? Were you ever -- did he ever
21 leave your presence during that time?

22 A: No.

23 Q: Okay.

24 A: We just stayed together and watched movies, like we
25 normally do when we were alone.

RACHEL HAMMOND GULLEDGE - DIRECT BY MR. REDMOND

1 Q: Okay. And the next morning, the morning of the 19th,
2 before you discovered that Mickey had been killed, what do
3 you recall as it relates to any attempt to contact with
4 Mickey?

5 A: Well, when we woke up that morning, we thought it
6 unusual that we hadn't heard from him at all yet because we
7 had anticipated him showing back up the night before, but we
8 definitely expected at least a call. When we didn't have
9 that when we woke up, we tried to call him just to see where
10 he was and see what he was doing. We didn't reach him that
11 time and we tried to call back another time or two.

12 Q: Okay. And, of course, were you ever able to reach him?

13 A: Of course not.

14 Q: And did you find out why you weren't able to reach him?

15 A: Yes.

16 Q: Okay. And why was that?

17 A: Because of his death.

18 Q: Did you give a statement to law enforcement the day that
19 Mickey was found on the 19th of June?

20 A: I did, just a couple of hours later.

21 Q: Okay. And did you explain what you've explained to us?

22 A: Exactly.

23 MR. REDMOND: Thank you. That would be all the
24 questions I have at this time. Please answer any questions
25 Ms. Copeland-Little may have.

NICOLE DEESE - DIRECT BY MS. JOHNSON-LEE

1 MS. COPELAND-LITTLE: No questions. Thank you.

2 THE COURT: Watch your step.

3 MR. REDMOND: Thank you. And with the Court's
4 permission, we would ask that Ms. Hammonds Gulledge be
5 excused.

6 MS. COPELAND-LITTLE: No objection.

7 THE COURT: You're excused. You can stay if you would
8 like.

9 THE WITNESS: Okay. Thank you.

10 MS. JOHNSON-LEE: And at this time, we would call Nicole
11 Deese.

12 THE CLERK: Right up here to the Bible. Place your left
13 hand on the Bible and raise your right.

14 THE WITNESS: Left hand and raise my right?

15 THE CLERK: Right. Do you swear or affirm to tell the
16 truth, the whole truth, and nothing but the truth, so help
17 you God?

18 THE WITNESS: Yes, ma'am.

19 THE CLERK: Thank you. You can have a seat up here.

20 THE WITNESS: Thank you.

21 NICOLE DEESE, being first duly
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. JOHNSON-LEE:

25 Q: Please state your name for the record?

1 A: Nicole Deese.

2 Q: Where do you live at, Nicole?

3 A: As of now, I stay with my grandfather in Pageland.

4 Q: Okay. Where did you live in June of 2017?

5 A: I stayed in Jefferson at 1093 Plyler Road.

6 THE COURT REPORTER: What road?

7 BY MR. JOHNSON-LEE:

8 Q: Plyler Road?

9 A: Yes, ma'am.

10 Q: Can you spell that for the --

11 A: P-l-y-l-e-r.

12 Q: Thank you.

13 A: You're welcome.

14 Q: Did you know Mickey --

15 A: I did.

16 Q: -- Short?

17 A: Yes, ma'am.

18 Q: And how did you know Mickey?

19 A: Mickey and I came in contact through another mutual
20 friend of ours named John and that's kind of how we started
21 hanging out a little bit. Of course, through drugs, you
22 know. That's how we got to know each other, but we hung out
23 and we got high together, you know, and that was pretty much
24 our relationship, you know.

25 Q: How long had you known each other?

1 A: I think -- I don't know for sure, but I think February
2 of that year.

3 Q: And Mickey passed away or was killed on Father's Day in
4 June --

5 A: Yes, ma'am.

6 Q: -- of 2017, the next morning or thereabouts; is that
7 correct?

8 A: Yes, ma'am.

9 Q: Okay. Now, did you and Mickey have a very close
10 relationship?

11 A: I think we did.

12 Q: Okay. Did he ever do anything special for you besides
13 having to do with drugs?

14 A: Yeah. Like, he was there if I called him. You know, if
15 I needed him for anything, like money or either whatever.
16 You know, him and I both helped each other. He even bought
17 me a car and everything. Like, I could really count on him.
18 I would say we were extremely close.

19 Q: So if you needed something, you could call him?

20 A: I could call on him, yes, ma'am.

21 Q: Okay. Did you know David Busby?

22 A: Not -- I didn't know him personally. We kind of met,
23 but we didn't know each other like that.

24 Q: Okay. How long had you known him as of Father's Day
25 2017?

1 A: A few days.

2 Q: Did he spend time at your house Father's Day weekend and
3 a day or two after?

4 A: Yes, ma'am.

5 Q: Okay. Let's go back to Father's Day again. Okay? On
6 Father's Day, did you have any conversations with Mickey
7 Short?

8 A: Not on Father's Day that I recall except for one. He
9 called me. He called me at my house that night and wanted me
10 to take a ride with him.

11 Q: Okay. Do you know where he wanted you to go?

12 A: I'm pretty sure it was to re-up.

13 Q: Okay. And can you explain what that means?

14 A: It means to go get more drugs.

15 Q: Okay. And was David Busby with you --

16 A: Yes, ma'am.

17 Q: -- during that?

18 A: Yes, ma'am.

19 Q: Did David Busby say anything to you while you were on
20 the phone with Mickey?

21 A: When Mickey called, I answered it and David realized it
22 was Mickey and he told me, no, hang up, hang up. Tell him no
23 and hang up the phone and I did that. I hung up the phone.

24 Q: At some point in time after that conversation, did David
25 Busby leave your residence?

1 A: He did.

2 Q: Did he tell you where he was going?

3 A: He said he was going to meet Mickey and I'm pretty sure
4 it was to get dope, from what he said.

5 Q: Okay. Now, did you ever hear back from Mickey that
6 evening?

7 A: No, ma'am.

8 Q: Did you ever hear from Mickey again?

9 A: No, ma'am.

10 Q: Was that unusual or out of the ordinary?

11 A: Very much so.

12 Q: Tell the jury how often you would hear from Mickey?

13 A: We talked every day, you know, from when we first began
14 our relationship as friends or whatever. We kept it pretty
15 close. We talked a lot.

16 Q: So you would've expected a call from Mickey at some
17 point in time that evening?

18 A: Yes, ma'am.

19 Q: Okay. Now, did David Busby come back to your house that
20 evening?

21 A: It was really late. It was later that evening.

22 Q: Okay. How late?

23 A: It was in the morning, like I don't know exactly what
24 time, but it was probably past midnight.

25 Q: Did you find that unusual?

1 A: Yes.

2 Q: When did you expect David Busby to come back?

3 A: It doesn't take long to go get something, you now. So
4 shortly after.

5 Q: So what did you think when he didn't come back and you
6 didn't hear from Mickey?

7 A: I just thought it was -- something wasn't right, you
8 know, not hearing from Mickey because I always heard from
9 Mickey and I just -- I couldn't get him on the phone. You
10 know, I was trying and just you know how you get those
11 feelings sometimes? I just -- that's how I felt. It just
12 didn't sit well. Because Mickey called me and I called him
13 all the time. We kept in contact.

14 Q: Did you try to call Mickey?

15 A: Uh-huh.

16 Q: You need to say yes or no.

17 A: Yes, ma'am.

18 Q: Okay.

19 A: I'm sorry.

20 Q: That's okay.

21 A: I'm so sorry.

22 Q: Were you able to reach him?

23 A: No, ma'am.

24 Q: Okay. Did you try to get anybody else to try --

25 A: I did.

1 Q: -- to call him?

2 A: I did.

3 Q: Who did you try to get to call Mickey?

4 A: I tried to get Kenny to call Mickey for me.

5 Q: Now, what is Kenny's name?

6 A: Kenneth Parker.

7 Q: Okay. And how did you get in touch with Kenneth?

8 A: I called his phone. We kept a lot in touch on Messenger

9 too.

10 Q: What's that?

11 A: On Facebook. Yes, ma'am.

12 Q: Now, did you have your cell phone that night?

13 A: Not that I recall.

14 Q: Okay. What phone line did you call from?

15 A: My home phone.

16 Q: And how did you get on Facebook?

17 A: My mother stayed right in front of me and I connected

18 from her Wi-Fi to my house.

19 Q: Okay. Was it through --

20 A: On a tablet.

21 Q: A tablet?

22 A: Yes, ma'am.

23 Q: Okay. Did you ask Kenneth to try to get in touch with

24 Mickey?

25 A: Yes, ma'am.

1 Q: Did you also --

2 A: And -- I'm sorry.

3 Q: Please go ahead.

4 A: And I tried to get him to get in contact with David as
5 well.

6 Q: Okay. What did you tell Kenneth?

7 A: I said will you call this number. I don't know exactly
8 what I told him, but I asked him could he call and see if he
9 could get a hold of him because I hadn't heard from Mickey
10 and I just wanted to see what was going on. I told him to
11 tell him it's important. You know, tell him something is
12 wrong if you have to, but tell him to call me, you know,
13 because I haven't heard from him.

14 Q: Now, did you give David Busby's number to Kenneth?

15 A: Yes, ma'am.

16 Q: Now, do you recall what David Busby was wearing when he
17 left that night?

18 A: Oh, gosh, ma'am, I don't exactly. No, ma'am.

19 Q: Do you recall whether he was wearing the same clothes
20 when he got back?

21 A: No, he wasn't wearing the same clothes when he got back.
22 It was different.

23 Q: Okay. About -- you said he got back in the wee hours of
24 the morning, sometime after midnight, obviously?

25 A: Yes, ma'am.

1 Q: Okay. Did you ever see David Busby with any kind of
2 gun?

3 A: I -- he did have a gun. Yes, ma'am.

4 Q: Okay. When did you see a gun?

5 A: It was after everything. He brought it in the house and
6 it wasn't but a brief time. It was just sat on the loveseat
7 and after that I don't know what happened with it.

8 Q: What did that gun look like?

9 A: I want to say, like, it was a longer gun. I don't know
10 what kind or anything like that. So that's as much help as I
11 can be there.

12 Q: But he took it back away?

13 A: Yes, ma'am.

14 Q: Okay. Did you ever see David Busby with a large sum of
15 money?

16 A: No, ma'am.

17 Q: Did you ever see Mickey with a large sum of money?

18 A: No, ma'am.

19 Q: Now, do you live near Lake Terry?

20 A: Yes, ma'am. I did.

21 Q: How far from Lake Terry do you live?

22 A: It's not very far at all. It's like -- I mean it's
23 walking distance, if you would want to take that walk. You
24 know, it's right up the road.

25 Q: Okay. Now, you said David got back very late. Were you

1 still upset after he got back?

2 A: Yes.

3 Q: How were you acting?

4 A: Just upset, like asking him, you know, what's going on
5 because just the way I felt something wasn't right and it
6 doesn't take that long, you know, to get dope. You know what
7 I mean? And so I just kept pressuring him. Like, what the
8 fuck is going on. You know, what's -- just stuff like that.

9 Q: At some point in time on Monday, did he tell you what
10 happened?

11 A: It wasn't that day. It was later that night, maybe
12 early that Tuesday morning.

13 Q: What did David Busby tell you?

14 A: He told me that he killed Mickey.

15 Q: What exactly did he say, if you can recall?

16 A: I just kept pressuring him. I'm, like, what is going
17 on. Like, what the fuck is going on. Something ain't right
18 here. It's some fuck shit. Just tell me what's going on,
19 you know. And he was, like, just crazy erratic. You know
20 what I mean? Like, you could tell something wasn't right.

21 And so, like, he went to go get a pen and he stopped and
22 a piece of paper and he didn't do that. He was just, like,
23 pacing and he brings me to my bedroom and when we were in
24 there that's when he whispers in my ear that he killed
25 Mickey.

1 Q: Say that again?

2 A: That's when he whispered in my year that he killed
3 Mickey.

4 Q: What exactly did he -- what were his words?

5 A: He just said, "I killed Mickey." And it just -- it all
6 happened so fast. I got into talking about it a little bit
7 and he said that Mickey come at him with a machete and, you
8 know, he didn't think. He just reacted.

9 Q: Did he give you any other details about what happened?
10 About what he remembered?

11 A: He did say, like, something about the smell and he said
12 -- he did say, like, he didn't have to do that, and that's
13 about it.

14 Q: He was saying he, David Busby, didn't have to do that?

15 A: Yes, ma'am.

16 Q: Okay. And he said something about the smell?

17 A: Yeah.

18 Q: Can you elaborate a little bit?

19 A: I don't really know what he was talking about. I guess
20 it was a bad smell or something and he just was saying, like,
21 something about the smell.

22 Q: Now, did you give a statement to the Sheriff's Office on
23 either that Tuesday or Wednesday?

24 A: Yes, ma'am.

25 Q: Now, when you first talked to the Sheriff's Office, did

1 you tell them the truth about what happened?

2 A: No, ma'am.

3 Q: Why didn't you tell them the truth?

4 A: David told me to say what I said to them, and I don't
5 even remember what it was because it was awful. It was all
6 lies and I didn't know what to do in that moment. I was
7 scared. He was still at my house, you know. I just -- if I
8 could take it back, I would, but I can't change nothing.

9 Q: Was he still at your house when you got back from the
10 Sheriff's Office?

11 A: Uh-huh. Yes, ma'am.

12 Q: Now, Kenneth Parker. How do you know Kenneth Parker?

13 A: Kenny and I know each other through my cousin, who they
14 have a child together.

15 Q: Okay. So your child is related to his child --

16 A: Yes, ma'am.

17 Q: -- through the mother?

18 A: Yes, ma'am.

19 Q: Okay. And how old is your child or your children?

20 A: My son is 11 and my daughter just turned 8.

21 Q: Now, at some point in time during that week or
22 immediately prior to that week, had you said anything to
23 Kenneth about cleaning up at your house?

24 A: Yeah. My daughter's birthday was coming up too and we
25 were cleaning for that.

1 Q: Was there anything related to drugs that was part of
2 that?

3 A: Yes. Whenever, like, I knew I had to come talk to the
4 cops, I asked him to clean up because I was scared for my
5 kids being took if they found drugs or paraphernalia there.
6 So I wanted to get rid of everything and just get it out.

7 Q: So Kenneth came and cleaned up for you?

8 A: Yes, ma'am.

9 Q: And this was after the murder?

10 A: Yes, ma'am.

11 Q: And that was because you were scared of DSS taking your
12 children?

13 A: Yes, ma'am.

14 Q: Now, what kind of cell phone did you see Mickey use?

15 A: It was always, like, a flip phone. I don't know what
16 kind.

17 Q: Do you know if he had more than one number?

18 A: I don't. I don't know that.

19 Q: And do you see the defendant, David Busby, in the
20 courtroom today?

21 A: Yes, ma'am.

22 Q: And where is he seated?

23 A: Right there.

24 Q: At the defense table?

25 A: Yes, ma'am.

1 Q: Thank you.

2 MS. JOHNSON-LEE: I beg -- beg the Court's indulgence.

3 BY MS. JOHNSON-LEE:

4 Q: Do you have any knowledge as to what David Busby did
5 with that gun when he took it out of the house?

6 A: No, ma'am.

7 Q: Did he ever make any comments to you about not worrying
8 about that gun?

9 A: He did say all that. He said he took care of all that.
10 So he did mention that.

11 Q: Did he say how he took care of it?

12 A: No, ma'am.

13 Q: Okay.

14 MS. JOHNSON-LEE: Thank you.

15 THE WITNESS: You're welcome.

16 MS. JOHNSON-LEE: I don't have any further questions,
17 but answer any that Ms. Copeland-Little has. Okay?

18 THE WITNESS: Okay. Thank you.

19 CROSS-EXAMINATION

20 BY MS. COPELAND-LITTLE:

21 Q: Good afternoon, Ms. Deese.

22 A: Good afternoon.

23 Q: Ms. Deese, while Mr. Busby was staying with you, did you
24 ever use his cell phone?

25 A: Not that I recall.

NICOLE DEESE - CROSS BY MS. COPELAND-LITTLE

1 Q: Now, I'm just going to go back. I was looking back.

2 You had mentioned that you gave a statement to law
3 enforcement?

4 A: Yes, ma'am.

5 Q: And you weren't truthful in that statement?

6 A: No, ma'am.

7 Q: How many times did you go up to the Sheriff's Department
8 and lie?

9 A: Just that one time.

10 Q: So you had one interview where you lied?

11 A: Yes, ma'am.

12 Q: And then you had -- you tell me you had one more
13 interview?

14 A: Yes, ma'am.

15 Q: And you told the truth?

16 A: Yes, ma'am.

17 Q: So all together, you only had two interviews with the
18 police?

19 A: Yes, ma'am.

20 Q: Now, were there any days where you met with the police
21 more than once or just --

22 A: No, ma'am.

23 Q: Okay. So you had two interviews with the police now.
24 Is that including your interview after you were arrested?

25 A: After I was arrested? I'm sorry.

NICOLE DEESE - CROSS BY MS. COPELAND-LITTLE

1 Q: I'm sorry. You talked to them one time and you didn't
2 tell the truth?

3 A: Right.

4 Q: And then you talked to them again and you did tell the
5 truth?

6 A: Yes, ma'am.

7 Q: After that statement, did you give them any other
8 statements?

9 A: Are you asking after I got out of jail?

10 Q: No, no.

11 A: I'm sorry.

12 Q: I'm sorry. No, it's okay. After you were arrested, did
13 you give anymore statements to the police?

14 A: No, ma'am.

15 Q: Okay.

16 A: Well, yes, ma'am. I'm sorry. When I was in jail is
17 when I gave my second statement. I'm sorry. Let me clarify
18 that.

19 Q: That's okay. All right. So we had two total. All
20 right. And -- and do you remember telling the police
21 something about y'all going over to somebody's house to ride
22 a horse?

23 A: Yes, ma'am.

24 Q: Okay. And who all -- when was that in relation to --

25 A: I don't know exactly the date. It was -- it was

NICOLE DEESE - CROSS BY MS. COPELAND-LITTLE

1 probably in June. I believe that month.

2 Q: Okay. All right. Well, that's fair. And who all --
3 and where did you all go to ride the horse?

4 A: We went to Red Baker's.

5 Q: Okay. Who -- who all was there that day?

6 A: From what I remember, Red, Austin, Brian --

7 THE COURT: Ms. Little? Excuse me. Go ahead and finish
8 your answer.

9 A: Red, Dustin, Brian, David, and Mickey and I, of course,
10 and I don't know if there were any more people there. But if
11 there were, I don't -- I don't know.

12 Q: Okay.

13 A: I can't remember.

14 THE COURT: Your client wants you.

15 THE DEFENDANT: I was just asking -- she was asking
16 about --

17 MS. COPELAND-LITTLE: Shhh.

18 THE COURT: I'm sorry. I thought you wanted her. I'm
19 sorry. Go ahead. I misinterpreted his signal.

20 MS. COPELAND-LITTLE: That's okay. And I will check
21 with him in just a moment.

22 BY MS. COPELAND-LITTLE:

23 Q: All right. So on that day when y'all were at the -- at
24 the -- at the Baker home riding the horse, you were there,
25 among other people. I believe you stated you were there,

NICOLE DEESE - CROSS BY MS. COPELAND-LITTLE

1 David Busby was there, Mickey was there, Mr. Baker and his
2 son were there?

3 A: Yes, ma'am. And Brian.

4 Q: And Brian. And was anybody injured on that day?

5 A: No, ma'am.

6 Q: Okay. And well, did anybody fall off a horse that day?

7 A: Not that I recall. Mickey. Mickey did fall off the
8 horse that day.

9 Q: Okay.

10 A: He did.

11 Q: All right.

12 A: He sure did. I'm sorry. I forgot about that.

13 Q: That's okay. All right. Tell us what you remember
14 about that?

15 A: I just -- when you asked about it, it just dawned on me
16 then. I think he had a bump on his head or something.

17 Q: Okay. And was he bleeding?

18 A: I don't remember.

19 Q: All right. Nicole, I believe in your testimony earlier
20 you said that you had only known David a short time, just a
21 few days or a few weeks?

22 A: Yes, ma'am.

23 Q: A few days or weeks?

24 A: A few days.

25 Q: A few days? So is that -- I'm sorry. You just

NICOLE DEESE - CROSS BY MS. COPELAND-LITTLE

1 testified that sometime in June y'all had been together at
2 this house where the horse was. Is that the first time you
3 ever met him?

4 A: The first time I ever seen him was actually at Clint's
5 house and I didn't really meet him then. I just saw him
6 there really.

7 Q: Okay. So you -- to know him, like we would say know
8 him, it was only a few days?

9 A: Yes, ma'am.

10 Q: Okay. And you also testified that you and Mickey were
11 very close?

12 A: I feel like we were.

13 Q: And -- and you cared a great deal about him, didn't you?

14 A: Yes, ma'am.

15 Q: And it sounded like from your testimony he cared a lot
16 about you?

17 A: Yes, ma'am.

18 Q: He did a lot of things for you?

19 A: Yes, ma'am.

20 Q: Sometimes helped with money?

21 A: Yes, ma'am.

22 Q: Bought you a car?

23 A: Helped us.

24 Q: And he would give you drugs?

25 A: Yes, ma'am.

NICOLE DEESE - CROSS BY MS. COPELAND-LITTLE

1 Q: What kind of drugs are we talking about?

2 A: Meth.

3 THE COURT REPORTER: What was that?

4 BY MS. COPELAND-LITTLE:

5 Q: Could you speak up? I'm sorry.

6 A: Meth.

7 Q: Okay. So you and Mickey were very close, you knew him
8 very well. Were you and Mr. Busby very close?

9 A: I didn't know him like that. No, ma'am.

10 Q: Well, how did you find out that Mr. Short, the victim,
11 was deceased?

12 A: Actually, I first heard it from David. He's the one who
13 called me. He was on the way to Lancaster with his mother, I
14 believe, and he called me at my house and he said I wanted to
15 call you and let you know before anybody else did, you know.
16 They found Mickey this morning, you know, killed or whatever,
17 and I just hung up the phone and I freaked out. And that's
18 where I first heard it.

19 Q: All right. And after that conversation, did you
20 continue -- did David ever come back to your house?

21 A: Yes, ma'am.

22 Q: Okay. Did he ever spend the night after that?

23 A: Yes, ma'am. I believe so.

24 Q: All right. So it's your testimony that you barely knew
25 my client?

NICOLE DEESE - CROSS BY MS. COPELAND-LITTLE

1 A: Uh-huh.

2 Q: You and Mr. Short were very close, you cared a great
3 deal about him, you were tight, he cared about you. Why
4 would you continue to let somebody you thought killed your
5 dear friend hang out with you?

6 A: At that point, I didn't really -- thank God I didn't
7 know that. I just didn't think -- I didn't think that at
8 that time. It wasn't until later when he told me that, you
9 know.

10 MS. COPELAND-LITTLE: That's all I have, Your Honor.

11 THE WITNESS: Thank you.

12 MS. JOHNSON-LEE: Just a few questions on redirect.

13 REDIRECT EXAMINATION

14 BY MS. JOHNSON-LEE:

15 Q: Nicole, just to try to clear some things up, were you
16 under the influence of drugs --

17 A: Yes, ma'am.

18 Q: -- on Father's Day and the next few days following that?

19 A: Yes, ma'am.

20 Q: How often that week had you been using?

21 A: Every day.

22 Q: Now, if there are three separate videos from the
23 Sheriff's Office showing three different interviews with you,
24 do you think that would be correct that there were three
25 interviews?

1 A: It may be. Yes, ma'am.

2 Q: Okay. And if the second interview still shows you not
3 being entirely truthful and that's on the video, then would
4 the video be correct?

5 A: Yes, ma'am.

6 Q: Okay. And when David Busby came back to your house
7 after going somewhere with his mom, were you still
8 encouraging him very strongly to tell you the truth, as
9 you've already testified to?

10 A: Yes, ma'am.

11 Q: And was it after that trip with his mom that he told you
12 he killed Mickey?

13 A: I do believe so.

14 Q: Okay.

15 MS. JOHNSON-LEE: I beg the Court's indulgence.

16 BY MS. JOHNSON-LEE:

17 Q: Late on the afternoon of Monday the 19th, did you still
18 try to call Mickey?

19 A: I'm sure I did.

20 Q: Was that because you didn't know yet that he had been
21 murdered?

22 A: I didn't.

23 MS. JOHNSON-LEE: Thank you.

24 RECROSS-EXAMINATION

25 BY MS. COPELAND-LITTLE:

NICOLE DEESE - RECROSS BY MS. COPELAND-LITTLE

1 Q: Ma'am, you just said that -- you just testified
2 something about when David came back to your house. Do you
3 recall him coming back to your house? I believe you said it
4 was after midnight on Sunday night, Father's Day night?

5 A: Yes, ma'am.

6 Q: Then after midnight, so it would have been Monday
7 morning?

8 A: Yes, ma'am.

9 Q: But you're not sure what time; is that right?

10 A: I'm not sure what the time was.

11 Q: Okay. When David returned to your house, did he have
12 any dope?

13 A: No, he didn't.

14 Q: Did he have a lot of money?

15 A: I have never seen him with any money, no.

16 Q: All right.

17 MS. COPELAND-LITTLE: Thank you.

18 THE WITNESS: You're welcome.

19 MS. JOHNSON-LEE: No further questions. We'd ask that
20 the witness be excused.

21 MS. COPELAND-LITTLE: Your Honor, subject to -- I
22 believe I have her on my witness list. So just in case,
23 yeah, I might need to recall her, but I don't have any
24 problem with her leaving today.

25 THE COURT: Okay. Stay available.

JOEY CARNES - DIRECT BY MR. REDMOND

1 THE WITNESS: Thank you.

2 THE COURT: You can stay if you'd like, but stay
3 available.

4 THE WITNESS: Okay. Thank you, sir.

5 MR. REDMOND: The State would next call Joey Carnes.

6 THE CLERK: Left hand on the Bible, raise your right.
7 Do you swear or affirm to tell the truth, the whole truth,
8 and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Have a seat in the witness
11 stand.

12 JOEY CARNES, being first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. REDMOND:

16 Q: Deputy Carnes, by whom are you employed?

17 A: Chesterfield County Sheriff's Office.

18 Q: And in what capacity are you employed?

19 A: Currently, I'm a patrol supervisor.

20 Q: Okay. Are you a sergeant?

21 A: That's correct.

22 Q: All right. Sgt. Carnes, were you working with the
23 Sheriff's Office in June of 2017?

24 A: That's correct.

25 Q: And let me back up. How long have you been in law

1 enforcement?

2 A: Total I've been in approximately 13 years.

3 Q: Okay. And were with the Sheriff's Office that whole
4 time?

5 A: The first year and a half, I was with Pageland Police
6 Department. Then in March of 2008, I become a deputy with
7 the Sheriff's Office.

8 Q: All right. And excuse me. On the -- in June of 2017,
9 in what capacity were you working with the Sheriff's Office?

10 A: I was the narcotics supervisor in the investigative
11 division.

12 Q: Okay. Now, speaking of the investigative division, did
13 you become involved in the investigation of the defendant
14 regarding Mickey Short's death?

15 A: That's correct.

16 Q: And how did -- what role did you take in this
17 investigation?

18 A: During any of these types of incidents, a major
19 incident, it's an all hands on deck type of thing where all
20 the investigators get called and everybody pulls together.
21 Me specifically, I helped out with some of the cell phone
22 data. I done some of the interviews, talking to different --
23 different people, trying to figure out suspects and people of
24 interest.

25 Q: Okay. And I might get out of sequence a little bit, but

1 let's go to the cell phone data.

2 Q: If I may approach with what's been marked as State's
3 213, 214, and 217, and I'm going to start with 217. Do you
4 recognize those exhibits? They are already in evidence.

5 A: Yes, sir, I do.

6 Q: Okay. Could you tell us 217 first? What is that?

7 A: 217 is a cell phone. It's a Motorola android phone.

8 Q: Okay. And was that retrieved from -- who was that
9 retrieved from?

10 A: It was retrieved from the defendant, David Busby.

11 Q: All right. And so with that phone -- and you talked
12 about cell phone dumps and whatnot. How do you go about, I
13 guess, extracting data from a cell phone?

14 A: We have a machine that's called a Cellebrite machine and
15 it's -- it's pretty simple. It's just a plug-and-play. You
16 take the phone and you look it up on the machine. You take
17 the make and model. It tells you what cord to use. You plug
18 the cord up, which is basically a charging cord. You plug it
19 up into the Cellebrite machine and from that point on it's
20 pretty much plug-and-play. You just select your options and
21 hit next.

22 Q: Okay. Now, with those reports, with the call log
23 reports, at what time does the incoming call list actually
24 start from the dump? What's the earliest call that you've
25 got from that dump from that cell phone?

JOEY CARNES - DIRECT BY MR. REDMOND

1 A: It's showing June the 19th, 2017, at 8:16 p.m.

2 Q: 8:16 p.m. on the 19th?

3 A: That's correct.

4 Q: That's the earliest call from that phone?

5 A: That's correct.

6 Q: All right. So that was dumped from the phone and that's

7 the earliest call dumped from that phone. And based on your

8 involvement in the investigation, was that approximately 12

9 hours after Mr. Short's body had been found?

10 A: That's correct.

11 Q: All right. Now, were there also text messages

12 extracted?

13 A: That's correct.

14 Q: And when did those text messages -- what's the earliest

15 text message?

16 A: The earliest text message is reading 6/17/2017 at 1745.

17 Q: Okay. And so the text messages started on the 17th of

18 June?

19 A: That's correct.

20 Q: All right. Now, as it relates to the -- I guess to the

21 extraction data that was pulled from that, I believe that's a

22 redacted version of the --

23 A: That's correct.

24 Q: -- text messages. So based on your experience in law

25 enforcement that you've got, phone calls that start at a

JOEY CARNES - DIRECT BY MR. REDMOND

1 certain time, like after the murder, but yet there are still
2 text messages from two days almost before the murder; is that
3 correct?

4 A: That's correct.

5 Q: Okay. And again, when you extract data -- well, let me
6 ask you this. Based on your experience with that, with the
7 Cellebrite, if there are items deleted or whatnot, will it
8 only get what's on the phone at that time?

9 A: Well --

10 MS. COPELAND-LITTLE: I'm objecting. He's not an expert
11 on cell phone records.

12 MR. REDMOND: I'll rephrase, Your Honor. I'll rephrase.

13 BY MR. REDMOND:

14 Q: Based upon your examination -- and I'll just ask it like
15 this. Text messages start when? When did the text messages
16 start in State's -- I think that's 214?

17 A: On 6/17/2017 at 1745.

18 Q: And again, when did the actual call log start?

19 A: On 6/19/2017 at 2016.

20 Q: Okay. Two day's difference?

21 A: That's correct.

22 Q: I'll just leave it at that. Now, we talked about the --
23 about your involvement in the investigation and did you
24 happen -- and we've already seen -- I think it's State's 1
25 actually, the video statement that was done. Were you

JOEY CARNES - DIRECT BY MR. REDMOND

1 involved in any of the statements given by the defendant?

2 A: Yes, sir, I was.

3 Q: And how would you describe his demeanor? You were right
4 there during several parts. You said you were the only --
5 during several parts of the interview, were you the only one
6 in there with him?

7 A: That's correct.

8 Q: Okay. And were you in there with him when he got the
9 buccal swab taken from Anna Tankersley at SLED?

10 A: That's correct. I was.

11 Q: All right. How would you describe his demeanor based on
12 your experience? How would you describe it?

13 A: I could tell that he was -- he had, like, a worried type
14 demeanor. I could tell there was something weighing heavy on
15 in.

16 Q: Did he appear -- did it seem to you that he was not
17 understanding or fit to understand what you were asking?

18 A: No. He understood everything.

19 Q: Okay. Was there anything that made you think that he
20 was not aware of what he was saying or did not understand
21 what he was being asked?

22 A: No, sir.

23 Q: All right. Now, when you were interviewing him at that
24 time, I guess that would be -- was that on the 19th? Excuse
25 me. The 21st of June?

JOEY CARNES - DIRECT BY MR. REDMOND

1 A: That's correct.

2 Q: All right. Did -- did he give you -- were you involved
3 in a second interview? Let me ask you like that.

4 A: No, sir, I was not.

5 Q: Okay. But in the first interview, did he ever discuss
6 anything about -- well, what did he discuss with you in the
7 first interview?

8 A: Initially, Mr. Busby was -- he had the statement
9 basically that he had nothing to do with it, didn't know what
10 was going on. He just had no involvement, barely knew the
11 person, the victim, and he just had nothing.

12 It wasn't until after the buccal swab, which is the DNA
13 swab in the cheek, that he -- the defendant asked something
14 to the effect of, you know, what's going on and I advised
15 him. I said, well, you know, right now we only have one side
16 of the story. You know, it's best that you get your side
17 out.

18 And at that point, I had already uncuffed him so he
19 could sign the consent form and the SLED agent had already
20 walked out. So I was recuffing him while I was saying that
21 to him and I could tell he wanted -- I had a feeling he
22 wanted to say something to me.

23 So as I'm walking out, I started talking to him about,
24 you know, getting right, coming clean, you know, talking to
25 me, and I told him -- I said -- you know, I said you need to

JOEY CARNES - DIRECT BY MR. REDMOND

1 look out for yourself because -- excuse my language, but the
2 wording I used -- I said Nicole is not going to look out for
3 you and Kenneth is damn sure not going to look out for you.
4 The only person who is going to look out for you is David.

5 Q: Now, how did you get Kenneth Parker's name? Did the
6 defendant give you Kenneth Parker's name?

7 A: His name had come up through the defendant, yes.

8 Q: Okay. And we'll get into that in a minute. Go ahead
9 and continue.

10 A: His name had came up earlier in the interview. This was
11 much later and, at that point, Mr. Busby asked me to come sit
12 back down and I sat down and started talking to him and he
13 initially stated that he knew about the murder, but he said
14 that Mr. Parker did everything and he started talking to me
15 about the shooting and I asked him --

16 MS. COPELAND-LITTLE: Your Honor, I object just on the
17 basis that he is rephrasing something that's already in
18 evidence.

19 MR. REDMOND: Your Honor, he was there and, of course,
20 the jury would have this. Since he was there, he was also
21 participating. The jury can obviously go with -- you know,
22 they'll have the video recording. I'm asking for a summary
23 of those things that he remembers.

24 THE COURT: Overruled.

25 MR. REDMOND: Thank you.

JOEY CARNES - DIRECT BY MR. REDMOND

1 BY MR. REDMOND:

2 Q: Please continue.

3 A: So at one point, I asked the defendant so you was there
4 with Kenny and he said -- he stated, no, he was not. At that
5 point, I got up and I told him -- I said I thought you was
6 going to get right with me and I started -- I started to walk
7 out and he questioned what I meant by that. I said -- I told
8 him -- I said you know I know that's a lie.

9 Q: So to stop you there real quickly, so at that point he's
10 actually saying he wasn't there and Kenneth Parker is your
11 only person to be looking at?

12 A: That's correct. He -- he told me about the incident,
13 but told me that it was all Kenneth Parker and that he had
14 nothing to do with. But it was all Kenneth Parker.

15 Q: Okay. Please continue. I'm sorry.

16 A: Like I stated to him, I told him I knew that was a lie
17 based off of -- I told him -- I said I know more than I'm
18 letting you know I know. I said I want you to tell me what I
19 already know.

20 He thought about it for a minute and asked me to come
21 sit back down and, when I did, he admitted to being there.
22 He still blamed Mr. Parker for everything that happened to
23 Mr. Short, but gave a version of the events, detailed
24 versions of the events that led to the death of Mr. Short.
25 He admitted that he threw a cigarette butt out on the scene.

JOEY CARNES - DIRECT BY MR. REDMOND

1 He told me about how the vehicles were parked. He did state
2 that he had never exited the vehicle.

3 Q: I was going to ask you about that. Please explain that?

4 A: He stated that as they pulled up and parked, Mr. Short
5 was parked on this side facing Hurst Cemetery. He backed up
6 and parked off to the passenger side facing Hurst Cemetery as
7 well. He stated that Mr. Parker exited the passenger side of
8 his vehicle and walked around to Mr. Short's vehicle, stayed
9 there for several minutes, and then -- and then all of a
10 sudden he heard a gunshot and that he said -- he stated that
11 Mr. Parker must have pulled him out of the vehicle. And I
12 want to say he said it a couple times that he never got out
13 of the vehicle, but then Mr. Busby made the comment that I
14 seen his face and I haven't been able to sleep for three days
15 now.

16 Q: And why did that strike you?

17 A: Because being at night and being where he was parked at,
18 I don't think it would be feasible for him to see exactly
19 where the victim was shot. So he would have known that the
20 victim was shot in the face at that time.

21 Q: And so did that raise suspicion with you?

22 A: That's correct. Suspicion. For him to claim to have
23 never gotten out of the vehicle, he had known he was shot in
24 the face. To me, that told me that that was a lie because he
25 had to at least have been over by the vehicle.

JOEY CARNES - DIRECT BY MR. REDMOND

1 Q: Okay. Now, please continue as it relates to this
2 interview.

3 A: He just continued to tell me that Mr. Parker took the
4 shotgun and put it on the back of the truck and there wasn't
5 really much of a conversation. They just got in -- he said
6 he was, you know, freaking out. He said, you know, Mr.
7 Parker just, you know, shot somebody, shot Mr. Short in the
8 face, and he didn't know whether to leave, call us, stay. He
9 claimed that he was freaking out.

10 Q: And to be clear, he is saying that Kenneth Parker had
11 done all of this, that Kenneth Parker was on Hurst Cemetery
12 Road at the time of this murder?

13 A: That's correct.

14 Q: All right. Please continue.

15 A: He said eventually Mr. Parker got back in the vehicle,
16 put the items, the shotgun on the back of the truck, and they
17 drove off. And let me back up. Just prior to Mr. Busby and
18 Mr. Parker meeting together, according to Mr. Busby, Mr.
19 Busby picked up or allegedly claimed he had picked up Mr.
20 Parker on Guess Road in Pageland and claimed he parked on the
21 dirt road. And given the description, I believe it would be
22 Hubert Myers dirt road off of Guess Road.

23 And I even questioned Mr. Busby as to why would Mr.
24 Parker park right there when Mr. Short's camper at the time
25 was just a quarter mile down the road, and Mr. Busby stated

JOEY CARNES - DIRECT BY MR. REDMOND

1 he didn't know. Maybe he didn't want to leave his car there
2 or whatever. So fast forward. So after the incident, Mr.
3 Busby stated that he drove him back to get in his car and Mr.
4 Parker left and he left.

5 Q: Now, curious, I noticed that -- did he ever mention
6 Clint Gullledge in that first interview?

7 A: I don't recall during that part him mentioning Clint
8 Gullledge.

9 Q: And in your interview, was he attributing the murder and
10 all of the wrongdoings that befell Mr. Short on Kenneth
11 Parker?

12 A: That's correct. He was basically claiming to be at the
13 wrong place, wrong time.

14 Q: All right.

15 MR. REDMOND: I beg the Court's indulgence.

16 THE COURT: Yes, sir.

17 MR. REDMOND: That would be all the questions I have.
18 Please answer any questions that Ms. Copeland-Little may
19 have.

20 THE COURT: All right.

21 MS. COPELAND-LITTLE: Thank you.

22 CROSS-EXAMINATION

23 BY MS. COPELAND-LITTLE:

24 Q: Detective Carnes, you just testified that when you were
25 talking to Mr. Busby you got concerned because you said he

JOEY CARNES - CROSS BY MS. COPELAND-LITTLE

1 wouldn't have known where Mr. Short was shot?

2 A: I don't believe so.

3 Q: Okay. What was the date of that interview with Mr.

4 Busby?

5 A: That would have been the 21st, I believe.

6 Q: Okay. And Mr. Short's body was discovered on what day?

7 A: The 19th, I do believe, that Monday morning.

8 Q: All right. And were you present in the courtroom when

9 one of the witnesses that found Mr. Short testified that he

10 had been shot in the face?

11 A: Yes, ma'am, I was.

12 Q: Okay. So isn't it true that at least one other person

13 knew where Mr. Short was shot?

14 A: That's correct.

15 Q: And you don't know who that person told?

16 A: That's correct. I do not.

17 Q: Okay. And you don't know how many people knew or saw

18 the victim that morning, do you?

19 A: That's correct. I do not.

20 Q: Okay. So it -- it could have been common knowledge; is

21 that right?

22 A: Possibly. I mean it's not outside the realm of the

23 possibilities.

24 Q: All right.

25 MS. COPELAND-LITTLE: Thank you, sir.

JOEY CARNES - REDIRECT BY MR. REDMOND

1 THE WITNESS: You're welcome.

2 MR. REDMOND: Brief redirect, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. REDMOND:

5 Q: Based on those questions -- now, this is in the
6 interview. Was the defendant referring to what he had heard?
7 When you said -- when he told you that he saw his face and
8 saw what happened -- well, tell us exactly what the defendant
9 told you to clarify? Was it something that you thought he
10 heard and was telling you or was this based on his own
11 observations?

12 A: He was telling me based off his own observation from the
13 -- from the incident night itself.

14 Q: And what again did he say in that context?

15 A: That Mr. Parker just shot Mr. Short in the face.

16 Q: In the face? Okay. And then did he say anything about
17 seeing his face or seeing the face?

18 A: That's correct. He said he seen his face and he hadn't
19 been able to sleep for -- I can't remember. He either said
20 two days or three days, but he hadn't been able to sleep in
21 two or three days.

22 Q: So he didn't say I heard about what happened to his
23 face? He actually says I saw his face and couldn't sleep?

24 A: That's correct.

25 MR. REDMOND: Nothing further.

JOEY CARNES - RECROSS BY MS. COPELAND-LITTLE

1 MS. COPELAND-LITTLE: Just briefly.

2 RECROSS-EXAMINATION

3 BY MS. COPELAND-LITTLE:

4 Q: Did you -- did you believe everything that Mr. Busby
5 said that day?

6 A: Everything? No, ma'am, I did not.

7 MS. COPELAND-LITTLE: Thank you.

8 THE COURT: Is that it?

9 MR. REDMOND: Oh, yeah. No, nothing further, Your
10 Honor.

11 MS. COPELAND-LITTLE: Nothing further.

12 MR. REDMOND: And we'd ask that Sgt. Carnes be excused
13 from his subpoena.

14 MS. COPELAND-LITTLE: No objection.

15 THE COURT: Thank you, sir.

16 MR. REDMOND: Your Honor, my next witness is Kenneth
17 Parker.

18 THE COURT: All right. Does anybody need a brief
19 recess? Okay.

20 MR. REDMOND: Good to go?

21 THE COURT: If you'll come up, please, and take the
22 oath.

23 THE CLERK: Place your left hand on the Bible and raise
24 your right. Do you swear or affirm to tell the truth, the
25 whole truth, and nothing but the truth, so help you God?

KENNETH PARKER - DIRECT BY MR. REDMOND

1 THE WITNESS: I do.

2 THE CLERK: Have a seat up here in the witness stand.

3 KENNETH PARKER, being first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. REDMOND:

7 Q: Mr. Parker, could you state your name for the record?

8 A: Kenneth Parker.

9 Q: Okay. I'm going to get you to pull the microphone down
10 and say that one more time and make sure everybody can hear
11 you.

12 A: Kenneth Parker.

13 Q: Perfect. Mr. Parker, excuse me. Are you a resident --
14 a native and resident of Chesterfield County?

15 A: Yes, I am.

16 Q: Huh?

17 A: Yes, sir.

18 Q: Of Chesterfield County?

19 A: Oh, no, sir.

20 Q: Resident and native?

21 A: No, sir.

22 Q: In what county do you reside?

23 A: Lancaster County.

24 Q: Okay. And do you currently live in Lancaster County?

25 A: I do.

KENNETH PARKER - DIRECT BY MR. REDMOND

1 Q: Did you live in Lancaster County in June of 2017?

2 A: Yes, I did.

3 Q: All right. Let's get some background information on
4 you. First of all, do you know Nicole Deese?

5 A: I do.

6 Q: How long had you known Nicole?

7 A: Off and on about seven years maybe.

8 Q: Okay. And how about the decedent, Mickey Short, the
9 victim? How long did you know him?

10 A: Maybe three weeks prior.

11 Q: Okay. And how did you meet him?

12 A: I met him through Nicole.

13 Q: Okay.

14 A: Turned into a mutual friend.

15 Q: All right. And then the defendant, did you know him?

16 A: Just passing through, just, like, maybe once or twice I
17 met him.

18 Q: Okay.

19 A: That's it.

20 Q: And about how long before Mickey's death had you met
21 him?

22 A: Not long. Probably a week or so.

23 Q: Okay.

24 A: It could have been no more than two.

25 Q: All right. Now, on the 18th of June, 2017, did you reach

KENNETH PARKER - DIRECT BY MR. REDMOND

1 out to Mickey? Did you and Mickey communicate and actually
2 meet up at some point?

3 A: Yes, I did. I met him at Blue Sky Mart in Pageland,
4 South Carolina.

5 Q: Okay. And do you remember about what time that was?

6 A: Around 9:15.

7 Q: Okay. And when you met him there, tell us what took
8 place at that time and tell us about that?

9 A: I went and met him and went to where he supposedly sold
10 his drugs at and that's where I went and got --

11 Q: All right.

12 A: -- my dope.

13 Q: And let's stop there. At that time, did you -- were
14 there times that you got drugs from Mickey?

15 A: Yes, sir.

16 Q: Okay. And on the 18th, was that why you -- I guess
17 that's -- is that why y'all contacted each other and
18 ultimately met up outside of Pageland?

19 A: Yes, sir. That is why I met him.

20 Q: Okay. So after you met him, tell me what -- where did
21 y'all go and what did y'all do?

22 A: Well, I went and met him and it wasn't long after, you
23 know, I left after, you know, small chit chat. I left and I
24 went by Nicole Deese's house on the way home and never could
25 get up with her. So I ended up going out to another friend

KENNETH PARKER - DIRECT BY MR. REDMOND

1 of mine's actually on Jones Crossroad in Lancaster, South
2 Carolina.

3 Q: Okay. And we are going to back up some a little bit,
4 but -- and I didn't ask you this. Did you have your own
5 phone with you the whole time?

6 A: I did.

7 Q: Okay. And to the best that you can recall, was your
8 number 704-670-4405?

9 A: Honestly, I guess. I'm not sure what my phone number
10 was honestly.

11 Q: At that time?

12 A: Yes, sir.

13 Q: Because at that time you were doing a lot of drugs?

14 A: Yes, sir.

15 Q: All right. But again, you had your phone with you the
16 whole time?

17 A: Yes, sir, I did.

18 Q: And in fact, were you on Facebook messenger on your
19 phone during the time?

20 A: Yes, I was on Facebook messenger off and on.

21 Q: The 18th into the 19th of June?

22 A: Yes, sir.

23 Q: All right. Now, let me ask you this. So moving
24 forward. So getting to Mickey's. You were on Guess Road or
25 not Guess Road, but you were in the area of Blue Sky Mart.

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1 Where did y'all go after that? After you met up with him,
2 where did y'all go?

3 A: Not far to some secluded campers he had on -- I guess on
4 Guess Road. I think that's the name of that road. I'm not
5 familiar with the names of the roads out there.

6 Q: All right.

7 A: But I know it wasn't far. You just, you know, make a
8 right and make a left and the camper is right there on the
9 right. That's where I met him at.

10 Q: All right. And when you -- I guess when you went to the
11 camper, what did y'all do once y'all got to the camper?

12 A: Just discussed, small talk. He asked me about fixing
13 his 220 on his, you know, regular 110 outlets. He was
14 wanting to add some things to his camper. You know, I was
15 going to do that for him, but just small talk.

16 Q: And correct me if I'm wrong. Are you trained as an
17 electrician?

18 A: Yes, sir.

19 Q: Okay. And so, again, during that time you had a drug
20 problem?

21 A: Yes, sir.

22 Q: All right. So tell me about when you left. So y'all
23 had talked about -- about the camper at the camper. Did you
24 and Mickey leave together?

25 A: No. We left separately. He pulled around out ahead of

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1 me to meet, you know, David Busby. You know, he was going
2 out to meet him and they were supposedly going to re-up or
3 something, and I left and went the other direction. I went
4 toward Pageland, South Carolina.

5 Q: Okay. And as you were leaving, did you -- was there
6 anything that caught your attention?

7 A: Just maybe a white truck coming down the road that I
8 assumed could've been David. I couldn't -- I can't tell you
9 for certain though.

10 Q: And that's fair, but did you see a white truck coming in
11 that direction?

12 A: I did. He was supposed to be meeting somebody. So I
13 was assuming that's who he was meeting.

14 Q: All right. So moving on. So you leave and where do you
15 head once you leave the camper?

16 A: I go toward Pageland and then after I leave Pageland, I
17 went toward Jefferson and went the long way around.

18 Q: Now, why were you going toward Jefferson?

19 A: Because Nicole Deese stayed down that way and I was
20 going to stop by her house.

21 Q: But did you actually get to stop by there that night?

22 A: I didn't. I tried to hit her on my Messenger and never
23 got a hold of her. So by the time I, you know, kind of gave
24 up on it, you know, I called another friend of mine and I
25 headed out towards her house.

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1 Q: Okay. And where was her -- and who was that friend and
2 where is that friend located?

3 A: It was Ashley Hartley. It was located in -- that's
4 located on Jones Crossroads in Lancaster, South Carolina.

5 Q: All right. And so -- and once you left Lancaster, did
6 you ever come back into Chesterfield? I mean once you left
7 Mickey Short, did you ever come back into Chesterfield County
8 that night?

9 A: No, sir, I didn't. Not until the following day.

10 Q: All right. And so -- excuse me. So when you get -- all
11 right. So you're back in Lancaster and tell me about the
12 communications with Nicole Deese. Did you communicate with
13 her during the course of that night?

14 A: Yes, I did communicate because, you know, basically she
15 seemed worried and asked me to call --

16 MS. COPELAND-LITTLE: Object to hearsay.

17 MR. REDMOND: Your Honor, that goes to state of mind.
18 He's talking about how she was feeling and what her demeanor
19 was. I'll rephrase the question.

20 BY MR. REDMOND:

21 Q: How did she appear? When you were -- when she was
22 contacting you, how would you describe her demeanor, her
23 state of mind?

24 A: Well, to me, it just seemed like she was worried and she
25 was -- she didn't tell me about worried about what, but she

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1 was worried and asked me to try to contact both --

2 MS. COPELAND-LITTLE: Object to hearsay.

3 THE COURT: Yes.

4 MR. REDMOND: Okay. All right. So, well, that actually
5 -- we've already got the Facebook messages in evidence. So
6 I'll go ahead and deal with that. I think that will overcome
7 the hearsay issue.

8 BY MR. REDMOND:

9 Q: Let me show you what has been marked as State's 215 and,
10 for that matter, 216. Now, I'm going to ask you about two --
11 well, let me ask you about 216. Were there audio clips of
12 what you're talking about as far as some of the things that
13 Nicole was telling you?

14 A: Yeah, there was audio.

15 Q: And was that what we call -- I guess what you call
16 archived Facebook messages and audio clips?

17 A: Yes, sir.

18 Q: All right.

19 A: They were archived so they were not available for just
20 anyone to see them.

21 Q: Okay.

22 A: So --

23 Q: And, in fact, did you provide that information to me
24 through your attorney, Kyle Hobbs, about three weeks to a
25 month ago?

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1 A: Yes, sir.

2 Q: All right. I think in Darlington, if I remember right
3 when we met?

4 A: Yes, sir.

5 Q: All right. Thank you.

6 MR. REDMOND: I'm not moving this into evidence at this
7 time, Your Honor. The defense has received it and have not
8 had a chance to actually listen to it. We had sent it to
9 them previously, but I think there's some link issues. So at
10 this point, we're going to allow her to actually use that one
11 to listen to it and then we'll publish it later.

12 BY MR. REDMOND:

13 Q: I'll show you what is State's -- I think that is State's
14 215. Is that a copy that you recognize from Facebook?

15 A: Yes, sir.

16 Q: And what is State's 215 that's in evidence?

17 A: What is what?

18 Q: What is that document? What is that?

19 A: This is the -- it looks like a transcript from those
20 Facebook messages between Nicole Deese and I.

21 Q: All right. And so in those messages, do those messages
22 illustrate what you've just testified to as it relates to her
23 state of mind and reaching out to contact you about getting
24 in contact with Mickey and with the defendant, Mr. Busby?

25 A: Yes, sir.

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1 Q: All right. Is that reflected in those Facebook
2 messages?

3 A: It is at some point, yes, sir.

4 Q: All right. And as it relates to the audio clips that
5 I'd referred to earlier, did you actually -- and I'm not on
6 Facebook; so I don't understand this, but is there a way that
7 y'all could actually talk over Facebook?

8 A: Yes. You can voice over video chat.

9 Q: Okay. And were you -- were those also archived?

10 A: Not the voice chats, no.

11 Q: Okay. But --

12 A: The video were. Well, not the video. The video wasn't
13 either. It was just the voice messages.

14 Q: Okay. So the voice -- the audio and the voice messages
15 were preserved?

16 A: Yes, sir.

17 Q: And is that part of what you provided to us back about
18 three weeks to a month ago in Darlington?

19 A: Yes, sir, it is.

20 Q: All right. So -- and we'll get into that in a little
21 while, but just to be clear, did you have any discussions
22 with Nicole about trying to locate Mickey Short, the victim,
23 and David Busby, the defendant?

24 A: Yes, I did. I tried to locate them both. I tried
25 calling them both with cell phones. I never got a hold of

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1 them until then and I got a hold of -- I called James David
2 Busby and that was it.

3 Q: And what --

4 A: I never got a hold of Mickey.

5 Q: Okay. You never got a hold of Mickey?

6 A: No, I didn't.

7 Q: All right. And at that point, did you know what had
8 happened to Mickey?

9 A: No, not that night.

10 Q: All right. Now, when you finally got a hold of the
11 defendant, Mr. Busby, what did he tell you?

12 A: He just told me that he had been trying to follow Mickey
13 around and he never caught up with him. He never could get
14 up with him and never met him.

15 Q: Okay. And do you remember about what time -- if you can
16 to the best that you can remember, do you remember about what
17 time that would be?

18 A: Maybe one or two in the morning.

19 Q: Okay. Fair enough. And of course, your cell phone
20 records are in evidence. So between one and two in the
21 morning, you actually talked with the defendant, and tell us
22 again what he told you? It seems like we heard that before.

23 A: That he was trying to follow Mickey and he lost him
24 somewhere and he had to backtrack and he couldn't never find
25 him. So he was -- you know, basically lost him. So he said

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1 he was going to Nicole's house and he said the road started
2 standing up on him. So he was going -- going to Nicole's.
3 So he would be driving no more, I guess.

4 Q: All right. So do you know David Eddings -- Eddins?

5 A: I do not.

6 Q: Okay. Also known as Fudgie. Do you know Fudgie?

7 A: I did not know Fudgie.

8 Q: Okay. So y'all don't know each other? You do not know
9 Fudgie?

10 A: No, I do not.

11 Q: But again, David Busby, the defendant, told you that,
12 what you just testified to?

13 A: Yes, sir.

14 Q: All right. Now, so at that point, did you give up
15 trying to contact either one of them because you had talked
16 with Busby?

17 A: Yes. I gave up trying to contact both him and Mickey.
18 You know, I was doing my own thing at the time.

19 Q: All right. Now, let's move on to -- so -- let me see.

20 MR. REDMOND: I beg the Court's indulgence. Ah, here we
21 go, some text messages.

22 BY MR. REDMOND:

23 Q: Around the 20th -- and this is a redacted text message,
24 State's 214. Starting on the 19th -- actually, I said the
25 20th, but the 19th. I'm going to show you State's 214 and the

1 ones that have the 704 number. Would that be -- do you
2 recall sending those text messages to David Busby and
3 receiving some text messages?

4 A: I don't recall sending them, but apparently, I did.

5 Q: Okay. But is that -- is that the exchange that you
6 recall? Is that part of the exchange that you recall with
7 him during that time?

8 A: Honestly -- honestly, I'm not sure. I don't recognize
9 the texts.

10 Q: Well, let me -- let me show you this, if the Court would
11 indulge me. All right. I'm going to start on the 19th at
12 2248. That's 10:48. Do you recall that exchange with the
13 defendant via text message?

14 A: Yes. I remember these text messages.

15 Q: All right. And what were those text messages about?

16 A: Those were -- I think this was after the police had came
17 up there to talk to Nicole.

18 Q: Uh-huh.

19 A: And I was at their -- at her house. So I just took it
20 upon myself to clean up any loose paraphernalia, drug
21 paraphernalia, from the house because I thought she had a DSS
22 case on her as well, as I did. So I was trying to leave her
23 nothing to mess her up in the same way as I was.

24 Q: And is that -- does that have anything to do -- did you
25 know anything about David Busby's involvement in Mickey

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1 Short's murder at that time?

2 A: No, I did not.

3 Q: All right. Now, so those text messages, did they have
4 anything to do with the murder or was that about cleaning up
5 drugs?

6 A: That was just about cleaning up drugs because of the
7 drugs and Nicole. There was a lot of miscellaneous stuff
8 laying around that shouldn't be laying around. So --

9 Q: All right. Now, when -- I guess -- and we've -- we've
10 had testimony earlier about a cell phone. During this whole
11 time that we've talked about, the text messages, the Facebook
12 messages, the phone calls, were you the person using your
13 phone? Was your phone with you?

14 A: Yes, my phone was with me.

15 Q: Okay. Was it with you that entire time?

16 A: Yes, sir.

17 Q: And so when you're on Facebook sending messages --

18 MR. REDMOND: And with the Court's indulgence -- there
19 we go. Just a second. There we go. There we go. All
20 right. Now let's start off right there.

21 MS. THURMAN: Scroll up?

22 MR. REDMOND: Yeah, scroll up. Yeah. It starts from
23 the bottom and works its way up. Just scroll up.

24 MS. THURMAN: Okay.

25 BY MR. REDMOND:

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1 Q: I'm not going to go through each of these individually.
2 They are already in evidence. I want to get into the times
3 reflected. Again, to be clear, were you using your phone to
4 send these messages on Facebook? We see here starting back
5 -- back really from the 18th of June working our way up.

6 A: Yes, sir.

7 Q: All right.

8 MR. REDMOND: And could you keep scrolling up? I'll let
9 you know when to stop. You can go ahead. You can speed up a
10 little bit. Oh, go back down a little bit. All right. I
11 did highlight some.

12 BY MR. REDMOND:

13 Q: Now, about 10:55 on the 18th -- and let me be clear on
14 this. Are these messages strictly between you and Nicole
15 Deese?

16 A: Yes, sir.

17 Q: All right. And if you can't see -- can you see from
18 there? If you need to step down --

19 A: Yes, sir. I'm good.

20 Q: Okay. Does that say that I'm going to stop by for at
21 least a second, if you don't want me to stop, just text and
22 let me know?

23 A: Yes, sir.

24 Q: And is that when you testified earlier about going -- I
25 guess going through Jefferson on the way back to Lancaster?

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1 Is that about the time you're referring to?

2 A: Yes, sir. I was -- I was on the way and I was actually
3 physically on Nicole's dirt road texting her or messaging her
4 some of those texts and that's when I veered off. I messaged
5 a female named Ashley Burgess as well.

6 Q: All right.

7 MR. REDMOND: And let's scroll. Scroll up a little bit.

8 BY MR. REDMOND:

9 Q: And then, now the reason I highlighted this one -- and
10 it's about -- I guess the timestamp is 11:45. So at 11:45,
11 you were still on your phone with Messenger and you said you
12 didn't know Brian and Mickey hung out. Who did you think
13 Brian or who were you calling Brian at that time?

14 A: David Busby.

15 Q: And I think in one of your interviews or in your
16 interview you indicated did you think his name was Brian?

17 A: For a little while I did. Yes, sir.

18 Q: All right.

19 MR. REDMOND: Scroll.

20 BY MR. REDMOND:

21 Q: So to be fair, you didn't know him that well?

22 A: No, I didn't.

23 Q: You even got his name wrong?

24 A: Yes, I did.

25 Q: All right.

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1 MR. REDMOND: Scroll up. I'll tell you when to stop.
2 I'm going to skip some of the highlighted stuff. Keep on
3 going. All right. Keep going. I'll tell you when. All
4 right. Come on. Stop right there. Right there.

5 BY MR. REDMOND:

6 Q: All right. 12:52 a.m. Are you still on your phone and
7 are you using Facebook from your phone, Facebook Messenger?

8 A: Yes, sir. I was sitting -- I was in Lancaster by then.
9 I was sitting in an apartment complex sitting outside in my
10 car texting.

11 Q: Okay. And at that point, you said, hey, could you call
12 that number on your phone, that guy David, I think I may have
13 left a bag or two in his truck. Don't say anything about
14 that. Just tell him to call me ASAP. Does that accurately
15 reflect what you said on your Facebook Messenger?

16 A: That wasn't my message.

17 Q: I mean that was from her. Excuse me. From her?

18 A: Yes.

19 Q: All right. I need my glasses on.

20 MR. REDMOND: Keep scrolling up. Again, this is in
21 evidence. So I'm just going to hit -- I'm more interested in
22 the times.

23 MR. REDMOND: All right. Stop.

24 BY MR. REDMOND:

25 Q: 12:54. Now, at 12:54, she asked you to please call her

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1 house, and you tell her that you met Mickey and bought a
2 small bag. Now, when were you referring to then?

3 A: I was referring to about 11 o'clock that night or 9
4 o'clock that night.

5 Q: Okay. All right.

6 MR. REDMOND: Go ahead. You can scroll down.

7 A: Because I was still in Pageland around 9:45.

8 MR. REDMOND: Stop right there for a second.

9 BY MR. REDMOND:

10 Q: I notice here -- is that from Nicole? I can't even find
11 my F-ing cell phone?

12 A: Yes, sir.

13 Q: All right.

14 MR. REDMOND: Keep going. Now, right here. Stop.

15 BY MR. REDMOND:

16 Q: She asked you can you please call that guy's number. I
17 want my stuff back. I'm paraphrasing. And then he or she
18 sends you a number. Is that the number you were trying to
19 call?

20 A: Yes, sir.

21 Q: And is that the number that she informed you and you
22 understood to be the defendant's number, David Busby?

23 A: Yes, sir.

24 Q: So to be clear, she had to send you his number to be
25 able to get in touch with you because you didn't remember?

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1 A: Yes, sir.

2 Q: All right.

3 MR. REDMOND: Scroll. All right. Okay. Keep
4 scrolling.

5 BY MR. REDMOND:

6 Q: So now we're in the -- all right. 1:10, no one is
7 answering. Both Mickey -- both phones and Mickey's are going
8 to voicemail. This is after 1 a.m.?

9 A: Yes, sir.

10 Q: All right. And that's from you. And is that indicating
11 -- well, why did you say that both phones are going to
12 voicemail? Were you trying to call both of them during that
13 time?

14 A: Yes. She asked me to try to contact them and she seemed
15 worried so I tried to contact them both and never came across
16 nothing.

17 Q: All right.

18 A: At that time.

19 Q: All right.

20 MR. REDMOND: Keep going. Keep going. Keep going.
21 Keep going.

22 So at 1:21-- keep going -- y'all were still interacting.
23 Keep going. Keep going. Keep going.

24 So 2:05, y'all were still interacting. We're at 2:11
25 now.

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1 Keep going. All right. Stop.

2 BY MR. REDMOND:

3 Q: 10:23 the next morning, what does Nicole ask you? Does
4 she say you talked to Mickey today? Is that what it says?

5 A: Uh-huh. Yeah.

6 Q: All right. So at that point -- I think before that she
7 had asked -- I guess WYD means what you doing?

8 A: Yes, sir.

9 Q: And so what -- you said you are messing with Grayson.
10 Who is Grayson?

11 A: Grayson is my son.

12 Q: All right.

13 MR. REDMOND: And you can scroll up.

14 BY MR. REDMOND:

15 Q: And then you say no. She asked if you talked to Mickey
16 and you say no, you had not talked to Mickey?

17 A: Yes, sir. That was my response.

18 Q: All right.

19 MR. REDMOND: And then go on. Keep going. Keep going.
20 Keep going.

21 BY MR. REDMOND:

22 Q: And so y'all are still messaging. All right. And this,
23 the last one, you know you really didn't do anything wrong,
24 you can't go in on any charges, especially one that we've
25 already used up and that we've already used up, and I'll get

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1 into that in a minute, and are no longer there. Just wanted
2 to find out who killed him. Just take care of yours and be
3 safe. What does that -- explain to us?

4 A: That is basically saying that, you know, y'all were just
5 looking for whoever killed him and not for the drug charges
6 and stuff that I was worried about and she was saying she was
7 as well.

8 Q: All right.

9 MR. REDMOND: I'm sorry?

10 THE COURT REPORTER: Tell hm to come off the mic a
11 little bit.

12 MR. REDMOND: Oh, come off? Actually, I told you to get
13 closer to the mic, but my court reporter is saying to back
14 off of it just a little bit.

15 THE COURT REPORTER: Thank you.

16 BY MR. REDMOND:

17 Q: All right. So go ahead and repeat that answer, what you
18 just answered regarding this last one. I think that's 11:23
19 p.m. on the 19th.

20 A: Yeah. That was just the fact that -- that I had a DSS
21 case open. I was, like, one -- one visit from having it
22 closed, and I noticed she had -- I don't know for a fact she
23 had any DSS open, but I know she had some issues with keeping
24 her kids and stuff. So I wasn't trying to -- that was the
25 whole cleaning up the drugs and paraphernalia part to it

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1 because, you know, basically the same thing.

2 Q: Now --

3 A: I was worried about the drugs and everything else and
4 those kind of charges.

5 Q: Okay. All right. So, again, by this time had Nicole
6 found out that Mickey had died?

7 A: No, sir.

8 Q: To the best you can remember, I guess this is the 19th
9 when you are talking about finding out who killed him. Did
10 she know that Mickey had died?

11 A: No, sir. Not to my knowledge she didn't. I didn't
12 think she did and I didn't find out myself until later on
13 that afternoon.

14 Q: No. Let me make sure I'm clear. This is that evening,
15 11:23 p.m., when you're asking about they just want to find
16 out who killed him. By that point, did you --

17 A: Oh, no.

18 Q: Okay.

19 A: By that point, yeah.

20 Q: Yeah. I'm sorry. I may have confused you on that. All
21 right.

22 MR. REDMOND: We can pull that out.

23 BY MR. REDMOND:

24 Q: I do want to ask you a few more questions, Mr. Parker,
25 because on the 21st, I believe it was, of June, you found

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1 yourself being questioned and ultimately arrested in this
2 case, weren't you?

3 A: Yes, sir.

4 Q: You were charged with murder, I think it was possession
5 of a weapon during a violent murder, and armed robbery I
6 think; is that correct?

7 A: That is correct.

8 Q: Okay. Now, have those charges been dropped against you?

9 A: They have now.

10 Q: Okay. And how long did you stay in jail?

11 A: I stayed in there for eight months, close to nine.

12 Q: Now, I don't think you were in the courtroom when Chris
13 Johnson testified, were you?

14 A: No, sir.

15 Q: All right. But did you maintain that you were never in
16 Chesterfield on the 19th or 18th of June?

17 A: Yes, sir. My story never changed.

18 Q: Okay.

19 A: I had no reason.

20 Q: And did you have your cell phone with you the whole
21 time?

22 A: Yes, sir.

23 Q: Did you have your cell phone with you the whole time the
24 18th and the 19th, the dates in question?

25 A: Yes, sir.

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1 Q: And did you use that cell phone not just to make calls,
2 not just to text, but also the Facebook Messenger?

3 A: Yes, sir.

4 Q: And were you --

5 A: I used it for everything.

6 Q: And were you doing that continuously until I think about
7 4 a.m. and then early the next morning?

8 A: Yes, sir.

9 Q: Now, again, you were arrested and charged in this and
10 we've heard -- we've heard statements from the defendant
11 naming you as being involved in this, and I'll just ask you
12 point-blank. Were you involved in the death of Mickey Short?

13 A: No, sir, I was not.

14 Q: Were you present at the time he was killed?

15 A: No, sir, I was not.

16 Q: Were you present in Chesterfield County between midnight
17 -- before midnight -- I guess you left about 10 o'clock. By
18 the time you left, did you ever come back into Chesterfield
19 County once you exited and went to Lancaster County?

20 A: No, sir.

21 Q: All right. Now, let me -- let me ask you to do this for
22 me. Can you -- oh, just to be clear and I want to clarify
23 something. The charges being dismissed, were those charges
24 dismissed against you before you were even subpoenaed to be
25 in court today?

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1 A: No, sir.

2 Q: Okay. In other words, were the charges -- are you doing
3 this in exchange for your charges being dismissed?

4 A: No, sir.

5 Q: Okay. And it's your understanding that your charges
6 were dismissed why?

7 A: Because of the GPS and cell phone tower pings.

8 Q: And what did they show?

9 A: They showed I was not in the area at the time.

10 Q: And in fact, did you ever give any statements saying
11 that you were in the area or that you were involved in this
12 murder?

13 A: No, sir.

14 Q: Okay. To your knowledge, just based on what the
15 defendant told law enforcement about you being involved?

16 A: That's all I've heard.

17 Q: Thank you. Oh, before I show you this last thing, I do
18 want to ask you about this because we talked about the nine
19 months you spent in jail. During the time that you were in
20 jail, did you have any encounters with the defendant?

21 A: Yes, sir. I had a few encounters.

22 Q: And could you tell us about those, the ones that you --
23 what you can remember? Let me put it like this. In
24 reference to this case, did you have any discussions with the
25 defendant?

1 A: Just a few.

2 Q: And out of those few, what was being discussed? Who
3 initiated those conversations?

4 A: I did not initiate the conversations.

5 Q: All right. But what would -- how would the
6 conversations -- what was it about? What would he be asking
7 you or telling you?

8 A: The only two that -- the only one that really sticks out
9 to me was the one that was, you know, where he told me that,
10 you know, there was somebody threatening my family. So, you
11 know, that kind of upset me a little bit, kind of pissed me
12 off a little bit. I was -- I was kind of upset. So, you
13 know, I was told that somebody, Clint Gulledge, was going to
14 hurt my family or hurt my kids or my family. But other than
15 that? That was it. I didn't confess to killing him. So --

16 Q: Okay.

17 A: -- that was it.

18 Q: And that's coming from the defendant?

19 A: Yes, sir.

20 Q: All right.

21 A: But he wasn't threatening me hisself. He was
22 threatening -- you know, he told me that somebody else had
23 threatened me.

24 Q: He was using somebody else saying somebody else was
25 going to take care of you and your family if you did not

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1 admit to having shot Mickey?

2 A: Yes, sir.

3 Q: Let me get you to --

4 MR. REDMOND: I beg the Court's indulgence real quick.

5 All right. Step down with the Court's permission.

6 BY MR. REDMOND:

7 Q: You are a resident and native of Lancaster County;
8 right?

9 A: Yes, sir.

10 Q: There are a couple things we need to just make sure we
11 clear up; so I'm going to ask you to step down and come stand
12 next to me.

13 (WHEREUPON, the witness complied.)

14 MR. REDMOND: Scroll down. Oh, no, right there. That's
15 good. All right. Oh, there you are. Sorry.

16 BY MR. REDMOND:

17 Q: Robert Kirk Road in this area, what does this area
18 represent? Do you recognize this area?

19 A: That's the country club. That's down there where I
20 stay.

21 Q: Where is the country club?

22 A: They are both over there on the right.

23 Q: Right here?

24 A: Right there.

25 Q: Okay. The country club is right there. And you stay

KENNETH PARKER - DIRECT BY MR. REDMOND

1 about -- you said you stay near here?

2 A: I don't stay far.

3 Q: Okay. And just to clarify. What --

4 A: See, that's Linwood Drive. I stayed -- I'm like --

5 Q: Where is Linwood?

6 A: Linwood Drive, like, at the very bottom.

7 Q: Okay. I'm going to give you the honor.

8 A: That's Linwood. I stay fairly close. My road cuts this
9 way.

10 Q: Okay. But to be clear, this is outside the city limits
11 of Lancaster?

12 A: Yes, sir.

13 Q: All right. In Lancaster County still?

14 A: In Lancaster County.

15 Q: All right.

16 MR. REDMOND: Scroll to the next one. All right. Go up
17 a little bit. Yeah. This is one.

18 BY MR. REDMOND:

19 Q: So do you recognize this one? I think we've got Highway
20 200 right there. Do you recognize that scene?

21 A: Yes. That's more of the golf club right there, the big
22 patch of green.

23 Q: All right. So again, that is -- is that in Lancaster
24 County?

25 A: Yes, sir.

KENNETH PARKER - DIRECT BY MR. REDMOND

1 Q: Okay. And with the timestamps involved, basically
2 everything we've seen so far, you're in Lancaster County?

3 A: Yes, sir.

4 Q: All right.

5 MR. REDMOND: Scroll to the next one. Okay. No, that
6 one. That was it.

7 THE WITNESS: Okay.

8 MR. REDMOND: I think those were the two that were at
9 issue. Thank you. Have a seat.

10 (WHEREUPON, the witness complied.)

11 MR. REDMOND: I beg the Court's indulgence.

12 THE COURT: Yes, sir.

13 BY MR. REDMOND:

14 Q: Oh, I didn't ask you this. Because you mentioned
15 somebody saying the defendant claimed that Clint Gulledge was
16 going to have you taken out or have your family taken out.
17 Had you ever met Clint Gulledge?

18 A: No, I had not.

19 Q: Had you ever met Rachel Hammonds, also known as Rachel
20 Hammonds Gulledge?

21 A: No, sir. I couldn't point her out to you if I looked at
22 her.

23 MR. REDMOND: I beg the Court's indulgence. That would
24 be all the questions I have at this time. Please answer any
25 questions Ms. Copeland-Little may have.

KENNETH PARKER - DIRECT BY MR. REDMOND

1 MS. COPELAND-LITTLE: Your Honor, there was one item
2 that I've not been able to look at yet.

3 MR. REDMOND: And -- yes.

4 MS. COPELAND-LITTLE: Is it possible that I could see
5 that before I cross-examine?

6 MR. REDMOND: That will -- I mean if the Court -- I
7 don't have -- it's just quick audio clips. They are not
8 long. It won't take her more than five minutes to listen to.

9 THE COURT: We need to take a little short recess
10 anyway.

11 MR. REDMOND: Okay.

12 THE COURT: Ladies and gentlemen of the jury, step back.
13 Let's take a brief recess.

14 (WHEREUPON, the jury exited the courtroom.)

15 (WHEREUPON, there was a break in the proceedings, after
16 which the proceedings resumed as follows.)

17 THE COURT: All right.

18 MR. REDMOND: I'm sorry. I have no further questions.
19 I'll give it to the defense for cross-examination.

20 MS. COPELAND-LITTLE: No questions, Your Honor.

21 MR. REDMOND: Your Honor, at this point, I would ask
22 that Mr. Parker be excused.

23 THE COURT: You're excused. You're welcome to stay if
24 you like, but otherwise, you're excused.

25 THE WITNESS: Thank you.

COURTNEY THOMPSON - DIRECT BY MS. JOHNSON-LEE

1 MS. JOHNSON-LEE: Courtney Thompson.

2 THE CLERK: Place your left hand on the Bible and raise
3 your right. Do you swear or affirm to tell the truth, the
4 whole truth, and nothing but the truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you. You can have a seat right up
7 here in the witness stand.

8 COURTNEY THOMPSON, being first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. JOHNSON-LEE:

12 Q: Please state your name for the record?

13 A: My name is Courtney Thompson.

14 Q: And where are you employed?

15 A: I'm employed at the South Carolina Law Enforcement
16 Division, also referred to as SLED.

17 Q: What is your job there?

18 A: I'm a forensic serologist in the DNA casework
19 department.

20 Q: What do you have to do to become a forensic serologist?

21 A: A forensic serologist is someone who examines different
22 types of evidence for typically bodily fluids because they
23 are good potential sources of DNA. And in order to become a
24 forensic serologist, I had to go under an intense in-house
25 training program where I learned how to do all the different

COURTNEY THOMPSON - DIRECT BY MS. JOHNSON-LEE

1 types of testing that I perform, how to properly handle the
2 evidence that I'm dealing with, and then I learned how to
3 write reports on all my findings and how to take a series of
4 tests to prove that I was competent in all of this stuff
5 before they let me touch any type of casework independently.

6 Q: What is your educational background?

7 A: I have a bachelor's in science in forensic science from
8 Southern Wesleyan University.

9 Q: How many times have you testified in court before?

10 A: Approximately 20 times.

11 Q: And how many times have you been declared to be an
12 expert in the field of forensic serology?

13 A: About 20 times.

14 MS. JOHNSON-LEE: And, Your Honor, the State moves to
15 have Ms. Thompson declared to be an expert in the field of
16 forensic serology.

17 MS. COPELAND-LITTLE: Your Honor, I was writing and I
18 did not hear what she said about how many times she had
19 previously testified roughly.

20 THE WITNESS: About 20.

21 MS. COPELAND-LITTLE: Okay. No objection.

22 THE COURT: All right. So qualified without objection.

23 BY MS. JOHNSON-LEE:

24 Q: And I understand we're under some time constraints, but
25 did you prepare two reports, first of all, regarding the case

COURTNEY THOMPSON - DIRECT BY MS. JOHNSON-LEE

1 that we are here for today in Chesterfield?

2 A: Yes, I did.

3 Q: Okay. And I'm going to hand you what's marked as --

4 MS. JOHNSON-LEE: If I may approach?

5 Q: -- State's exhibits 238 and 239 for identification. Can
6 you identify those documents?

7 A: Yes. These both appear to be copies of the reports that
8 I issued.

9 Q: And is your signature affixed to those documents?

10 A: Yes, they are.

11 MS. JOHNSON-LEE: At this time, I would move to have the
12 reports admitted into evidence for the State.

13 MS. COPELAND-LITTLE: Your Honor, if I can just look at
14 them briefly?

15 MS. JOHNSON-LEE: Certainly.

16 MS. COPELAND-LITTLE: Your Honor, I would just like to
17 renew my previous objection as to voluntariness of consent
18 and fruit of the poisonous tree.

19 THE COURT: Noted. Overruled.

20 (WHEREUPON, State's Exhibits Number 238 and 239,
21 serology reports, were admitted into evidence.)

22 THE COURT REPORTER: They are in?

23 MS. JOHNSON-LEE: They're admitted?

24 THE COURT: They are.

25 MS. JOHNSON-LEE: Thank you, Your Honor.

1 BY MS. JOHNSON-LEE:

2 Q: Do you have copies of these reports in front of you?

3 A: Yes, I do.

4 Q: Okay. Looking first at the report dated January 24th,
5 2018, Item Number 15 for SLED, did you receive some jeans
6 that were labeled from victim?

7 A: Yes, I did.

8 Q: And what were the results on those?

9 A: Presumptive testing for the possible presence of blood
10 was positive.

11 Q: Okay. And for the eyeglasses from marker 5, what did
12 you do with those?

13 A: The eyeglasses? I collected some swabs from the entire
14 frames of the glasses.

15 Q: Okay. And also with the eyeglass lens from marker 6,
16 Number 17, and the swabs from the lens, Number 17.1, what did
17 you do with those?

18 A: The same thing. I used some swabs to swab the entire
19 item and then those sets of swabs go on for further testing
20 in the DNA section.

21 Q: Okay. And the seat cover, Item 18, from the front
22 passenger seat, what were the results of the seat cover?

23 A: Presumptive testing for blood was positive on the seat
24 cover.

25 Q: Okay. And let's skip down to Item 42 and 42.1. Tell

1 the jury what those are and what your results are?

2 A: Item 42 is a pair of jeans from the passenger seat of a
3 Chevy truck and Item 42.1 is a cutting that I took from the
4 exterior front right leg of the jeans. Presumptive testing
5 for blood was positive and that cutting was forwarded for
6 further testing in the DNA section.

7 Q: Okay. Why do you do a cutting from the jeans as opposed
8 to swabbing all of the areas that may contain possible blood?

9 A: When possible, taking a cutting off of an item is
10 actually the best. So that way none of the sample is
11 potentially diluted. So it is best to send a small piece of
12 the whole sample forward up to the DNA section. That way if
13 I were to collect it on swabs, it would just end up diluting
14 some of that possible DNA that's there.

15 So I try and take just a little piece of the whole pair
16 of jeans. In this particular case with this pair of jeans,
17 after I've examined it, what I usually do is test areas that
18 look like they may be a possible bloodstain and, once I find
19 a positive area, I mark that and I take that positive area
20 and send it on for further testing.

21 Q: And you just cut off one area; is that correct?

22 A: That is correct, yes.

23 Q: Okay. And is it a two-step chemical test to determine
24 the presumption of blood on that item?

25 A: That is correct. It is.

1 Q: Okay. And now let's look at the report dated February
2 25th, 2019. Item 42, jeans from passenger seat of Chevy truck
3 and then Item 42.2, swab from scraping interior waistband of
4 jeans. Tell the jury what that is about?

5 A: This pair of jeans was asked to be processed, again, for
6 what we call ownership DNA. And ownership is simply
7 referring to whatever -- whoever the wearer of that item
8 potentially is, and so in order to process an item to see who
9 was possibly wearing it, I concentrate my efforts of
10 collection in areas where you're going to have the best
11 basically skin contact with that particular item.

12 And so for a pair of jeans, typically the waistband is
13 the part of the jeans that's going to come in the most
14 contact with the individual. And so I used what is called a
15 scraper. It's a plastic tool that's sterile. It's never
16 been used on any other type of evidence. And I roughly
17 scrape it across the fabric in the area of interest because
18 it kind of will loosen up any potential DNA that's there, and
19 then I use a wet swab, which is similar to a Q-tip, and
20 that's moistened with some sterile water and I go behind it
21 and swab it vigorously to try and remove some of the
22 potential DNA that may be there.

23 Q: Now, what did you do with Item 15, the jeans, after you
24 took -- excuse me. Item 42, the jeans from the Chevy truck.
25 What did you do with those after you removed the cutting?

1 A: After I removed the cutting, those jeans were packaged
2 back into the -- into the packaging that they came in and
3 then they were returned to our evidence control department,
4 which is the part of our lab that functions as our secure
5 evidence storage, and there they awaited to be returned to
6 the agency.

7 Q: And what did you do with the cutting?

8 A: The cutting was packaged separately away from the pair
9 of jeans into a new package and sealed up by myself and then
10 it went to the -- let me refer real quickly to the chain of
11 custody, but it made its way through the DNA section to the
12 DNA analyst. Yes. The cutting went back to the evidence
13 control department and then it made -- and then it went from
14 the evidence control department to the DNA analyst.

15 Q: Okay. Now, at some point in time, those same jeans came
16 back to you in order to test the waistband; is that correct?

17 A: Yes, that is correct.

18 Q: Okay. And when they came back to you, what did you then
19 do with them the second time?

20 A: The second time that I took these into my custody, I did
21 a similar process where they -- I just did an examination for
22 them and when I was completed with my examinations, I
23 repackaged the evidence and sealed it up and then returned it
24 to the evidence control department, where it awaited to be
25 transferred back to the submitting agency.

COURTNEY THOMPSON - DIRECT BY MS. JOHNSON-LEE

1 Q: And when these items came into your possession, were
2 they sealed up in some sort of tamper evident bag?

3 A: Yes. Typically, they are inside of either a taped up
4 box or a special kind of plastic pouch that has to be heat
5 sealed and most of -- almost all of these packages -- they
6 are usually taped up and sealed by the submitting agency
7 whenever they come to us and then additionally whenever they
8 are dropped off at the lab, they require some more tamper
9 evident tape to be put across them so that we can ensure that
10 nothing was -- you know, that nothing was tampered with prior
11 to myself opening it up.

12 Q: And you do keep a complete chain of custody at SLED for
13 when an item comes to you and when it leaves you personally;
14 is that correct?

15 A: That is correct.

16 MS. JOHNSON-LEE: I beg the Court's indulgence.

17 Thank you, Agent Thompson. Please answer any questions
18 that Ms. Copeland-Little has.

19 MS. COPELAND-LITTLE: I don't have any questions for
20 this witness.

21 THE COURT: May she be excused?

22 MS. JOHNSON-LEE: Yes, please.

23 MS. COPELAND-LITTLE: Yes, sir.

24 THE COURT: Thank you. You're excused.

25 THE WITNESS: Thank you.

MARYANN BOEHM - DIRECT BY MS. JOHNSON-LEE

1 THE COURT: You're welcome to stay if you'd like.

2 MS. JOHNSON-LEE: Maryann Boehm.

3 MR. REDMOND: I'd like to put on the record briefly
4 State's Exhibit 216, that being a DVD with the audio clips,
5 Ms. Copeland-Little has had a chance to listen to them and
6 we'd move them into evidence at this time. And then I think
7 we might have time to publish before the end of the day
8 because they're not real long.

9 MS. COPELAND-LITTLE: The Facebook?

10 MR. REDMOND: Yeah, publish the Facebook audio clips
11 from that Mr. Parker testified to.

12 MS. COPELAND-LITTLE: No objection.

13 MR. REDMOND: And, Your Honor, depending on time, we may
14 have time. I don't see it taking more than five minutes to
15 play these clips.

16 THE COURT: Well, we'll talk.

17 MR. REDMOND: Yes, sir.

18 THE COURT: Ms. Little, no objection?

19 MS. COPELAND-LITTLE: Yes, sir.

20 (WHEREUPON, State's Exhibit Number 216, Facebook audio
21 clips on DVD, was admitted into evidence.)

22 THE CLERK: Come on up to the Bible, please. Place your
23 left hand on the Bible and raise your right. There you go.
24 Do you swear or affirm to tell the truth, the whole truth,
25 and nothing but the truth, so help you God?

MARYANN BOEHM - DIRECT BY MS. JOHNSON-LEE

1 THE WITNESS: I do.

2 THE CLERK: Thank you. You may have a seat up in the
3 witness stand.

4 MARYANN BOEHM, being first duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. JOHNSON-LEE:

8 Q: Please state your name for the record?

9 A: My name is Maryann Elizabeth Boehm.

10 Q: And where are you employed?

11 A: I am employed at the South Carolina Law Enforcement
12 Division, commonly known as SLED.

13 Q: And how long have you worked at SLED?

14 A: Approximately 13-and-a-half years.

15 Q: And what is your job there?

16 A: I am a DNA analyst assigned to the DNA casework
17 department.

18 Q: And what is your educational background?

19 A: I received a bachelor of science in integrated science
20 and technology with a concentration in biotechnology from
21 James Madison University, and that's in Harrisonburg,
22 Virginia.

23 Q: Okay. And what are your duties in the DNA casework
24 department?

25 A: I develop DNA profiles from known -- from evidence

1 submitted as part of a crime and I have known standards
2 submitted for that case as well. I compare the known
3 profiles to the unknown profiles and issue a report based on
4 my findings.

5 Q: And what training do you have in the field of forensic
6 DNA analysis?

7 A: I was trained for approximately a year on the specific
8 procedures and techniques used in our laboratory by court-
9 qualified analysts at SLED. I am also required to take at
10 least eight hours of continuing education each year. This is
11 fulfilled by going to conferences and/or bringing people in
12 to teach us about DNA technologies.

13 Q: Have you testified as an expert in DNA identification
14 testing previously?

15 A: Yes, I have.

16 Q: And how many times?

17 A: Approximately 65 times.

18 MS. JOHNSON-LEE: Your Honor, at this time, I offer
19 Maryann Boehm as an expert in the field of forensic DNA
20 analysis.

21 MS. COPELAND-LITTLE: No objection.

22 THE COURT: So qualified without objection.

23 BY MS. JOHNSON-LEE:

24 Q: What is DNA?

25 A: DNA stands for deoxyribonucleic acid. It is a chemical

1 found in all the cells of our body except for red blood
2 cells. It's important for giving us our physical features,
3 such as our hair color and height. It also is important for
4 passing on traits from generation to generation. We get half
5 of our DNA from our mother and half from our father. With
6 the exception of identical twins, no two individuals have the
7 same DNA.

8 In forensic science, we are interested in the portions
9 of DNA that differ between individuals. We test 23 different
10 locations and the combination of those results make up a DNA
11 profile.

12 Q: And generally, what are you trying to determine through
13 a DNA analysis?

14 A: So we compare the known standards that are submitted as
15 part of the case to unknown DNA that was left at a crime
16 scene. So we're trying to determine whether the person, the
17 known standard, is part of the DNA profile that was left at a
18 crime scene.

19 Q: Okay. Now, what's the difference between known DNA and
20 unknown DNA?

21 A: A known DNA standard is the source of DNA is known. It
22 is either typically a cheek swab or blood taken from a known
23 individual and is documented as so. An unknown profile would
24 be a profile left behind at the scene of a crime from
25 evidence and we're trying to figure out the source of that

1 DNA.

2 Q: So basically, you're taking the known DNA sample and
3 comparing it against the unknown DNA to see if they match?

4 A: That's correct.

5 Q: Okay. Now, how are samples received into your
6 department to be analyzed?

7 A: So either our crime scene agents go out and collect
8 possible evidence from a crime scene or local law enforcement
9 agencies bring the evidence to SLED. It is then logged into
10 our computer system and it's given a unique lab number and
11 each item is given a unique item number. It is also secured
12 in a heat-sealed pouch that is tamper resistant. So if
13 anyone has tampered with the evidence, broken that heat-
14 sealed pouch, it would be very clear that it has been done.

15 Once the case is entered into our computer system, it
16 starts a detailed chain of custody. This tracks every
17 transfer of evidence. So if evidence is moved to a secure
18 storage location, it is tracked with the date and time that
19 it was moved. If it is then transferred to an individual, it
20 will be tracked with date and time and the person who has
21 custody of that evidence.

22 Q: Now, in this particular case that we are here for today
23 in Chesterfield, were you requested to perform DNA analysis
24 on some items?

25 A: I was.

1 Q: Okay. And the lab number of this case, which is -- is
2 it the same for every single thing done at SLED for a
3 particular case? In other words, this case is L17-09370. So
4 is that lab number going to follow, whether it's in firearms,
5 DNA, serology, et cetera?

6 A: Yes. When all the items for that case came into SLED,
7 all the items, no matter what department it went to, was
8 given that same lab number.

9 Q: Okay. Now, I'm going to jump forward just a little bit.
10 Did you prepare a report of all the DNA analyses you did in
11 this case?

12 A: I did.

13 Q: Okay. I'm going to show you what's marked for
14 identification as State's Exhibit 240, and I've given a copy
15 to the defense.

16 MS. JOHNSON-LEE: Permission to approach?

17 BY MS. JOHNSON-LEE:

18 Q: Do you recognize that document?

19 A: Yes. This is a copy of the final report that I issued
20 for this case.

21 Q: Okay. And is that your signature affixed on page 12 of
22 the document?

23 A: Yes, ma'am.

24 MS. JOHNSON-LEE: Your Honor, at this time, I would move
25 to have the exhibit put into evidence for the State.

MARYANN BOEHM - DIRECT BY MS. JOHNSON-LEE

1 MS. COPELAND-LITTLE: Over my previously stated
2 objections, Your Honor.

3 THE COURT: So noted. Overruled. They're in.

4 (WHEREUPON, State's Exhibit Number 240, DNA report, was
5 admitted into evidence.)

6 THE COURT REPORTER: What number is that?

7 BY MS. JOHNSON-LEE:

8 Q: Now, you also brought some --

9 THE COURT REPORTER: Wait. What number?

10 MS. JOHNSON-LEE: 240.

11 THE COURT REPORTER: It's just one exhibit?

12 MS. JOHNSON-LEE: Just that one report.

13 THE COURT REPORTER: Okay.

14 BY MS. JOHNSON-LEE:

15 Q: Now, you also brought with you today some items from
16 SLED.

17 MS. JOHNSON-LEE: Permission to approach again?

18 Q: I'm going to show you what's marked for identification
19 as State's Exhibit 237. Can you identify that exhibit?

20 A: Yes, ma'am. These are several swabs that I tested in
21 the case. I know this by the unique lab number that is given
22 on the heat-sealed pouch and my initials and the date that I
23 opened and sealed the evidence pouch.

24 Q: Okay. And is there any sign of tampering on that item?

25 A: No, ma'am.

1 Q: Okay. And did you perform DNA analysis on those items?

2 A: I did.

3 Q: Okay. Now, there's other items all listed in the 12-
4 page report; is that correct?

5 A: That is correct.

6 Q: Okay. And do you want to tell the jury -- let's go
7 through and address some of these individually because it's
8 so --

9 A: Okay.

10 Q: -- exhaustive. Okay? But before I do that, let me ask
11 you were each of those items sealed in a tamper resistant
12 sealing?

13 A: Yes, ma'am, they were.

14 Q: Okay. And had any of them been tampered with?

15 A: There was no signs of tampering.

16 Q: Okay. And did you perform DNA analysis on all of these
17 items listed in your report?

18 A: Yes, ma'am.

19 Q: Okay. And explain how a case is processed and analyzed
20 first?

21 A: All right. So once the case is submitted to SLED and I
22 receive the items from a secure location, I look through the
23 requests that are made and, based on the requests, I'll cut a
24 portion of the, you know, swab or cutting that I received,
25 put it in a uniquely identified tube, and through a step-by-

1 step process by adding different chemicals and using complex
2 instrumentation, I develop a DNA profile for the evidence. I
3 also do the same procedure for the known standards and then I
4 compare the DNA profile developed from the evidence to the
5 known standards and write a report based on my findings.

6 Q: Okay. Now, let's go to your report. Now, Item 34
7 states it is a blood standard from the victim, Farris Short,
8 and 34.1 is a dried blood standard from Farris Short; is that
9 correct?

10 A: That's correct.

11 Q: And where did you obtain the blood standards?

12 A: Can you repeat that question?

13 Q: Where did you obtain the blood standards from?

14 A: May I refer to the chain of custody?

15 Q: Certainly.

16 A: I only printed out a portion of the chain of custody and
17 I can't seem to find this item on the chain of custody that I
18 have in my notes.

19 MS. JOHNSON-LEE: I beg the Court's indulgence.

20 Permission to approach?

21 BY MS. JOHNSON-LEE:

22 Q: I'm going to hand you pages from a certified chain of
23 custody to refresh your memory.

24 A: So Item 34 was submitted to SLED from crime scene
25 analyst Dawn Claycomb and I received Item 34.1 from the DNA

1 Shelf 92, which is a secure location at SLED.

2 Q: Okay. And you also received buccal swabs from defendant
3 James Busby, Item 48; is that correct?

4 A: Yes, ma'am.

5 Q: Okay. Now, going over to page 5, Item 40.1, swabs from
6 Item 40, Maglite flashlight from rear bench of Chevy truck.
7 Did you do testing on that Maglite and, if so, what were the
8 results?

9 A: Yes, ma'am. I did serology, as well as DNA testing on
10 this item. There was a request to see if blood was present
11 on the item. So I performed a presumptive test for blood and
12 that there was an indication that blood was present on this
13 item.

14 So then I performed DNA analysis on the item as well and
15 the DNA profile that was developed matches the DNA profile of
16 Farris Short. The probability of randomly selecting an
17 unrelated individual having a DNA profile matching this item
18 was approximately 1 in 8.7 sextillion.

19 Q: And Item 42.1 is a cutting from the exterior front right
20 leg of a pair of blue jeans from the passenger seat of a
21 Chevy truck. Did you do testing and what were the results?

22 A: Yes, ma'am. I performed DNA testing on this item as
23 well. The DNA profile developed matches the DNA profile of
24 Farris Short. The probability of randomly selecting an
25 unrelated individual having a DNA profile matching this item

MARYANN BOEHM - DIRECT BY MS. JOHNSON-LEE

1 is approximately 1 in 8.7 sextillion.

2 Q: Item 42.2 is a swab from scraping the --

3 THE COURT: Sextillion?

4 THE WITNESS: Yes.

5 THE COURT REPORTER: Okay.

6 THE WITNESS: Yes. 8.7 sextillion.

7 THE COURT: Go ahead.

8 BY MS. JOHNSON-LEE:

9 Q: Item 42.2 is a swab from scraping the interior waistband
10 of those blue jeans from the passenger seat of a Chevy truck.
11 Did you do testing and what were the results?

12 A: Yes, ma'am. I performed DNA analysis on that item as
13 well. The DNA profile developed on this item is a mixture of
14 at least three individuals. The DNA profile of the major
15 contributor to this mixture matches the DNA profile of James
16 Busby. The probability of randomly selecting an unrelated
17 individual having a DNA profile matching the major
18 contributor to this item is approximately 1 in 140 trillion.
19 Due to the inability to calculate a statistic, no
20 interpretation will be offered regarding the minor
21 contributors to this mixture.

22 Q: And just to clear something up, you had in your
23 possession Item 55.1, a swab from a water bottle belonging to
24 Kenneth Parker, Jr., and Item 55.2, swabs from the mouth area
25 of the bottle belonging to Kenneth Parker, Jr.; is that

1 correct?

2 A: That is correct.

3 Q: And you also had Item 68, buccal swabs from Patricia
4 Nicole Deese; is that correct?

5 A: That is correct.

6 Q: But neither Patricia Nicole Deese nor Kenneth Parker
7 were contributors to that mixture of the DNA from the
8 interior waistband of those blue jeans?

9 A: I can't necessarily say that. The only profile I could
10 interpret was the major contributor to the mixture. I
11 couldn't interpret the minor contributors to the mixture.

12 Q: Okay. And again, David Busby is the major contributor?

13 A: Yes, ma'am.

14 Q: Okay. And it's 1 in 140 trillion; correct?

15 A: That's correct.

16 Q: Going to Item 74.1, swabs from reddish-brown stains on
17 Item 74, which is a cell phone cover, did you do testing and
18 what were the results?

19 A: I did serology and DNA testing on this item. It was
20 presumptively positive for blood. So I performed DNA
21 analysis on the item. The DNA profile developed was
22 interpreted as a single source. The DNA profile is
23 approximately 680 quintillion times more likely that Farris
24 Short contributed to -- contributed the profile than if an
25 unidentified, unrelated individual contributed the profile.

1 Q: Okay. So that means that that was blood on the cell
2 phone cover and the blood most likely belonged to Farris
3 Short?

4 A: In my opinion, yes.

5 Q: Okay. You also did swabs from the keypad on Item 74.2,
6 which is the keypad of the cell phone. What were the
7 results?

8 A: A DNA profile that was developed was suitable for
9 comparison. The DNA profile was interpreted as a single
10 source. The DNA profile is approximately 680 quintillion
11 times more likely if Farris Short contributed the profile
12 than if an unidentified, unrelated individual contributed the
13 profile.

14 Q: Item 75.1, swabs from reddish-brown stains on Item 75,
15 also a cell phone cover. What were your results of that
16 testing?

17 A: I performed serology testing on this item and there was
18 an indication that blood was present. The DNA profile
19 developed was suitable for comparison. The DNA profile was
20 interpreted as single source. The DNA profile is
21 approximately 680 quintillion times more likely if Farris
22 Short contributed the profile than if an unidentified,
23 unrelated individual contributed the profile.

24 Q: Okay. Also, Item 75.2, swabs from the keypad of that
25 cell phone. What were the results?

1 A: A DNA profile developed was suitable for comparison.
2 James Busby, Kenneth Parker, Jr., and Patricia Nicole Deese
3 are excluded as possible contributors. The DNA profile was
4 interpreted as a mixture originating from two -- two
5 individuals. The DNA profile is approximately 380
6 quintillion times more likely if Farris Short and an
7 unidentified individual contributed to the mixture than if
8 two unidentified, unrelated individuals contributed to the
9 mixture.

10 Q: And 76.1, the swabs from the reddish-brown stains on
11 Item 76, which was a box for a cell phone, what were your
12 results?

13 A: I performed serology testing on this item. It was
14 negative for the possible presence of blood. However, I
15 still performed DNA analysis on the item. The DNA profile
16 developed was suitable for comparison. The DNA profile was
17 interpreted as single source. The DNA profile is
18 approximately 680 quintillion times more likely if Farris
19 Short contributed the profile than if an unidentified,
20 unrelated individual contributed the profile.

21 Q: Item 76.2, also swabs from the cell phone box, Item 76,
22 what are your results?

23 A: For Item 76.2, a partial DNA profile was developed and
24 it was suitable for comparison. The DNA profile was
25 interpreted as a mixture originating from two individuals.

1 The DNA profile is approximately 5.4 million times more
2 likely if Farris Short and an unidentified, unrelated
3 individual contributed to the mixture than if two
4 unidentified, unrelated individuals contributed to the
5 mixture. The DNA profile is approximately 16 times more
6 likely if two unidentified, unrelated individuals contributed
7 to the mixture than James Busby and an unidentified,
8 unrelated individual contributed to the mixture.

9 Q: Now, please explain what that means in layman's terms
10 because this is a new testing procedure that you're doing by
11 the time this testing is done; is that correct?

12 A: Yes, ma'am.

13 Q: All right.

14 A: By the time I tested these additional items, we were
15 performing likelihood ratios instead of random match
16 probability. So a likelihood ratio is a mathematical
17 calculation of which of the two events occurred. So for DNA,
18 it's person of interest contributed to the profile or it's
19 simply someone unrelated unidentified contributed to the
20 profile. The likelihood will give weight supporting which of
21 the two events is more likely.

22 So for this case, for Item 76.2, it was more -- it was
23 5.4 million times more likely if Farris Short contributed to
24 the mixture than an unidentified, unrelated -- two
25 unidentified, unrelated individuals. However, the DNA

1 profile is approximately 16 times more likely if two
2 unidentified, unrelated individuals contributed to the
3 mixture than James Busby and an unidentified, unrelated
4 individual.

5 Q: Okay. And again, in layman's terms, what does that
6 mean?

7 A: So there is strong support that Farris Short contributed
8 to the mixture and then there's moderate support that two
9 unidentified, unrelated individuals contributed to the
10 mixture versus James Busby. So in my opinion, James Busby
11 did not contribute his DNA profile to that item.

12 Q: To that particular mixture?

13 A: Yes. That is correct.

14 Q: Okay. And the swabs are taken from various areas on the
15 item as opposed to the entire item being swabbed; is that
16 correct?

17 A: That's correct.

18 Q: Okay.

19 MS. JOHNSON-LEE: I beg the Court's indulgence.

20 Did we put those swabs in evidence, Madam?

21 THE COURT REPORTER: What swabs? What number?

22 MS. JOHNSON-LEE: The number is 237.

23 THE COURT REPORTER: No.

24 MS. JOHNSON-LEE: Okay. Your Honor, the State would
25 move to have these items put into evidence.

MARYANN BOEHM - DIRECT BY MS. JOHNSON-LEE

1 MS. COPELAND-LITTLE: Over objection as to the
2 voluntariness of consent.

3 THE COURT: Noted. Overruled. They're in.

4 (WHEREUPON, State's Exhibit Number 237, swabs, was
5 admitted into evidence.)

6 MS. JOHNSON-LEE: I beg the Court's indulgence.

7 BY MS. JOHNSON-LEE:

8 Q: And just to reiterate one last time, the blood that was
9 on those blue jeans from the Chevy truck belonged to Farris
10 Short, the victim in this case?

11 A: In my opinion, yes.

12 Q: Okay. And also, to be clear, the interior waistband --
13 that's the area that touches the skin -- the major
14 contributor to that is the defendant, James Busby; is that
15 correct?

16 A: In my opinion, yes, ma'am.

17 Q: And that -- those blue jeans with that cutting that has
18 the blood that belonged to the victim and the waistband with
19 the defendant's DNA, that is the same pair of blue jeans?

20 A: That is correct.

21 Q: Okay. And the Maglite that was recovered from the
22 defendant's truck with blood on that Maglite is the victim
23 Farris Short's blood; is that correct?

24 A: Yes, in my opinion.

25 MS. JOHNSON-LEE: Thank you. Please answer any

MARYANN BOEHM - CROSS BY MS. COPELAND-LITTLE

questions Ms. Copeland-Little has.

CROSS-EXAMINATION

BY MS. COPELAND-LITTLE:

Q: Ms. Boehm, I want to take your -- is it Boehm?

A: Boehm.

Q: Boehm. I want to take your -- direct your attention back to Item Number 42.2, which is listed as a swab from scraping interior waistband of blue jeans from passenger seat of Chevy truck. And I'm looking at the part where it says the results. The DNA profile is a mixture of at least three individuals. I also see it says the major contributor was James Busby. What about these two other individuals? Can you tell the jury anything about those individuals whose DNA was on the pants?

A: I cannot. At the time of this report, we were doing random match probability statistics and the minor contributors to this profile were not suitable for interpretation.

Q: So we don't know who the DNA belonged to for these two other people?

A: That's correct.

Q: Okay. And then the other thing I wanted to ask you about, I'm looking at your report that is already in evidence. I want to ask you about Item Number 5 where you look at items of evidence and it says Number 5, cigarette

MARYANN BOEHM - CROSS BY MS. COPELAND-LITTLE

1 butt from marker 9. If you go back and we can -- cigarette
2 butt -- I'm sorry -- from the scene. From the scene that was
3 sent to SLED for testing. Can you tell us from your report
4 here who that cigarette butt -- whose DNA was on that
5 cigarette butt?

6 A: The DNA profile developed matches the DNA profile of
7 Farris Short.

8 Q: So the cigarette butt was -- was Mr. Short's?

9 A: In my opinion, yes.

10 MS. COPELAND-LITTLE: Thank you. No further questions.

11 MS. JOHNSON-LEE: No further questions and we'd ask that
12 this witness be excused.

13 MS. COPELAND-LITTLE: No objection.

14 THE COURT: Thank you. You're excused.

15 We are going to stop now. It's right at 5 o'clock.

16 Y'all have a good evening. Remember, don't discuss the case
17 with anyone. Don't allow anybody to contact you concerning
18 this case. We need you back here at 9:30 in the morning.

19 We'll take it up from there. Y'all have a good evening.

20 Thank you for your patience.

21 Everybody else remain seated while the jury departs.

22 (WHEREUPON, the jury exited the courtroom.)

23 THE COURT: All right. Before we go, I should have done
24 this last night, but it was a long day and it slipped my
25 mind.

1 But once that jury was sworn and we started this case --
2 I've heard the term used in the past all these years two
3 different ways. The bond fell or the bond has arisen. I
4 don't know which is the correct term. I never have figured
5 that out.

6 But the point is the bond is no longer any good. So,
7 Sheriff, you'll have to take the defendant, Mr. Busby, into
8 custody and have him back at nine.

9 What time do you want him back?

10 MS. COPELAND-LITTLE: I'm sorry, Your Honor. I'm just
11 surprised and my client was -- was asking me a question.
12 Nine would be fine.

13 THE COURT: All right. Nine o'clock.

14 MR. REDMOND: Thank you, Your Honor.

15 MS. JOHNSON-LEE: Thank you, Your Honor.

16 MS. COPELAND-LITTLE: Your Honor, I'm sorry. May I --
17 may I -- may I just briefly address the Court?

18 THE COURT: Sure.

19 MS. COPELAND-LITTLE: I would ask that the Court
20 consider not taking my client into custody. He does still
21 have the real-time monitor and, you know, it would certainly
22 help me to be able to have good access to him tonight as I
23 prepare for the rest of this trial.

24 THE COURT: What say the State?

25 MR. REDMOND: The State would say that -- well, there

1 are a couple of things and I'll be brief. I know time is of
2 the essence, but the first thing is that we can talk with the
3 detention center to make sure that you can telephonically --
4 that Ms. Copeland-Little has full access to him. Given the
5 fact that the trial is ongoing, I will make that request
6 forthwith.

7 The second thing and the major issue is the fact that in
8 addition to the bond falling when the -- that's what I've
9 always said -- with the case with the jury being sworn, we
10 also have an issue that has arisen regarding the low battery
11 notifications I think we've all been hearing during the
12 course of the trial.

13 We have confirmed with Offender Management that, in
14 fact, at the time that we got this, which was about 45
15 minutes ago, he had only about two hours left. So, you know,
16 you can extrapolate from that, but we've only got an hour and
17 15 minutes left on the monitor.

18 So -- and with that being the case, the concern is once
19 that monitor is dead, we've got no way of tracking him.
20 That, in and of itself, raises bond concerns because he has
21 an obligation to make sure it's charged, but we also
22 confirmed that it was not charged. It has not been charged
23 since overnight yesterday, the 16th, I guess into the morning
24 of the 16th, which would be yesterday.

25 So for those reasons, I would respectfully ask that the

1 Court adhere to its previous ruling that his bond fall.

2 THE COURT: I ruled.

3 MR. REDMOND: Thank you, Your Honor.

4 (WHEREUPON, the proceedings adjourned for the day.)

5 JULY 18, 2019

6 (WHEREUPON, the proceedings resumed.)

7 MR. REDMOND: We just have some items of housekeeping
8 matters to make sure for the record that are actually in
9 evidence. So I'll start and then with some other items Ms.
10 Johnson-Lee.

11 We had a chance to review the items that were in. The
12 pictures that I had used with the SLED agent, Dawn Claycomb,
13 that we didn't mark until after the fact, out of an abundance
14 of caution I'm going to move those into evidence at this
15 time. They've already been published by agreement of the
16 parties. It's 122 through 156. I'm sorry, 122 through 198
17 actually, and then 221 through 235. Those were pages that
18 were utilized that were marked after we published them to
19 save time that day. And again, those are all, of course,
20 subject to the defense's previous objections regarding the
21 search, but we would move those into evidence at this time.

22 MS. COPELAND-LITTLE: Not exactly sure which photos they
23 are.

24 MR. REDMOND: The ones that Dawn Claycomb -- all of the
25 one she went through, the SLED agent.

1 MS. COPELAND-LITTLE: She --

2 MR. REDMOND: Right here. They are all in the folder.

3 MS. COPELAND-LITTLE: Just let me see because I can't

4 remember. I'm sorry.

5 MR. REDMOND: Dawn Claycomb was the --

6 MS. COPELAND-LITTLE: What was she?

7 MR. REDMOND: She was the crime scene analyst.

8 MS. COPELAND-LITTLE: Oh, okay.

9 MR. REDMOND: Regarding the tire impressions.

10 MS. COPELAND-LITTLE: And this is it right here?

11 MR. REDMOND: This, this, and that.

12 MS. COPELAND-LITTLE: Oh, yeah. Okay. I think the only

13 one -- I think the -- yes.

14 THE COURT: On the crime scene that were picked up out

15 of the field near the cemetery, I don't think you had any

16 objections to those, did you?

17 MS. COPELAND-LITTLE: No, but I think there's some

18 photos in there of the defendant's actual tire maybe, the

19 tire on the defendant's truck. So they are in?

20 MR. REDMOND: Yes.

21 MS. COPELAND-LITTLE: There are some photos of his

22 truck. So, Your Honor, the defense objects as --

23 MR. REDMOND: As it relates to the search.

24 THE COURT: Noted on that. Overruled. They are in.

25 (WHEREUPON, State's Exhibits Number 122 through 198 and

1 221 through 235, photographs, were admitted into
2 evidence.)

3 MR. REDMOND: And, Your Honor, while Ms. Johnson-Lee is
4 doing that, I left my glasses in my car. I'm going to run
5 and get back. Oh, I'm sorry. I forgot something.

6 MS. JOHNSON-LEE: We want to make sure items 1 through 4
7 are in. I believe 1 is. That is the flash drive that was
8 admitted for *Jackson v. Denno*. Out of an abundance of
9 caution, we want to make sure it is admitted for evidence at
10 the trial.

11 Also, 2 is the buccal consent of Mr. Busby, 3 is the
12 Miranda waiver from June 21st, 2017, and number 4 is that DNR
13 dive report. I wanted to make sure those are entered into
14 evidence.

15 (WHEREUPON, State's Exhibit Number 1, statements on
16 flash drive, State's Exhibit Number 2, consent to
17 search, State's Exhibit Number 3, Miranda Form, and
18 State's Exhibit Number 4, DNR Dive Form, were admitted
19 into evidence.)

20 MS. JOHNSON-LEE: Also, 218. I thought it was entered
21 yesterday, but it's not marked as entered and I think Madam
22 Court Reporter confirmed it's not. That's the cutting from
23 the jeans. And 220 is the scraping of the waistband from
24 which the DNA was obtained for those jeans. So we wanted to
25 make sure 218 and 220 are in.

1 MS. COPELAND-LITTLE: Your Honor, the defense objects as
2 product of illegal -- illegal search and illegally obtained
3 consent.

4 THE COURT: All right. Noted. Preserved for that.
5 Overruled and they're in.

6 (WHEREUPON, State's Exhibit Number 218 and State's
7 Exhibit Number 220, DNA swabs, were admitted into
8 evidence.)

9 MS. JOHNSON-LEE: Okay. 238, 239, and 240, I believe I
10 confirmed with Madam Court Reporter those are in. Those are
11 the two serology reports, 238 and 239, and 240 was the DNA
12 report. They weren't listed on there as being admitted, but
13 I believe Madam Court Reporter said that those are admitted.

14 THE COURT REPORTER: Okay. 238?

15 MS. JOHNSON-LEE: 239 and 240.

16 THE COURT REPORTER: Just making sure. Okay.

17 THE COURT: I don't need to say anything on that because
18 they're already admitted; right? Any objections are
19 preserved. Okay.

20 MR. REDMOND: And, Your Honor, first thing this morning,
21 we don't have any additional witnesses, but as Your Honor may
22 recall, there were some audio clips that we had said we would
23 publish this morning for the sake of time yesterday. We are
24 prepared to go ahead and publish those.

25 And then after having gone through the exhibits, we will

1 be prepared to rest at that time. So I don't know while the
2 jury is out if the Court wanted to address certain inquiries
3 of the defendant at this time or once we finish with audio
4 clips. I don't anticipate the audio clips taking more than
5 about five minutes.

6 THE COURT: Well, let's try to keep it in order so we
7 can get our motions noted and --

8 MR. REDMOND: Yes.

9 THE COURT: -- get all that.

10 MR. REDMOND: Yes, sir.

11 THE COURT: Okay. Bring them in.

12 (WHEREUPON, the jury entered the courtroom.)

13 THE COURT: Good morning.

14 MR. REDMOND: Good morning, Your Honor, ladies and
15 gentlemen. May it please the Court.

16 At this time, the State is prepared to publish certain
17 short audio clips from Facebook Messenger that Kenneth Parker
18 testified to yesterday. On agreement of the parties, we
19 waited until this morning to publish them for the sake of
20 time yesterday, but those should not take that long at all
21 and the State is prepared to go ahead and publish those.

22 For the record, I think they have been introduced as
23 State's Exhibit 16 -- 216, excuse me, that being the --
24 that's correct, 216, that being the disk of the archived
25 information from Kenneth Parker's Facebook account. And

1 again, those are the messages that he testified to that they
2 were exchanging during the course of the times testified to
3 previously.

4 (WHEREUPON, State's Exhibit Number 216, Facebook
5 Messenger audio, was published in court, after which the
6 proceedings resumed as follows.)

7 MS. JOHNSON-LEE: Your Honor, if we may, the DNA that is
8 marked as item 219 for victim Short was not showing as being
9 admitted on the clerk's form. I showed it being admitted,
10 but she does not and she is the official recordkeeper. So at
11 this time, I would move to admit Exhibit 219.

12 MS. COPELAND-LITTLE: And just to confirm, that's the
13 victim's DNA? No objection.

14 THE COURT: Okay. That's in without objection.

15 (WHEREUPON, State's exhibit number 219, victim's DNA,
16 was admitted into evidence.)

17 THE COURT: I thought it was in too. That clears it up.
18 Okay.

19 THE COURT REPORTER: Okay.

20 (WHEREUPON, the State rested.)

21 MS. COPELAND-LITTLE: Your Honor, at this time, the
22 defense has some motions that I would like to make.

23 THE COURT: All right.

24 MS. COPELAND-LITTLE: Outside of the jury's presence.

25 THE COURT: Ladies and gentlemen of the jury, at this

1 time, I'm going to ask Madam Clerk to do a poll of the jury.
2 This is just a poll.

3 Madam Clerk, if you would poll all of the jurors to see
4 if there has been any contact or any attempted contact by
5 anyone trying to communicate about this case.

6 MS. COPELAND-LITTLE: Your Honor, would that -- would
7 the Court consider also asking whether or not anybody has
8 done any independent research or investigation online?

9 THE COURT: And has -- the second item is -- you can put
10 it all together though. Has anyone done any independent
11 research concerning this case?

12 THE CLERK: As I call each of your name, would you
13 please indicate by saying yes or no that you have done your
14 own independent research or that you have spoken about this
15 case outside of the court to your fellow juror or to anyone
16 else.

17 Darlene Adams?

18 JUROR NUMBER 2: No, I haven't.

19 THE CLERK: Thank you.

20 Donna Teal?

21 JUROR NUMBER 137: No.

22 THE CLERK: Robert Hammond.

23 JUROR NUMBER 73: No.

24 THE CLERK: Dawone Louallen?

25 JUROR NUMBER 97: Dawone.

1 THE CLERK: I apologize. Dawone Louallen.
2 JUROR NUMBER 97: No.
3 THE CLERK: Delisa Davis.
4 JUROR NUMBER 46: No, I have not.
5 THE CLERK: Terry Williams.
6 JUROR NUMBER 145: No.
7 THE CLERK: Sonya Ingram.
8 JUROR NUMBER 80: No.
9 THE CLERK: Mia Hillian.
10 JUROR NUMBER 78: Mia.
11 THE CLERK: Mia Hillian.
12 JUROR NUMBER 78: Yes, ma'am. No, ma'am.
13 THE CLERK: You have not?
14 JUROR NUMBER 78: No, ma'am.
15 THE CLERK: Thank you.
16 Hampson Blakeney.
17 JUROR NUMBER 12: No, I haven't.
18 THE CLERK: Taylor Freeman.
19 JUROR NUMBER 62: No.
20 THE CLERK: Haynes Blakeney.
21 JUROR NUMBER 13: It's Hayne and no, ma'am.
22 THE CLERK: I apologize.
23 Megan Little.
24 JUROR NUMBER 94: No.
25 THE CLERK: Donnie Chavis.

1 JUROR NUMBER 36: No, ma'am.

2 THE CLERK: And Kristin Boan.

3 JUROR NUMBER 16: Kirsten and no.

4 THE CLERK: Okay. Thank you.

5 THE COURT: All right. Ladies and gentlemen, it's now
6 time for me to take up some matters of law. So that means I
7 have to ask y'all to step back to the jury room and relax
8 just a few minutes. Don't discuss the case, however. Just
9 relax and let me take care of these matters of law and then
10 we'll bring you back in in a few minutes.

11 (WHEREUPON, the jury exited the courtroom.)

12 THE COURT: Ms. Little?

13 MS. COPELAND-LITTLE: Thank you, Your Honor. At this
14 time, at the close -- it's the close of the State's case and
15 I would move for a directed verdict of acquittal due to the
16 failure of the State to present evidence reasonably tending
17 to prove my client's guilt.

18 THE COURT: Anything from the State?

19 MS. JOHNSON-LEE: Your Honor, just that the State
20 requests that Your Honor deny the directed verdict motion.
21 More than sufficient evidence has been presented, including
22 his statement to Nicole Deese that he killed Mickey, in
23 addition to all of the physical evidence that only he was in
24 possession of. He hid the gun. He dumped items in Lake
25 Terry. He had items belonging to the victim. In addition,

1 he gave factual statements to law enforcement about the
2 killing that only the person there would know.

3 THE COURT: Based on the evidence that's been presented
4 in court, I'll have to deny the motion. Anything else?

5 MS. COPELAND-LITTLE: All right. Your Honor, just so to
6 let the Court be aware of time, I'm only planning at this
7 time to call one witness, and I didn't know if you wanted to
8 talk to the defendant about his right to testify.

9 THE COURT: I'll be glad to. Have you discussed it with
10 him too?

11 MS. COPELAND-LITTLE: Yes, sir, I have.

12 THE COURT: Mr. Busby?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: What we are referring to there is your Fifth
15 Amendment rights, your right to testify and your right not to
16 testify. Under the Fifth Amendment of the United States
17 Constitution and its similar counterpart provision of our
18 State constitution, you have a right to remain silent. If
19 you elect not to testify, it cannot be held against you and I
20 would even instruct the jury as to that. Of course, that's
21 your constitutional right. It can't be used to mitigate or
22 be held against you in any way.

23 You have that right to elect not to testify, but you
24 also have the right to testify. If you do testify, you will
25 be treated as any other witness. You can be cross-examined

1 and impeached like any other witness and, of course, that
2 would be by the State.

3 And that could bring in implications and I don't know
4 anything about your background, but I'm sure your attorney
5 has discussed with you, if you have any criminal record, the
6 implications of that. If you haven't discussed that and that
7 is correct, that you do have some kind of prior record, that
8 needs to be thoroughly discussed with your attorney.

9 But the main point I need to get across to you now is
10 that you do have a constitutional right to elect not to
11 testify and it cannot be used or mitigated against you in any
12 way by the jury. Do you have any questions concerning your
13 constitutional right?

14 THE DEFENDANT: No, sir.

15 THE COURT: Okay. Have you discussed all this with your
16 attorney about your testifying?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Have you reached a decision about that?

19 THE DEFENDANT: I don't think I quite have yet.

20 THE COURT: Okay. All right.

21 MS. COPELAND-LITTLE: Okay.

22 THE DEFENDANT: Give me just one second.

23 THE COURT: Sure. Take your time.

24 MS. COPELAND-LITTLE: Thank you, Your Honor.

25 (WHEREUPON, there was a pause in the proceedings, after

1 which the proceedings resumed as follows.)

2 MS. COPELAND-LITTLE: No, sir.

3 THE DEFENDANT: No, sir. I'm not going to be
4 testifying. I'm not going to testify.

5 THE COURT: Okay.

6 MS. COPELAND-LITTLE: And just -- and can you just
7 confirm, Your Honor, that's his decision? He made that
8 decision. I just wanted for the record that that is his
9 decision.

10 THE COURT: Sure. I'll be glad to.

11 That is your decision and yours alone?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And are you freely, voluntarily, and
14 intelligently telling me that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And nobody has instructed you as to what you
17 should do or what you shouldn't do?

18 THE DEFENDANT: No, sir.

19 THE COURT: It's totally your independent decision?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. So be it.

22 MS. COPELAND-LITTLE: Just for the record, just for Your
23 Honor's knowledge, I'm going to go ahead and waive my opening
24 that I didn't make at the beginning because of the short
25 nature of what I expect the defense case to be. I'm just

1 going to save it all for my closing.

2 THE COURT: All right. Are you going to have -- you

3 said you had one witness?

4 MS. COPELAND-LITTLE: I have one witness, Your Honor,

5 and he's actually in custody from the Department of

6 Corrections, but he's in the back and he's going to be my one

7 and only witness.

8 THE COURT: All right.

9 MS. COPELAND-LITTLE: His name is Don, Don Baker.

10 THE COURT: Y'all get him ready to come in.

11 What did she say? Donnie Baker?

12 THE COURT: Are you ready?

13 MS. COPELAND-LITTLE: Yes, sir.

14 (WHEREUPON, the jury entered the courtroom.)

15 THE COURT: You may proceed.

16 MS. COPELAND-LITTLE: Your Honor, the defense calls Mr.

17 David Baker. He's in the back. I'm sorry. Donnie Baker.

18 THE COURT: Okay.

19 THE CLERK: Come up here to the Bible. Place your left

20 hand on the Bible and raise your right as best you can. Do

21 you swear or affirm to tell the truth, the whole truth, and

22 nothing but the truth, so help you God?

23 THE WITNESS: Yes.

24 THE CLERK: Thank you. You can have a seat right up

25 there.

DONALD BAKER - DIRECT BY MS. COPELAND-LITTLE

1 MS. COPELAND-LITTLE: Is that on? Is that mic on?

2 THE COURT REPORTER: Yes.

3 MS. COPELAND-LITTLE: I don't think it is.

4 THE WITNESS: I don't think it is.

5 THE BAILIFF: Yes, ma'am.

6 THE COURT REPORTER: No, it's not on.

7 DONALD BAKER, being first duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. COPELAND-LITTLE:

11 Q: All right. Mr. Baker, could you state your full name
12 for the court reporter?

13 A: Donald Wayne Baker.

14 Q: Okay. Mr. Baker, it's pretty obvious that you're in
15 custody right now?

16 A: Yes, ma'am.

17 Q: All right. Are you doing time at the Department of
18 Corrections?

19 A: Yes, ma'am.

20 Q: And why are you in prison, Mr. Baker?

21 A: Due to drugs.

22 Q: Okay. Other than drugs, do you have any other criminal
23 history that you can think of?

24 A: No. No, ma'am. Maybe earlier a DUI or something like
25 that.

DONALD BAKER - DIRECT BY MS. COPELAND-LITTLE

1 Q: Okay. All right. Mr. Baker, do you recall -- did you
2 know Mr. Mickey Short?

3 A: Yes, ma'am.

4 Q: Okay. And do you know the defendant, Mr. David Busby?

5 A: Yes, ma'am. Yes, ma'am.

6 Q: All right. Do you recall -- and I don't remember the
7 date, but do you remember hearing that Mr. Short had been
8 killed?

9 A: Yes, ma'am.

10 Q: Okay. So I want you to think back to around that time
11 period. Okay?

12 A: Okay.

13 Q: All right. Prior to that, were you ever together with
14 Mr. Short and Mr. Busby at the same time?

15 A: Yes, ma'am.

16 Q: Okay. And can you tell the jury about how long you
17 think that was before you heard Mr. Short was deceased?

18 A: It seemed like it was, like, the week -- you know what
19 I'm saying? The week before, you know, just a few days. You
20 know, it was the week before that Monday or Sunday night when
21 that happened or something.

22 Q: Okay.

23 A: It was, like, the prior week.

24 Q: Okay. All right. And tell -- tell the jury where you
25 were?

DONALD BAKER - DIRECT BY MS. COPELAND-LITTLE

1 A: We was at my house.

2 Q: Okay.

3 A: On 205 Johnson Road.

4 Q: On Johnson Road?

5 A: Yes, ma'am. Jefferson.

6 Q: In what town?

7 A: Jefferson, South Carolina.

8 Q: Okay. I heard it. Okay. Who else was there?

9 A: My son, Dustin, was there. Nicole Deese was there. It

10 seemed like Brian Thompson was there.

11 Q: Okay. And -- and again, Mr. Short and Mr. Busby were

12 there?

13 A: Yeah. Mickey and David, yeah.

14 Q: Okay. All right. And during that time, what were --

15 what were they doing?

16 A: Mickey really came down to return a saw for me. Like,

17 when he came down, he was wanting to ride one of the horses.

18 So I was saddling up a horse and he was going to ride, and

19 David came up and I think my son had came home from work at

20 about that same time.

21 Q: Okay. And tell us about anything that happened or

22 didn't happen when Mr. Short was riding that horse?

23 A: Well, you know, I told Mickey when he got on she doesn't

24 like to be pulled on. You know, if you pull on her, you

25 know, she'd cut up. But long story short, when he got to the

DONALD BAKER - DIRECT BY MS. COPELAND-LITTLE

1 end of the driveway, when I looked down, I seen the horse
2 rare up one time. You know, when he came up the second time,
3 he said he'd been hit in the forehead and then he fell off of
4 him.

5 Q: Okay.

6 A: And they were --

7 Q: All right. I just want to clarify.

8 THE COURT REPORTER: Tell him to back off the
9 microphone.

10 MS. COPELAND-LITTLE: Okay. Just back up off the mic
11 just a little bit because it's giving feedback to the clerk.

12 THE WITNESS: All right.

13 BY MS. COPELAND-LITTLE:

14 Q: All right. Can you go through that one more time to
15 make sure we understood? You said -- I think you said it
16 came up and it hit his head. So can you just clarify exactly
17 what you're talking about?

18 A: Well, like, when the -- when the horse rared up, it
19 head-butted Mickey.

20 Q: Okay.

21 A: It knocked Mickey off the back.

22 Q: Okay.

23 A: And then David went down and brought him and the horse
24 back up to the house. There wasn't no more horse riding
25 after that.

DONALD BAKER - DIRECT BY MS. COPELAND-LITTLE

1 Q: Okay. So David, the defendant, is the one who helped
2 Mickey up?

3 A: Yeah.

4 Q: All right. When he -- when he fell off the horse, did
5 he hit the ground?

6 A: Yeah.

7 Q: Okay. Did he appear to be injured?

8 A: Yes, ma'am.

9 Q: Okay. And can you tell the jury about that injury that
10 you -- first, how far away from him were you when you noticed
11 that he was injured?

12 A: Just as far as from that door over there. Maybe about
13 twice as far as that door.

14 Q: Okay.

15 A: Yeah. About -- yeah. About twice as far as that door.

16 Q: So it was quite a good ways away?

17 A: Uh-huh.

18 Q: Okay.

19 A: Yes, ma'am.

20 Q: And from where you were standing, what could you see?

21 A: I could tell that he had took a head bump in the
22 forehead. His head was bleeding. It was, like, between his
23 eyes. Blood was in his eyes.

24 THE COURT REPORTER: I don't understand.

25 A: He had got a head bump.

DONALD BAKER - DIRECT BY MS. COPELAND-LITTLE

1 Q: Okay. And I'm just trying to make sure the court
2 reporter can understand what you said. Did you just say that
3 it was between his eyes he was bleeding?

4 A: Yeah. Like, on the forehead. Like, right there. Yeah.

5 Q: Yes, sir.

6 MS. COPELAND-LITTLE: And for the record, the witness is
7 pointing to his forehead.

8 THE WITNESS: Yes, ma'am. That's right. I just can't
9 with this.

10 BY MS. COPELAND-LITTLE:

11 Q: It's kind of hard to point, isn't it?

12 A: Yeah.

13 Q: And could -- could you see that blood from where you
14 were standing?

15 A: Well, I knew something. You know what I'm saying? I
16 know these -- hey, I took a bandage on me because I knew
17 something was bleeding, you know. He was in trouble --

18 Q: Okay.

19 A: -- that I thought.

20 Q: Okay. And could you -- did you see him again? Wait a
21 minute. You said that Mr. Busby went to help him up. Did he
22 run to help him up?

23 A: Yeah.

24 Q: Okay. Did anybody else there go and help Mr. Short?

25 A: No.

DONALD BAKER - DIRECT BY MS. COPELAND-LITTLE

1 Q: All right. And after that happened, how did Mr. Short
2 and the horse get back to where you were?

3 A: They walked up the driveway.

4 Q: Okay. And -- well, let me ask you this. Was it a lot
5 of blood?

6 A: It was a good bit.

7 Q: Okay. And --

8 A: It was -- like I say, he might have took a lick on his
9 nose, but I'm not sure, you know.

10 Q: You're not sure about that part?

11 A: Yes. I believe he had some blood on his shirtsleeve a
12 little bit.

13 Q: Okay. Now, you said he had blood on his shirtsleeve.
14 Do you know how the blood got on his shirtsleeve?

15 A: No, ma'am.

16 Q: Okay. All right.

17 MS. COPELAND-LITTLE: Answer any questions that the
18 prosecutor has for you, please.

19 CROSS-EXAMINATION

20 BY MS. JOHNSON-LEE:

21 Q: Where all did you see blood at?

22 A: Like, on his forehead and his sleeve. It seemed like it
23 was his right shirtsleeve.

24 Q: Okay. Did you see any blood on David Busby or is that
25 the blood you're describing?

DONALD BAKER - CROSS BY MS. JOHNSON-LEE

1 A: No. I seen it on Mickey.

2 Q: On Mickey? And it was on the upper part of his body?

3 A: On his forehead and all. Yes, ma'am.

4 Q: On this top part, not on his lower part?

5 A: No.

6 Q: Okay.

7 A: On Mickey only.

8 Q: And the only other question I have is were you present
9 when Mickey's face was obliterated by a shotgun blast?

10 A: Ma'am?

11 Q: Were you present? Were you there when Mickey's face was
12 obliterated by that shotgun blast?

13 A: Oh, no, ma'am. Huh-uh.

14 MS. JOHNSON-LEE: Thank you. No further questions.

15 MS. COPELAND-LITTLE: No. That's all I have, Your
16 Honor. Thank you.

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

18 Any rebuttal from the State?

19 MS. JOHNSON-LEE: No, Your Honor.

20 THE COURT: All right. Ladies and gentlemen, that
21 concludes the evidentiary portion of the case. The next
22 phase will be closing arguments.

23 Are we ready to go forward or do you need a minute or
24 two?

25 MS. COPELAND-LITTLE: Your Honor, I do have another

1 motion outside the presence of the jury.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, if you'd step back and let me handle matters of law.

4 (WHEREUPON, the jury exited the courtroom.)

5 THE COURT: Ms. Little?

6 MS. COPELAND-LITTLE: Your Honor, at this time at the
7 close of the case, I would renew my motion for a directed
8 verdict of acquittal in favor of my client for the same
9 reasons stated before.

10 THE COURT: Anything from the State?

11 MS. JOHNSON-LEE: The State opposes for the same reasons
12 previously given.

13 THE COURT: All right. I'll have to deny those motions.
14 Are you ready to go with argument or do you need a
15 minute or two?

16 MS. COPELAND-LITTLE: Your Honor, I'm going to request a
17 few minutes, if we can.

18 THE COURT: Sure.

19 MS. COPELAND-LITTLE: Maybe 10 or 15 minutes even.

20 THE COURT: Sure.

21 MS. COPELAND-LITTLE: Before I present my closing.

22 THE COURT: All right. The Court will stand at ease.
23 I'm sorry?

24 MS. JOHNSON-LEE: And we probably need a minute to
25 discuss what type of instructions also.

1 MS. COPELAND-LITTLE: Oh, do we need to do that now?

2 MS. JOHNSON-LEE: If we could have a minute first and

3 then --

4 THE COURT: Yeah. I'll be right here.

5 MS. COPELAND-LITTLE: Okay.

6 THE COURT: The Court will stand at ease.

7 (WHEREUPON, there was a break in the proceedings, after

8 which the proceedings resumed as follows.)

9 MS. JOHNSON-LEE: May it please the Court. Your Honor,

10 the State for charging would request accomplice liability,

11 voluntary intoxication, and circumstantial evidence charges.

12 THE COURT: When you say accomplice liability, are you

13 talking about the hand of one?

14 MR. REDMOND: Yeah.

15 MS. JOHNSON-LEE: Yes, Your Honor. Hand of one, hand of

16 all.

17 THE COURT: Voluntary intoxication. Hand of one. What

18 was the other one?

19 MS. JOHNSON-LEE: The third one was circumstantial

20 evidence.

21 THE COURT: I've already got that. I've got that.

22 MS. JOHNSON-LEE: Thank you, Your Honor.

23 THE COURT: The *State v. Grippon*. I guess that's how

24 you pronounce it.

25 MS. COPELAND-LITTLE: Your Honor, can I respond to the

1 solicitor's request to charge on the hand of one is the hand
2 of all?

3 Judge -- and I'm sure the solicitor is going to correct
4 me if I'm wrong. I don't believe there's been any testimony
5 that somebody else killed the victim. So I don't see -- they
6 haven't alleged at any time that my client was an accomplice.
7 Originally, they did, but their whole case is centered around
8 the fact that he was acting alone. So I don't believe that
9 the hand of one/hand of all would apply in this case.

10 MS. JOHNSON-LEE: Your Honor, State's Exhibit 1 is a
11 flash drive containing the defendant's two video statements
12 and, in his own video statements, he blames the shooting on
13 two different individuals, Kenneth Parker and Clint Gullledge.

14 If -- since that is in evidence, if the jury chooses to
15 re-watch it again or if they remember what they saw already
16 played during the trial, they could believe any or part of
17 what he says because that is their right. And so his own
18 statements to law enforcement I think give rise to the
19 accomplice liability charge being a very valid charge.

20 THE COURT: I have to agree with the State. It was in
21 there.

22 MS. COPELAND-LITTLE: Yes, sir.

23 THE COURT: It's what we watched.

24 MS. COPELAND-LITTLE: And whenever you're ready?

25 THE COURT: All right.

1 MS. COPELAND-LITTLE: Well, about request to charge, can
2 I ask the Court about the ones I would like for you to
3 charge?

4 THE COURT: Sure.

5 MS. COPELAND-LITTLE: Okay. Your Honor, I would request
6 that you obviously charge about his right not to testify.

7 THE COURT: Got it.

8 MS. COPELAND-LITTLE: I would like a charge on
9 voluntariness of consent. Do you have a charge on that? I
10 think the jury -- well, I just would like for the jury to
11 know that it's up to them to decide whether any statements
12 were freely and voluntarily given and --

13 THE COURT: Okay.

14 MS. COPELAND-LITTLE: And I would request a charge on
15 mere presence.

16 MR. REDMOND: We didn't hear the third one, Your Honor.
17 I'm sorry.

18 THE COURT: Mere presence.

19 MS. COPELAND-LITTLE: Mere presence.

20 MR. REDMOND: Mere presence, yes.

21 MS. COPELAND-LITTLE: And then I just -- I have two more
22 that I think they're probably going to -- they're going to
23 probably want to argue with.

24 Your Honor, I would ask for a charge on voluntary
25 manslaughter based on the testimony of Ms. Deese, who