

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Richland County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MANDY MORROW FORTSON,

APPELLANT.

APPELLATE CASE NO. 2021-000566

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 65 (CD OF 911 CALLS – NOT TRANSCRIBED)

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF RICHLAND) 2017-GS-40-03787; 03791;
) 03792

ORIGINAL

STATE OF SOUTH CAROLINA)
) PLAINTIFF)
 vs.) TRANSCRIPT OF RECORD
)
 MANDY MORROW FORTSON)
) DEFENDANT)

May 17, 2021
 Columbia, South Carolina

B E F O R E:

THE HONORABLE ROBERT E. HOOD, Judge; and a jury.

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

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APRIL HERRON
 Official Court Reporter

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Jury Qualification 4
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There were no exhibits.

1 THE COURT: All right, good afternoon, ladies
2 and gentlemen of the jury. Again, my name is Robert
3 Hood, I have the pleasure to be with you. Thank you
4 very much for your patience this morning and
5 afternoon with us. There's a lot of moving parts
6 that is going into getting everything ready for you
7 to be here. So I really do appreciate your patience
8 with us today and will appreciate your patience with
9 us as we get ready to try this case.

10 And so, is The State ready to call their case?

11 MS. SAMPSON: Yes, sir. At this time, The State
12 calls -- just the name or say the indictment numbers?

13 THE COURT: Yeah, that will be fine, you may
14 call out the indictment numbers.

15 MS. SAMPSON: Indictment number 2017-GS-40-4778
16 with attempted murder. Indictment number
17 2017-GS-40-7191, which is breach of peace aggravated
18 in nature. 2017-GS-40-3792, which is discharging a
19 firearm into a dwelling.

20 THE COURT: All right, thank you very much,
21 Ms. Sampson.

22 All right, ladies and gentlemen, The State
23 called their case.

24 So, Mr. Williams, we will put that pre-trial
25 issue that we just discussed in chambers on the

1 record after jury selection. But I will put on the
2 record that you have made that motion at the
3 appropriate time and do so at the appropriate time
4 and you're protected for the record on that issue.
5 We'll flesh it out a little bit once we're outside
6 the presence of the jury.

7 All right, ladies and gentlemen, The State has
8 called its case of The State of South Carolina vs.
9 Mandy Morrow Fortson. Ms. Fortson has been indicted
10 by the Richland County Grand Jury in three different
11 charges. The first charge is for attempted murder.
12 This indictment states or alleges that Ms. Fortson
13 did in Richland County on or about February 22 of
14 2017, with intent to kill, attempt to kill Antonio
15 Jones with malice aforethought either expressed or
16 implied. The second indictment states and alleges
17 that on or about February 22 of 2017, Ms. Fortson did
18 discharge or cause to be discharged unlawfully a
19 firearm into a dwelling, house or other building or
20 enclosure regularly occupied by persons while it was
21 occupied. The third indictment alleges that
22 Ms. Fortson did in Richland County on or about
23 February 22 of 2017, knowingly, willfully disturb
24 public ordinance or public tranquility through her
25 conduct accompanied by circumstances of aggravation.

1 Such acts constituting the events of breach of peace
2 in violation of South Carolina Common Law.

3 Now, to these charges Ms. Fortson has pled not
4 guilty. That plea puts the burden of proof on The
5 State to prove her guilt to a jury beyond a
6 reasonable doubt. Now, ladies and gentlemen, these
7 indictments are not evidence of anything. They are
8 not proof of anything. These indictments are simply
9 the proper paperwork to put this case in front of
10 this court. And she has pled not guilty to those
11 charges. So what we're going to do now, we're going
12 to actually select a jury in a minute, they're about
13 40 of you that are in the room. I'm going to make
14 sure I have the correct 40 people by calling the
15 roll. You have been put in a complete, totally
16 random order. So will not be calling your names
17 alphabetically or numerically. You will be out of
18 order. So when I call your name, if you'd just
19 answer my question by saying here or present, just
20 make sure you speak up, please.

21 Dylan Goff.

22 PROSPECTIVE JUROR: Here.

23 THE COURT: Cameron Brandenburg.

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Clarence Johnson.

1 PROSPECTIVE JUROR: Here.
2 THE COURT: Travis Johnson.
3 PROSPECTIVE JUROR: Here.
4 THE COURT: Katherine Harvey.
5 PROSPECTIVE JUROR: Present.
6 THE COURT: Tonya Bradford.
7 PROSPECTIVE JUROR: Present.
8 THE COURT: Bobby Hammonds.
9 PROSPECTIVE JUROR: Here.
10 THE COURT: Treyvon Jacobs.
11 PROSPECTIVE JUROR: Here.
12 THE COURT: Lenza Hoose.
13 PROSPECTIVE JUROR: Here.
14 THE COURT: Edjuardo Barbee.
15 PROSPECTIVE JUROR: Here.
16 THE COURT: Stephen Price.
17 PROSPECTIVE JUROR: Here.
18 THE COURT: Sharlina Lorick.
19 PROSPECTIVE JUROR: Here.
20 THE COURT: Sherry Hollins.
21 PROSPECTIVE JUROR: Here.
22 THE COURT: Hannah Addison.
23 PROSPECTIVE JUROR: Here.
24 THE COURT: Odell Furtick.
25 PROSPECTIVE JUROR: Hi, sure.

1 THE COURT: Pamela Blackwell.
2 PROSPECTIVE JUROR: Here.
3 THE COURT: Harold Jeter.
4 PROSPECTIVE JUROR: Here.
5 THE COURT: Mallory Hoover.
6 PROSPECTIVE JUROR: Here.
7 THE COURT: Alan Goodman.
8 PROSPECTIVE JUROR: Here.
9 THE COURT: Ryan Hedlund.
10 PROSPECTIVE JUROR: Here.
11 THE COURT: Zachary Cartledge.
12 PROSPECTIVE JUROR: Here.
13 THE COURT: Nicholas Bostick?
14 PROSPECTIVE JUROR: Here.
15 THE COURT: Kristy Booker.
16 PROSPECTIVE JUROR: Here.
17 THE COURT: Melody Cooke-McDuffie.
18 PROSPECTIVE JUROR: Here.
19 THE COURT: Jackson Benson.
20 PROSPECTIVE JUROR: Here.
21 THE COURT: Rachael Fulmer.
22 PROSPECTIVE JUROR: Here.
23 THE COURT: Mya Oberry.
24 PROSPECTIVE JUROR: Here.
25 THE COURT: Cheryl Pollock.

1 PROSPECTIVE JUROR: Here.
2 THE COURT: Michael Dilback.
3 PROSPECTIVE JUROR: Here.
4 THE COURT: Tameka Baxter.
5 PROSPECTIVE JUROR: Here.
6 THE COURT: Jane Buie.
7 PROSPECTIVE JUROR: Here.
8 THE COURT: Velda Coleman.
9 PROSPECTIVE JUROR: Here.
10 THE COURT: Curtrell Gadson.
11 PROSPECTIVE JUROR: Here.
12 THE COURT: Amelia Gavin.
13 PROSPECTIVE JUROR: Here.
14 THE COURT: Joselynella Santos.
15 PROSPECTIVE JUROR: Here.
16 THE COURT: Kimberly Elmore.
17 PROSPECTIVE JUROR: Here.
18 THE COURT: Laura Cameron.
19 PROSPECTIVE JUROR: Here.
20 THE COURT: Jody Johnson.
21 PROSPECTIVE JUROR: Here.
22 THE COURT: Marissa Hartert.
23 PROSPECTIVE JUROR: Here.
24 THE COURT: Rosemarie Booze.
25 PROSPECTIVE JUROR: Here.

1 THE COURT: Again, if I said your name wrong I
2 do sincerely apologize. So what we're going to do,
3 I'm going to be asking you a series of questions.
4 I'm going to ask you do you know anything about the
5 case, do you know any of the parties, do you know any
6 of this witnesses, any of the lawyers, anything like
7 that. What we want to do is we want to create an
8 environment where you give us information, okay. I
9 don't want you to keep something back if you're
10 thinking to yourself, should I answer this question,
11 should I not answer the question, you need to answer
12 that question, okay. So if you watch TV or you watch
13 movies, you see where sometimes it takes two, three
14 days to get through jury selection. We're doing all
15 this in about an hour, okay. But we're going to do
16 it in about an hour based upon the belief that you
17 are going to tell me the truth, okay. Imagine if you
18 were selected in this case, if you or a family member
19 or somebody involved in this case, one of the
20 fundamentals that you want to go into this week
21 believing is that the jury will answer the judge's
22 questions truthfully, right? That's just a
23 fundamental part of this working. So I don't want
24 you to put some kind of weight or scale on the
25 questions I ask you. If you think there's a

1 possibility that the question applies, I want you to
2 stand up, answer the question for me, okay. There
3 are no wrong answers. But I don't want you to
4 withhold anything from me. I want you to air on the
5 side of giving me too much information as opposed to
6 a little information. That way we can all make good
7 decisions about who should be on the jury and who
8 should not be on the jury. Does that make sense?
9 Okay, does everybody follow along with me?

10 All right, Ms. Pack, let's swear them.

11 If you would all please stand.

12 (WHEREUPON, the jury was sworn.)

13 THE COURT: All right. So we will turn to the
14 lawyers, introduce themselves and their client and
15 anyone in your case. I ask that you stand up, you
16 may remove your mask. I should have said that to the
17 lawyers. You're welcome to remove your mask, if
18 you're able, if you want to. If you don't want to,
19 that's fine too. I just want to make sure we can
20 hear you when you speak. So if you would please
21 introduce yourself and the other witnesses with you.

22 MS. SAMPSON: Good afternoon, Byron Gipson,
23 Fifth Circuit Solicitor's Office. With me is Deputy
24 Solicitor April Sampson, Assistant Solicitor Emily
25 Nellermoe. Also at the table is Joe Clark, who is an

1 investigator with the Richland County Sheriff's
2 Office.

3 THE COURT: All right, thank you very much.

4 So the question is, are you related by blood or
5 marriage, close personal friends with, have any
6 connection to business, personal, social or
7 otherwise; to either Ms. Sampson, Mr. Gipson, or
8 Ms. Nellermoe or anyone at the Fifth Circuit
9 Solicitor's Office? So the Fifth Circuit Solicitor's
10 Office encompasses Richland and Kershaw Counties.
11 They have offices in both locations. Or do you have
12 any relationship with anyone at the solicitor's
13 office? If you would, please stand.

14 All right, Mr. Goff. There's Mr. Goff, number
15 169. 169 for our records. Who all do you know over
16 there?

17 PROSPECTIVE JUROR: Know the solicitor,
18 Mr. Clark, I'm sure, this solicitor.

19 THE COURT: Do you know Mr. Williams or his
20 assistant, Anna Williams, do you know her?

21 PROSPECTIVE JUROR: I do not.

22 THE COURT: Would that affect your ability to be
23 fair and impartial to either side?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: Thank you.

1 Anyone else?

2 Anybody else on the prosecution team? No.

3 Mr. Williams, please stand. And you're also
4 welcome to take your mask off if you would like to.

5 MR. WILLIAMS: I'm Theo Williams, I practice law
6 with Robert T. Williams and Theo Williams right at
7 the corner, across the street from the courthouse.
8 Seated with me is my daughter, Anna Williams, is a
9 law partner at Williams, Stitely & Brink.

10 THE COURT: Thank you, Mr. Williams.

11 Is anyone related by blood or marriage, close
12 personal friends, have any connection to
13 Mr. Williams, Ms. Williams, as to both of them, have
14 you ever been represented by them or their firm or
15 other the other side of the case from them? If so,
16 please stand?

17 (There was no response.)

18 THE COURT: All right, the Defendant in this
19 case is Mandy Morrow Fortson. Is anyone related by
20 blood or marriage, close personal friends with, have
21 any connection to, business, personal or social or
22 otherwise to Ms. Fortson? If so, please stand.

23 (There was no response.)

24 THE COURT: All right. Thank you. Then the
25 next thing I'm going to do, ladies and gentlemen, is

1 read you a list of witnesses. Now just because I
2 call these names, all may not be called as witnesses.
3 It simply means they could be. And they are not
4 required to be here right now. So if the witnesses
5 are here, I would ask that you please stand. But if
6 they're not, it's not a prerequisite that they be
7 sitting in the room right now. So just pay attention
8 to the names. If you hear a name you think you know
9 who the person or is or you might know who the person
10 is or you have an idea as to who that person is, just
11 stand up. And then once we get through the list,
12 we'll gather all that information from you if
13 somebody has a common name and you want some more
14 identifying information like, is that, you know, this
15 specific John Smith. Then we can gather that for you
16 but just listen. If you hear a name you know, think
17 you might know or could know, you're related to or
18 you have a connection in any way, shape or form, just
19 stand up right where you are. I'll go through these
20 a little slower.

21 Antonio Jones, Tonya Mills, Ja'Kari Adams, Roman
22 Cruz, Steven Jones, Lindsey Zimmerman, Jack Rushing,
23 who is employed by the Fifth Circuit Solicitor's
24 Office; Deputy Andre Crooks, who is employed by the
25 sheriff's department; Sergeant Kevin Beck, with the

1 sheriff's department; Investigator Richard Carter,
2 with the sheriff's department; Investigator Joe
3 Clark, with the sheriff's department.

4 Investigator Clark, you're here; is that right?
5 Okay.

6 Then Investigator Gabriel Ramos, with the
7 sheriff's department; Franklyn Rainsford, with the
8 sheriff's department; Yvonne Woods, with the
9 sheriff's department; Shawn Schroder, with the
10 sheriff's department; Patricia Hart, with the
11 sheriff's department; Melody Gallinski, with the
12 sheriff's department; Ronnie Rhyne, with the
13 sheriff's department; David Collins, with the
14 sheriff's department; Richard Hill, Richland County
15 EMS; Corey Starnes, with Richland County EMS; Nicole
16 Hardin, with SLED; Vera Martinez, with SLED; Jack
17 Davis, with SLED; Jamie Hall, with SLED; Dr. Jeffrey
18 Guy, Dr. Joseph Myslinski, Jackie Richburg, who works
19 911 communication.

20 All right, is anyone related by blood or
21 marriage or have any connection to business, personal
22 or social or otherwise to any of the alleged or
23 potential witnesses?

24 (There was no response.)

25 All right, thank you. So one of the things that

1 you will hear me say, if you make it on the case, is
2 that I'm not allowed to tell you what the facts are.
3 Okay. So if you make it on the jury, one of the
4 things that I'll say to you repeatedly is you're in
5 charge of the facts and I'm in charge of the law.
6 And I can't tell you what the facts are unless
7 there's a stipulation of the parties. But I have to
8 tell you what the allegations are to see if you know
9 anything about the case. Does that make sense? I'm
10 not telling you that that is true or that that's the
11 truth or that that's the evidence, I'm merely telling
12 you what the allegations are in this case.

13 And this case allegedly occurred on February the
14 22nd of 2017 at 107 Thornwell Court, here in, I
15 assume, in the Columbia area.

16 Do you know about what time of night this
17 occurred or during the day?

18 MS. SAMPSON: About 9:00 o'clock. Thornwell
19 Court near--

20 MR. GIPSON: It is off -- road, so here in
21 Columbia.

22 THE COURT: So does anybody know anything about
23 the case? You heard anything about the case? Read
24 anything about the case? Seen anything about the
25 case? Think you know about the case? Think you

1 heard somebody talk about the case or have any
2 connection to anyone involved in the case? And I ask
3 that question as broadly as humanly possible because
4 I want you to stand up if you think you may know
5 something about the case or if think you know
6 something about this case.

7 (There was no response.)

8 All right, wonderful. Good. All right. So is
9 there any member of the jury panel who has formed an
10 opinion about the case or proposed an opinion about
11 the case to anyone? If so, please stand.

12 (There was no response.)

13 Is there any member of the jury who has any bias
14 or prejudice towards either The State or The Defense
15 in this case? If so, please stand.

16 (There was no response.)

17 What we are looking for is 14 jurors who have no
18 one to reward and no one to punish. They come in the
19 courtroom to sit fairly and impartially, much like
20 the judge. They're not on anyone's side, they're
21 here to listen to the facts, the evidence, determine
22 what the facts are, then apply those facts to the law
23 that I give you. Is there anyone in the room who
24 believes they cannot do that?

25 (There was no response.)

1 Is there anyone in the room a member of or
2 contributor to any group whose primary concern is the
3 promotion of law enforcement or victims rights? This
4 would include MADD, SADD, or advocates of defendants
5 rights, such as the Innocence Project; do you
6 contribute to any of those kinds of groups?

7 Tell me your name, ma'am.

8 PROSPECTIVE JUROR: Jane Buie.

9 THE COURT: Okay, you're juror number 73. Who
10 do you contribute, what are you a member of?

11 PROSPECTIVE JUROR: I have contributed to the
12 sheriff's association.

13 THE COURT: Okay, great. Anything else?

14 PROSPECTIVE JUROR: I don't believe so.

15 THE COURT: Okay, thank you. Would that affect
16 your ability to be fair and impartial in this case?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: Thank you, Ms. Buie.

19 Anybody else on that question?

20 (There was no response.)

21 All right, I have a few additional questions to
22 ask you, give me just one second. The next question
23 is does anybody related -- and what I want to say is
24 your immediate family. So what I mean by immediate
25 family is parent, siblings, children or anybody in

1 that kind of way that is currently in law
2 enforcement? So if you have a brother that is a cop,
3 even if it's in another state or a child that comes
4 here or parent that was with a highway patrol, I'm
5 just giving you examples. If you would, please stand
6 up.

7 The front row.

8 PROSPECTIVE JUROR: Laura Cameron.

9 THE COURT: Ms. Cameron, hold on one second.
10 Okay, 82, go ahead, Ms. Cameron.

11 PROSPECTIVE JUROR: So not immediate but my
12 brother-in-law is a police man for Richland County.

13 THE COURT: Would that affect your ability to be
14 fair and impartial in this case?

15 PROSPECTIVE JUROR: No, Your Honor.

16 THE COURT: He was not on the witness list; is
17 that correct?

18 THE CLERK: That's correct.

19 THE COURT: Okay, wonderful.

20 In the pink jacket, tell me your name.

21 PROSPECTIVE JUROR: I'm 353.

22 THE COURT: Okay, 353. 353, Ms. Pollock.

23 Go ahead, Ms. Pollock.

24 PROSPECTIVE JUROR: My son is a cop.

25 THE COURT: Where?

1 PROSPECTIVE JUROR: Columbia, South Carolina
2 mental health.

3 THE COURT: Okay, wonderful. And would that
4 affect your ability to be fair and impartial?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Was his name on the witness list
7 they went through?

8 THE CLERK: No, Your Honor.

9 THE COURT: Wonderful, thank you.
10 In the blue shirt.

11 PROSPECTIVE JUROR: Michael Dilback.

12 THE COURT: Michael Dilback.

13 Thank you, Mr. Dilback.

14 Number 119. 119.

15 Go ahead.

16 PROSPECTIVE JUROR: My oldest step-son, he works
17 with the Department of Corrections in prison.

18 THE COURT: So would that affect your ability to
19 be fair and impartial in this case?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Thank you.

22 Yes, sir.

23 PROSPECTIVE JUROR: I'm Bobby Hammonds.

24 THE COURT: 186. Number 186, Yeah, I got that.
25 186, 186.

1 Mr. Hammonds, you now work --

2 PROSPECTIVE JUROR: Highway patrol.

3 THE COURT: Would that affect your ability to be
4 fair and impartial in this case?

5 PROSPECTIVE JUROR: No, sir.

6 THE COURT: All right, thank you.

7 Just one second. Is there any member on the
8 jury panel or member of your immediate family belongs
9 to or contributes to any organization that supports
10 gun ownership? This would include but not exclusive
11 to the NRA, Gun Owners of America, anything like
12 that? All right.

13 Mr. Goff, are you a member of those groups?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Would that affect your ability to be
16 fair and impartial in this case?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Thank you.

19 Your name, ma'am?

20 PROSPECTIVE JUROR: Rosemarie Booze 46.

21 THE COURT: Hold on, Rosemarie Booze, okay. 46,
22 46.

23 Go ahead.

24 PROSPECTIVE JUROR: NRA.

25 THE COURT: Would that affect your ability to be

1 fair and impartial in this case?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Thank you.

4 Then Ms. Buie.

5 PROSPECTIVE JUROR: Right, 73.

6 THE COURT: Seventy-three, 73.

7 Go ahead.

8 PROSPECTIVE JUROR: NRA.

9 THE COURT: All right. Would that affect your
10 ability to be fair and impartial in this case?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Then Mr. Dilback 119, 119.

13 Go ahead.

14 PROSPECTIVE JUROR: Detective member, NRA.

15 THE COURT: Would that affect your ability to be
16 fair and impartial?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Okay. Great.

19 Okay, so the next question that I'm going to ask
20 the question is going to take the a little bit longer
21 that the other questions. What I'm trying to do is
22 ask a very inclusive question. So we're not going to
23 ask these in front of everybody. So anyone who needs
24 to answer this question, we're going to form a line.
25 Then you're going to come up and answer these

1 questions just in front of me and the attorneys,
2 okay. So you don't have to share this information
3 with the entire group. So what I'm looking for is do
4 you, that means you, apparently, or a member of your
5 immediate family. When I say immediate family, I
6 want you to think, parents, siblings, children, okay.
7 Have you ever been a victim of a violent crime? You
8 or a member of your immediate family. Or the flip
9 side of this, have you ever been accused or convicted
10 or arrested for a violent crime?

11 Okay, I'm now going to give you a bunch of
12 examples. Just so you understand what I mean by
13 this. So let's say don't put a qualifier on it, was
14 anybody a victim, okay? So if your home was broken
15 into five years ago and you -- no one ever arrested,
16 I want you to tell me that. If your mother, God
17 forbid, a awful example, but if your mother was
18 sexually assaulted as a small child, she never told
19 anybody, no one was ever arrested, I would want you
20 to come tell me, okay. So it's you, your parents,
21 your spouse, your children, your siblings, either a
22 victim or accused of or arrested of or a victim of a
23 violent crime. If you have a brother who is in
24 prison on a CDV right now or grand larceny, I would
25 want you to come tell me that, okay? I want you to

1 air on the side of giving me too much information as
2 opposed to too little information, okay? There's
3 nothing wrong with any of this, we're just collecting
4 information so we can make a good decision about who
5 to put on the jury, okay. So how many people need to
6 answer that question just raise your hand. Okay,
7 good.

8 So Mr. Bowen, raise your hand.

9 Form a line right down here.

10 Mr. Bowen, the attorneys may come forward.

11 If you would, please, put on your mask on, I
12 will do the same.

13 THE CLERK: 225, Clarence Johnson.

14 THE COURT: All right, this is 225.

15 225, come on up. All right, is this you or a
16 family member?

17 PROSPECTIVE JUROR: This is me.

18 THE COURT: Okay. What side of the case?

19 PROSPECTIVE JUROR: Which side?

20 THE COURT: Were you a victim?

21 PROSPECTIVE JUROR: I was the victim.

22 THE COURT: What kind of case was it?

23 PROSPECTIVE JUROR: Housebreaking.

24 THE COURT: How long ago was it?

25 PROSPECTIVE JUROR: About seven years ago.

1 THE COURT: What happened? Do you know what
2 happened with the case?

3 PROSPECTIVE JUROR: No, they just. . .

4 THE COURT: Would that affect your ability to be
5 fair and impartial in this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Okay. Thank you, just grab a seat.

8 THE CLERK: Number 44, Kristy Booker.

9 THE COURT: All right, this is 44. Forty-four.
10 Forty-four.

11 Okay, is that you or a family member?

12 PROSPECTIVE JUROR: Family member.

13 THE COURT: Okay. And victim of or defendant?

14 PROSPECTIVE JUROR: Victim.

15 THE COURT: What kind of case was it?

16 PROSPECTIVE JUROR: Murder.

17 THE COURT: What was the relationship to you?

18 PROSPECTIVE JUROR: Our brother.

19 THE COURT: Was he a victim of that?

20 PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: Okay, how long ago did that happen?

22 PROSPECTIVE JUROR: It happened about 15 years
23 ago.

24 THE COURT: In Richland County or somewhere
25 else?

1 PROSPECTIVE JUROR: Richland County.

2 THE COURT: What is his name?

3 PROSPECTIVE JUROR: Kenyan Booker.

4 THE COURT: All right. Would that affect your
5 ability to be fair and impartial in this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Thank you very much.

8 THE CLERK: Number 34, Jackson Benson.

9 THE COURT: Hello, is this you or a family
10 member?

11 PROSPECTIVE JUROR: Me.

12 THE COURT: Okay. Which case was it?

13 PROSPECTIVE JUROR: House was broken into.

14 THE COURT: How long ago?

15 PROSPECTIVE JUROR: November 15, 2018.

16 THE COURT: Okay. And was anybody arrested?

17 PROSPECTIVE JUROR: Not to my knowledge.

18 THE COURT: Okay. Would that affect your
19 ability to be fair and impartial in this case?

20 PROSPECTIVE JUROR: It would not.

21 THE COURT: Okay. I don't think there's any
22 allegations of housebreaking in this case. There's
23 no allegations of any housebreaking in this case.
24 Would that affect your ability to be fair and
25 impartial in this case?

1 PROSPECTIVE JUROR: It would not.

2 THE COURT: Okay. Thank you very much.

3 THE CLERK: Number 196, Ryan Hedlund.

4 THE COURT: 196, 196.

5 So you or a family member?

6 PROSPECTIVE JUROR: Family member. My spouse.

7 THE COURT: Your spouse. What's the nature of
8 the case?

9 PROSPECTIVE JUROR: She was a victim of sexual
10 assault.

11 THE COURT: How long ago?

12 PROSPECTIVE JUROR: About 11 years ago.

13 THE COURT: Was anybody arrested?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Okay. Would that affect your
16 ability to be fair and impartial?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: Thank you very much.

19 THE CLERK: Number 119, Michael Dilback.

20 THE COURT: 119, 119.

21 Mr. Dilback, you or a family member?

22 PROSPECTIVE JUROR: This is my twin sister that
23 was sexually assaulted when we were about eight years
24 old. He was never convicted. The State did not have
25 enough evidence. She was interviewed but he has

1 since died. My daughter was sexually assaulted by a
2 gentleman who now resides in North Carolina.

3 THE COURT: Would any of that have any -- would
4 that affect your ability to be fair and impartial in
5 this case?

6 PROSPECTIVE JUROR: Not to my knowledge.

7 THE COURT: So is there any allegation of sexual
8 assault in this case?

9 MS. SAMPSON: No, sir.

10 THE COURT: Okay, there's no allegations like
11 that in this case. So are you okay with being fair
12 and impartial?

13 PROSPECTIVE JUROR: Fine, thank you.

14 THE COURT: Great, thank you.

15 THE CLERK: Number 97. Ninety-seven, Melody
16 Cooke-McDuffie.

17 THE COURT: Ninety-seven, 97.

18 Is it you or a family member?

19 PROSPECTIVE JUROR: It's my nephew.

20 THE COURT: Okay. How long ago?

21 PROSPECTIVE JUROR: It's been many, many years
22 ago, still in prison. I think for assault.

23 THE COURT: Do you know what county his case
24 came out of?

25 PROSPECTIVE JUROR: It's out of Georgia.

1 THE COURT: Would that affect your ability to be
2 fair and impartial in this case?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Okay. Thank you.

5 THE CLERK: Number 46, Rosemarie Booze.

6 THE COURT: Forty-six, 46.

7 Is this you or a family member?

8 PROSPECTIVE JUROR: Myself, sexual assault.

9 THE COURT: Okay, when was that?

10 PROSPECTIVE JUROR: Three years ago.

11 THE COURT: Was anybody arrested?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Would that affect your ability to be
14 fair and impartial in this case? There's no
15 allegations of any sexual assault.

16 PROSPECTIVE JUROR: That's fine.

17 THE COURT: Okay, thank you.

18 THE CLERK: Number 209, Mallory Hoover.

19 THE COURT: 209, 209.

20 Is this you or a family member?

21 PROSPECTIVE JUROR: Two older sisters.

22 THE COURT: Go ahead.

23 PROSPECTIVE JUROR: Boyfriend sexually
24 assaulted.

25 THE COURT: How long ago was that?

1 PROSPECTIVE JUROR: About five years ago. This
2 was a very long time ago. Probably.

3 THE COURT: Was anybody arrested?

4 PROSPECTIVE JUROR: No. No.

5 THE COURT: This case has none of those kinds of
6 allegations but would that affect your ability to be
7 fair and impartial in this case?

8 PROSPECTIVE JUROR: (The prospective juror shook
9 her head.)

10 THE COURT: Okay. All right. Thank you.

11 THE CLERK: 501, Alan Goodman.

12 THE COURT: 501, 501.

13 Is that you or a family member?

14 PROSPECTIVE JUROR: It's myself.

15 THE COURT: What kind of case?

16 PROSPECTIVE JUROR: I walked in on somebody
17 breaking into my home.

18 THE COURT: Okay, how long ago was that?

19 PROSPECTIVE JUROR: About six years.

20 THE COURT: Was he arrested?

21 PROSPECTIVE JUROR: He was not to my knowledge.

22 THE COURT: Would that affect your ability to be
23 fair and impartial in this case?

24 PROSPECTIVE JUROR: No.

25 THE COURT: All right, thank you very much.

1 THE CLERK: Number 186, Bobby Hammonds.

2 THE COURT: 186, 186.

3 You or a family member?

4 PROSPECTIVE JUROR: Myself. Maybe pretrial
5 intervention, I have an expungement.

6 THE COURT: What kind of charge was that for?

7 PROSPECTIVE JUROR: Forgery.

8 THE COURT: Okay. All right. Would that affect
9 your ability to be fair and impartial in this case?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: Okay, thank you.

12 THE CLERK: Number 131, Kimberly Elmore.

13 THE COURT: 131, 131.

14 Is that you or a family member?

15 PROSPECTIVE JUROR: My husband shot and killed
16 himself.

17 THE COURT: When was that?

18 PROSPECTIVE JUROR: Seven years ago.

19 THE COURT: Would that affect your ability to be
20 fair and impartial in this case?

21 PROSPECTIVE JUROR: No.

22 THE COURT: All right. Thank you.

23 THE CLERK: Number 228, Travis Johnson.

24 THE COURT: 228. 228.

25 All right, Mr. Johnson, you or a family member?

1 PROSPECTIVE JUROR: Me. I personally have --
2 charge.

3 THE COURT: Oh, okay. Would that affect your
4 ability to be fair and impartial in this case?

5 PROSPECTIVE JUROR: No, sir.

6 THE COURT: Okay, thank you very much.

7 THE CLERK: Number 153, Rachael Fulmer.

8 THE COURT: 153, 153.

9 Is this you or a family member?

10 PROSPECTIVE JUROR: Me. I was sexually
11 assaulted.

12 THE COURT: How long ago?

13 PROSPECTIVE JUROR: About six years ago. I did
14 not report it.

15 THE COURT: Would that affect -- this case has
16 none of those kinds of allegations in it, would that
17 affect your ability to be fair and impartial in this
18 case?

19 PROSPECTIVE JUROR: It would not affect my
20 ability.

21 THE COURT: Okay. Thank you.

22 All right, I went through everybody, is there
23 any other questions?

24 MR. WILLIAMS: Get some information down to this
25 page. Did I share that?

1 THE COURT: Okay. Okay good. All right, is
2 there any voir dire you want me to ask? I think I
3 covered all of them. Okay.

4 Sometimes we all laugh with each other, that's
5 because we do serious cases every single week of our
6 lives. So sometimes if we don't laugh with each
7 other, joke with each other you would get a little
8 bit crazy being up here. We have probably been up
9 here for too long and when we laugh like that we're
10 just trying to enjoy being around each other while
11 still doing their jobs.

12 Okay. All right, so we have gone through all
13 the questions that I need to ask you. I appreciate
14 your candor with us. I know that's not a fun
15 experience. But it's very important for the lawyers
16 as they're going over their list right now. The
17 State and The Defense gets to excuse so many of you
18 for free, okay. And so they need -- they're trying
19 to get as much information as they can to process
20 through to be able to make good decisions about what
21 to do and who to select and who not to select. So
22 while they're kind of going over the list, I'll kind
23 of tell you how we use to do this. So we use to do,
24 there use to be this big wheel, it's out there so if
25 you get the opportunity to go out there, you'll see

1 this big box and has these little numbers in it,
2 right? And they would have -- you would turn the
3 wheel and it would spin up all the numbers and then
4 you would have a blind person that would -- the blind
5 person would, actually, reach down into the thing and
6 pull out the number of this next juror that came up.
7 So now we have computers and we've had them for about
8 three years, that's a joke, okay. All right.
9 Sometimes I'm funny, most of the time I'm not.

10 But now we have a computer system that takes all
11 40 of your names and completely and totally shuffles
12 you. So it puts you in a completely and totally
13 random order. So you have no control over whether
14 you're number one or you're number 40. Does that
15 make sense? And so, there's nothing that you can do
16 at this point in time. So what's going to happen is
17 we're going to call your names up, one at a time and
18 so when your name is called, if you would gather all
19 of your belongings and you'll come stand right here.

20 Ms. Pat, show them where to stand.

21 Come stand right there, just face out to the
22 audience. And then they'll ask The State do they
23 want to keep you or excuse you. Then they'll ask The
24 Defense do they want to keep you or excuse you. So
25 if either side says excuse you, excuse the juror,

1 then just go back to your seat. If both sides say
2 present or swear the juror, then you'll come right
3 over here to Mr. Tolbert and Mr. Tolbert is raising
4 his hands. And we'll show you to a much more
5 comfortable seat than that one you're in now, okay.

6 So we're going to pick 12 jurors. And then
7 we'll have two alternates for the case. The
8 alternates are just as important as the normal
9 jurors. I cannot remember the last trial where I did
10 not have to sit an alternate, okay. So alternates
11 are extremely important. And so, we'll bring you
12 over here, then give you a little bit of information.
13 Then everybody will be excused for the day and then
14 we'll actually start the trial tomorrow morning,
15 okay. So juts bear with us, grab all of your stuff
16 when your name is called. And just so the record's
17 clear, both sides did submit voir dire. And I'm
18 pretty sure I asked almost every single question on
19 both sides. There was a lot of overlap.

20 So any further voir dire from The State?

21 MS. SAMPSON: No, sir.

22 THE COURT: Any further voir dire from The
23 Defense?

24 MR. WILLIAMS: None from The Defense, Your
25 Honor.

1 THE COURT: Okay. Is The State ready to
2 proceed?

3 MS. SAMPSON: Yes, sir.

4 THE COURT: Is The Defense ready to proceed?

5 MR. WILLIAMS: Yes, Your Honor.

6 THE COURT: Okay. And the strikes are five and
7 five; is that right?

8 MS. SAMPSON: Five and ten, I believe. She's
9 charged with attempted murder.

10 THE COURT: I think it's five and five.

11 MS. SAMPSON: You're correct, Your Honor.

12 THE COURT: Uh?

13 MS. SAMPSON: You're correct.

14 THE COURT: Yeah, it's five and five.

15 Mr. Williams, you want to stand up--

16 (WHEREUPON, laughter erupted in the courtroom.)

17 THE COURT: That is the quietest he will be the
18 entire trial, guarantee.

19 Strikes are five and five. I'm pretty sure, I
20 got my list right here. Yeah, okay. Five and five.
21 We'll pick two alternates. One and two on each
22 alternates.

23 All right, you ready Pat?

24 THE CLERK: Yes, Your Honor.

25 THE COURT: All right, when your name is called,

1 grab all your stuff and come on down.

2 THE CLERK: Number 223, Harold Jeter.

3 (Harold Jeter, a black male, came forward.)

4 MS. SAMPSON: Would you repeat that Pat, I'm
5 sorry?

6 THE CLERK: Number 223, Harold Jeter.

7 THE COURT: Come on down Mr. Jeter.

8 THE CLERK: What says The State?

9 MS. SAMPSON: Please present the juror.

10 THE CLERK: What say The Defense?

11 MR. WILLIAMS: Please excuse the juror from
12 trial of the case.

13 THE CLERK: Please have a seat.

14 Number 209, Mallory Hoover.

15 (Mallory Hoover, a white female, came forward.)

16 THE COURT: Come on up, Ms. Hoover, thank you.

17 THE CLERK: What says The State?

18 MS. SAMPSON: Please present the juror.

19 THE CLERK: What says The Defense?

20 MR. WILLIAMS: Please swear the juror.

21 THE CLERK: Please have a seat in the jury box.

22 Number 501, Alan Goodman.

23 (Alan Goodman, a white male, came forward.)

24 What says The State?

25 MS. SAMPSON: Please seat the juror.

1 THE CLERK: What says The Defense?

2 MR. WILLIAMS: Please swear the juror.

3 THE CLERK: Please have a seat in the jury box.

4 Number 196, Ryan Hedlund.

5 (Ryan Hedlund, a white male, came forward.)

6 What says The State?

7 MS. SAMPSON: Please present the juror.

8 THE CLERK: What says the Defense?

9 MR. WILLIAMS: Please swear the juror.

10 THE CLERK: Please have a seat in the jury box.

11 Number 85, Zachary Cartledge.

12 (Zachary Cartledge, a black male, came forward.)

13 What says The State?

14 MS. SAMPSON: Please present the juror.

15 THE CLERK: What says The Defense?

16 MR. WILLIAMS: Please swear the juror.

17 THE CLERK: Please have a seat in the jury box.

18 Number 48, Nicholas Bostick.

19 (Nicholas Bostick, a black male, came forward.)

20 What says The State?

21 MS. SAMPSON: Please present the juror.

22 THE CLERK: What says The Defense?

23 MR. WILLIAMS: Please swear the juror.

24 THE CLERK: Please have a seat in the jury box.

25 Number 44, Kristy Booker.

1 (Kristy Booker, a black female, came forward.)

2 What says The State?

3 MS. SAMPSON: Please present the juror.

4 THE CLERK: What says the Defense?

5 MR. WILLIAMS: Please swear the juror.

6 THE CLERK: Please have a seat in the jury box.

7 Number 97, Melody Cooke-McDuffie.

8 (Melody Cooke-McDuffie, a white female, came
9 forward.)

10 What says The State?

11 MS. SAMPSON: Please present the juror.

12 THE CLERK: What says The Defense?

13 MR. WILLIAMS: Please swear the juror.

14 THE CLERK: Please have a seat in the jury box.

15 Number 34, Jackson Benson.

16 (Jackson Benson, a white male, came forward.)

17 What says The State?

18 MS. SAMPSON: Please present the juror.

19 THE CLERK: What says The Defense?

20 MR. WILLIAMS: Please swear the juror.

21 THE CLERK: Please have a seat in the jury box.

22 Number 153, Rachael Fulmer.

23 (Rachael Fulmer, a white female, came forward.)

24 What says The State?

25 MS. SAMPSON: Excuse the juror.

1 THE CLERK: Please take your seat.

2 Number 332, Mya Oberry.

3 (Mya Oberry, a black female, came forward.)

4 What says The State?

5 MS. SAMPSON: Please present the juror.

6 THE CLERK: What says the Defense?

7 MR. WILLIAMS: Please excuse the juror from the
8 trial of this case.

9 THE CLERK: Please take your seat.

10 Number 353, Cheryl Pollock.

11 (Cheryl Pollock, a black female, came forward.)

12 What says The State?

13 MS. SAMPSON: Please present the juror.

14 THE CLERK: What says The Defense?

15 MR. WILLIAMS: Please swear the juror.

16 THE CLERK: Please have a seat in the jury box.

17 Number 119, Michael Dilback.

18 (Michael Dilback, a white male, came forward.)

19 What says The State?

20 MS. SAMPSON: Please excuse the juror.

21 THE CLERK: Please take your seat.

22 Number 24, Tameka Baxter.

23 (Tameka Baxter, a black female, came forward.)

24 What says The State?

25 MS. SAMPSON: Please present the juror.

1 THE CLERK: What says The Defense?

2 MR. WILLIAMS: Please excuse the juror from the
3 trial of this case.

4 THE CLERK: Please take your seat.

5 Number 73, Jane Buie.

6 (Jane Buie, a white female, came forward.)

7 What says The State?

8 MS. SAMPSON: Please excuse this juror.

9 THE CLERK: Please take your seat.

10 Number 94, Velda Coleman.

11 (Velda Coleman, a black female, came forward.)

12 What says the State?

13 MS. SAMPSON: Please present the juror.

14 THE CLERK: What says The Defense?

15 MS. SAMPSON: Please swear the juror.

16 THE CLERK: Please have a seat in the jury box.

17 Number 155, Curtrell Gadson.

18 (Curtrell Gadson, a black female, came forward.)

19 What says The State?

20 MS. SAMPSON: Please present the juror.

21 THE CLERK: What says The Defense?

22 MR. WILLIAMS: Please excuse the juror from the
23 trial of the case.

24 THE CLERK: Please take your seat.

25 Strike count is four for The Defense, three for

1 The State.

2 Number 162, Ameila Gavin.

3 (Amelia Gavin, a white female, came forward.)

4 What says The State?

5 MR. GIPSON: Court's indulgence.

6 THE COURT: Yes, sir.

7 THE CLERK: What says the state?

8 MS. SAMPSON: Please excuse this juror.

9 THE CLERK: Please take your seat.

10 Number 385, Joselynella Santos.

11 (Joselynella Santo, a Hispanic female, came
12 forward.)

13 What says The State?

14 MS. SAMPSON: Please present this juror.

15 THE CLERK: What says The Defense?

16 MR. WILLIAMS: Please swear the juror.

17 THE CLERK: Please have seat in the jury box.

18 THE COURT: Is that Ms. Santos?

19 THE CLERK: Yes, sir.

20 Number 131, Kimberly Elmore.

21 (Kimberly Elmore, a white female, came forward.)

22 What says The State?

23 MS. SAMPSON: Please present the juror.

24 THE CLERK: What says The Defense?

25 MS. SAMPSON: Please swear the juror.

1 THE CLERK: Please have a seat in the jury box.

2 THE COURT: All right, we'll do two alternates,
3 strikes will be one and two on each alternate and
4 we'll start over.

5 THE CLERK: Number 82, Laura Cameron.

6 (Laura Cameron, a white female, came forward.)

7 What says The State?

8 MS. SAMPSON: Please present the juror.

9 THE CLERK: What says The Defense?

10 MR. WILLIAMS: Please excuse the juror from the
11 trial of this case.

12 THE CLERK: Please take your seat.

13 Number 226, Jody Johnson.

14 (Jody Johnson, a black female, came forward.)

15 What says The State?

16 MS. SAMPSON: Please present this juror.

17 THE CLERK: What says The Defense?

18 MR. WILLIAMS: Please swear the juror.

19 THE CLERK: Please have a seat in the jury box.

20 THE COURT: Strikes will start over.

21 THE CLERK: Number 192, Marissa Hartert.

22 (Marissa Hartert, a white female, came forward.)

23 What says The State?

24 MS. SAMPSON: Please present the juror.

25 THE CLERK: What says The Defense?

1 MR. WILLIAMS: Please swear the juror.

2 THE CLERK: Please have a seat in the jury box.

3 THE COURT: All right. Any exceptions to the
4 jury selection process from The State?

5 MS. SAMPSON: None from The State, Your Honor.

6 THE COURT: From The Defense?

7 MR. WILLIAMS: None from The Defense, Your
8 Honor.

9 THE COURT: All right, ladies and gentlemen, if
10 you're in the audience, congratulations, you did not
11 make it on this jury. Y'all are not really laughing
12 today, usually I get a better laugh than that. Y'all
13 might need like a cup of coffee or something to keep
14 you awake. Okay. All right. So those you who are
15 in the audience, you're about to be excused. I say
16 you're supposed to call into the number at tonight,
17 you all have that number? Yes, no? No. Okay.

18 Mr. Truitt.

19 MR. TRUITT: Send them down to the jury assembly
20 room, Your Honor, and I'll take care of it.

21 THE COURT: Yeah, just don't keep them long,
22 just get them the number.

23 So if you're out in the audience, I'm going to
24 excuse you. You're going to go back downstairs to
25 the jury assembly room where they're going to give

1 you a number, don't leave yet. Do not leave yet.
2 Where they're going to give you a number that
3 instructs you to call in after six o'clock at night
4 for any further instructions for the rest of the
5 week. You're welcome to go back to work. You're
6 welcome to go back to work tomorrow. And just call
7 in to the number at night for any further
8 instructions for the next day. More than likely,
9 chances are, there's probably 95 percent chance I
10 will not see any of you the rest of this week. I
11 want to say thank you very much for being here.
12 Thank you very much for being willing to serve.
13 Thank you very much for your time up here today. It
14 is much appreciated and we can't do the things that
15 we need to get done at this courthouse without good
16 citizens being willing to serve on jury. So your
17 service is much appreciated and I thank you very
18 much. And I hope you have a wonderful week. All
19 right, you may go back downstairs.

20 (WHEREUPON, the jury venire left the courtroom
21 at approximately 2:30 p.m.)

22 THE COURT: All right, let me get them out of
23 the room, then I'm going to take up about 10 minutes
24 of your time, then I'm going to excuse you for the
25 day, we'll start fresh tomorrow morning, okay. So

1 let me just get them out of the room, then I'll give
2 you some instructions, then we'll get you out of
3 here, okay. Just give me a second.

4 So, all right, ladies and gentlemen of the jury,
5 again, my name is Robert Hood. And thank you very
6 much for being here and being willing to serve. You
7 will probably hear me say that so many times. You'll
8 think I'm crazy but I really do mean that, okay. We
9 spent almost a year with virtually no jury trials
10 anywhere in the state, really. We did a few at the
11 end of last year and we've done a few since we've
12 been given permission to go back. But you don't know
13 what a pleasure it is to be back in real live court
14 as opposed to virtual courtrooms. I think I'm about
15 ready to throw all virtual courtrooms away.

16 And so, as you will see or as you probably don't
17 know this, but this is not what this courtroom looked
18 like a year ago, okay. All these partitions that are
19 up were not here. The way you are all spaced out did
20 not exist, you were all literally in that one box.
21 These partitions that are up, wearing the mask, all
22 of that, that did not exist a year ago, okay. So
23 we've done a lot, the court -- when I say we, I mean
24 the courthouse staff, the judges in the building, the
25 lawyers, have done a lot to try to make this as safe

1 a process for you as humanly possible, okay.

2 Normally, we would put all 12 of you back here in a
3 jury room. It's probably too small to hold 12 or 14
4 of you.

5 We're going to divide you up into groups of four
6 or five and spread you out amongst multiple jury
7 rooms to try keep the spacing. So we're doing
8 everything we can. And we have been given permission
9 by South Carolina Court Administration to be able to
10 hold jury trials in this county. And one of the
11 reasons we can is because we have so much space. So
12 we're doing everything we can to keep you safe. The
13 lawyers will not be required to wear their mask when
14 they're arguing. They're also not going to be on top
15 of you. So that's why those glass partitions are up.
16 They will be allowed to move about the courtroom as
17 they need to.

18 But the witnesses will also not be wearing a
19 mask. They'll wear a mask to and from the witness
20 stand but once they get up there, they will be able
21 to take off the mask because you will be judging
22 their credibility. So your ability to see them and
23 see how they react or see what their facial
24 expressions are, are critically important to the
25 case. And to the Bill of Rights and the things that

1 the Constitution guarantees people that are accused
2 of crimes in this country.

3 So what I need to do now over the next few
4 minutes is, I'm going to kind of give you a who's who
5 in the courtroom, so you know. Then I'm going to
6 give you some rules that you need to follow and then
7 we're going to show you how to go out and how to come
8 back in tomorrow morning, okay. So who's who in the
9 courtroom. So seated to my left, this is Kate Hile
10 and she is my law clerk. That means she is employed
11 by me. So she has graduated from law school, she has
12 taken the bar examine, she has passed the bar examine
13 and she's chosen to spend her first year of
14 practicing law working with me. She will be leaving
15 me in a few weeks to go clerk for a Judge on the
16 South Carolina Supreme Court. So she's going to go
17 from not so smart person to a really smart person.
18 And she'll be in full-blown shock but that's okay.
19 So we're happy for her.

20 While this case is going on, I'm also the chief
21 administrative judge for every single criminal case
22 in the entire county, in the entire circuit, which is
23 Richland, Kershaw County. So there's probably 300
24 other plates spinning in the air as I'm sitting in
25 here and giving you my undivided attention. And Kay

1 is the one spinning all those plates. So if you see
2 her on her computer or you see her go in or go out,
3 she's just managing what we're doing in this case and
4 managing all of that at the same time. So she works
5 for me and she may be in here, she may not be in
6 here. She may be running in and out but you don't
7 need to worry about what she's doing. She's just
8 keeping the world -- the train moving in the right
9 direction, okay.

10 Seated down below me is Ms. Pat Falcone, she's
11 from the clerk's office. She'll be swearing in
12 witnesses and handling the exhibits. And then around
13 the courtroom you will see in the burgundy blazers
14 are the bailiffs. So back in the corner is Mr. Die.
15 Down front is Mr. Bowen. Mr. Tolbert's right here.
16 Mr. Brown's in the back of the room. Normally, you
17 have about three bailiffs but they don't have
18 anything else to do so they like to come hang out
19 with me, all right. So they're going to take real
20 good care of you. They'll show you how to come in,
21 they show you how to go out. They'll also get your
22 phone number from you. That phone number is not for
23 public dissemination, that's just in case we can't
24 find you, okay. And we'll talk about being on time
25 here in just a few moments. But they'll get that

1 information from you, they'll show you where your
2 jury rooms are. They'll greet you in the morning,
3 they'll make sure you're fine and where you know
4 where you're going and what you're doing. And
5 they'll take really good care of you, okay.

6 Seated over her to my right, this is Ms. April
7 Herron. And she is our court reporter. And I like
8 to say that the court reporter is the most important
9 person in the room. She is the only person who is
10 always working, okay. So lawyers may get a break or
11 I may not have to be talking but she is always taking
12 record of what occurs in this courtroom. So if she
13 needs a break or if she needs to take a break, I give
14 her a break.

15 Likewise, this happens. Now -- and this happens
16 I would say every single case I ever tried. At some
17 point, either the witness and the lawyers start
18 talking over each other or the lawyers start talking
19 over each other or someone thinks they can talk over
20 me, something, those things happen, okay. It's
21 really just human nature, all right. The problem
22 with that is when there's two or three voices talking
23 at one time, she can't take down but one voice at a
24 time, right. And so, we want the record of what she
25 creates in the courtroom to be accurate. So if that

1 happens, you may hear me go, Shh or stop talking. Or
2 sometimes I say time out, okay. And everybody's
3 going to get a chance to speak and everybody will get
4 a chance to answer the questions, but they've got to
5 do it one person at a time so that April's record of
6 what she takes down will be correct and accurate,
7 okay. So April will be with us for today, she may or
8 may not be back tomorrow. If not, we'll have a
9 different court reporter and that will be okay too.
10 But that's who the court reporter is and that's kind
11 of their role in the courtroom.

12 So we're going to switch gears a little bit
13 right now, kind of talk to you about what a normal
14 day will look like, okay. So normally our days will
15 start at 9:30. We'll take a morning break, we'll
16 take an afternoon break, we'll take a lunch break.
17 And then, normally, each days ends at about 5:00 or
18 5:30. What do I mean by 5:00 or 5:30? So, if it's
19 five o'clock and the next witness is short, we'll
20 drive through and knock out that witness, okay. If
21 it's five o'clock and we know the next witness is
22 going to be an hour, we'll just stop for the day,
23 then start that witness fresh in the next morning,
24 okay.

25 With that said, one of the most important things

1 about this process is that you are on time, okay.
2 Now, these lawyers know me and they've known me since
3 I was on the bench, they knew me when I was a lawyer,
4 they know I like to be on time, okay. So if I'm not
5 here in morning on time, it's because I'm either
6 deceased or in the hospital, okay. So I will not be
7 late. I'm not one of those judges that, you know,
8 everybody is sitting around waiting until eleven
9 o'clock for them to show up, okay. I like to be on
10 time and I like to make the best use of your time as
11 humanly possible, okay.

12 So there are times when things come up that I
13 have to take up outside of your presence, okay. So
14 you may have to wait for 10 or 15 minutes. But as a
15 general rule, we can't do anything until all of you
16 are here, okay. So everybody knows that family
17 member that's 10 or 15 minutes late to everything,
18 people kind of make fun of them about it or they joke
19 with them about it. Or you may be that person that's
20 10 or 15 minutes late to everything. Well, this week
21 is your week to turn over a new leaf, okay. Because
22 if you are late tomorrow or coming back from lunch
23 tomorrow or the next day, then not only are you
24 holding me up, you're holding 13 other jurors up,
25 you're holding up four bailiffs, you're holding up a

1 court reporter, a law clerk, a courtroom clerk, three
2 lawyers for The State, two lawyers for The Defense
3 and how many ever witnesses are lined up. No one can
4 do anything until all 14 of you are here, okay.

5 So I say all that to say, be on time, okay. So
6 if you need to leave a little early or you think you
7 may need to leave a little bit early, just leave a
8 little bit early. Because I'd rather have you up
9 here, drinking a cup of coffee, waiting on us to
10 start, then us -- me walking around the back halls
11 tomorrow morning trying to figure out where you are,
12 okay. So I do need you to be on time.

13 Mr. Hedlund, where's Mr. Hedlund? Keep your
14 seat, keep your seat. You're going to be the
15 foreperson of this jury, you're going to sit right
16 where this young lady is seated. Not right now, just
17 tomorrow when you come back in, okay.

18 Where are my two alternates? Okay.

19 Where do we put those two alternates,
20 Mr. Tolbert?

21 THE BAILIFF: Back here.

22 THE COURT: So make sure we put the alternates
23 where they go.

24 No one else has an assigned seat, you may sit
25 wherever you want to. If you're cold and you want to

1 bring a sweater for tomorrow, that's perfectly fine.
2 If you need to leave it in the jury room, that's fine
3 too. But, you know, generally speaking, the
4 courtroom gets colder as the week goes on because
5 they turn off the air conditioning over the weekend,
6 okay.

7 Now, let's give you some rules. These rules
8 apply from this point forward. From this point
9 forward, here are the rules. Number one, and the
10 most awkward rule and the rule that makes the least
11 sense is the most important rule, okay. So if you
12 haven't been listening to me now is the time to turn
13 on your ears, okay. As I say to my children, turn on
14 your ears and start listening. You are not allowed
15 to talk about this case in any way, shape or form
16 with anyone, including each other. Let me say that
17 again. You're not allowed to discuss this case or
18 anything about it with anyone, including each other.
19 That means you can't talk about it with your spouse,
20 with your partner, with your boyfriend, with your
21 girlfriend, with your parents, with your children,
22 with your employer, with your best friend, you can't
23 talk about it on Facebook, on Twitter, on Instagram,
24 on some kind of app that I don't even know what it
25 is. You cannot discuss this case or anything about

1 it with anyone, okay.

2 Yes, sir.

3 A JUROR: Is that ever or while we're here?

4 THE COURT: Until I tell you differently. Got
5 it? Okay.

6 The reason is because I do not want any outside
7 influences to influence you, okay. So when you --
8 right now, all 14 of you have told me you don't know
9 anything about this case. Okay. When you come back
10 tomorrow morning at 9:30, I want you to be the exact
11 same way, okay. I want you to learn about whatever
12 this case is about from the witness stand and from
13 the evidence, not from some kind of outside
14 influence. Does that make sense? Okay. So do that,
15 you can't talk about it, okay. So you're going to
16 want to -- when you go back on a break, you're going
17 to be, like, did you hear what that witness just
18 said? You can't say that. You can talk about how
19 bad the Gamecock football team is, okay. You can
20 talk about all the issues that are going on at USC
21 right now. You can talk about how good the Clemson
22 football team is. You can talk about how this is the
23 nicest spring weather we've had in many, many years
24 but you cannot talk about this case. All right. You
25 with me? Okay.

1 Nor can you let anybody talk to you. So if
2 somebody tries to talk to you about the case, you
3 need to report it to me. All right, you follow?
4 Okay. That's rule number one. Rule number two,
5 you're not allowed to do any research about this
6 case, okay. So you can't Google this case or try to
7 figure out, is there a news story about this case?
8 Or is there not a news story about this case? You
9 can't go Google the witnesses. You can't go Google
10 the parties or Google the lawyers. You can't even go
11 pick up a dictionary and look up a word that I say
12 today that you don't understand, okay. You have to
13 base your decision on the evidence that comes in in
14 this courtroom and the law that I give you with no
15 outside influences.

16 Number three, you're not allowed to have any
17 contact with anybody involved in the case, okay. So
18 if these lawyers see you in the hallway, they're not
19 even going to say hello. They're going to ignore
20 you. They're not being rude, they're just following
21 my instructions. I promise you I have lived through
22 it, an innocent good morning or good afternoon seen
23 by the other side is always misconstrued, okay. If
24 they see you, they're going to completely and totally
25 ignore you. If I see you in the hallway, I'm going

1 to speak to you and say good morning. But they're
2 going to ignore you, okay. Everybody follow me on
3 that? No contact. Don't let anybody have any
4 contact with you. Be on time, okay. We want to get
5 this thing moving and get it moving in the right
6 direction, okay.

7 And last but not least, I want to say thank you,
8 again, for being here. We will start tomorrow
9 morning at 9:30, at 9:30, at 9:30. That means be on
10 time. When you exit right now, the bailiffs will
11 show you how to go out of the building, they'll show
12 you how to come back in the building. It's about
13 3:15, so you've only been here a little over an hour
14 this afternoon. We appreciate your service and we'll
15 be ready to start tomorrow morning at 9:30, okay.

16 All right, anything from The State before we
17 excuse the jury for the evening?

18 MS. SAMPSON: No, sir.

19 THE COURT: And from The Defense before we
20 excuse the jury?

21 MR. WILLIAMS: Nothing from The Defense, Your
22 Honor.

23 THE COURT: Thank you, Mr. Williams.

24 All right, ladies and gentlemen, have a great
25 day, we'll see you at 9:30 tomorrow morning.

1 (WHEREUPON, the jury left open court at
2 approximately 3:15 p.m.)

3 THE COURT: All right, let's go ahead and knock
4 out this issue of Ms. Fortson's lack of presence.
5 And for the record, here's what happened. So we were
6 notified this morning during jury qualifications by
7 Mr. Williams, that Ms. Fortson was, potentially,
8 having some medical issues. She apparently did not
9 go to the hospital but spent some portion of the
10 morning traveling around trying to find some clinic
11 that was opened or med care or something like that.
12 I told them to be ready to go at two o'clock. We
13 came back at two o'clock. At two o'clock
14 Mr. Williams -- for whatever reason the jurors were
15 already in the courtroom. So at that point in time
16 Mr. Williams was planning on putting this issue on
17 the record at that point in time. But instead of me
18 having to send all 40 jurors back downstairs and then
19 bring all 40 jurors back upstairs, that's why I said
20 at the beginning, he's protected for the record in
21 making his argument prior -- making it prior to the
22 jury selection process starting.

23 And so, what do we know about Ms. Fortson and
24 what's going on with her at this point, Mr. Williams?

25 MR. WILLIAMS: And, Your Honor, that argument

1 would have been for a continuance, if I had done a
2 motion that was made on the record at that time. We
3 now know, Your Honor, that she has been diagnosed
4 with a case of food poisoning. The note, which I
5 showed to the solicitor and Your Honor, was that --
6 and I have a copy of it on my cell phone, believe it
7 or not, and it's from Doctor's Care. Let me -- I can
8 sent it to the Court, it's being emailed--

9 THE COURT: That's fine, you can send it after
10 the hearing. I believe you for what it says on
11 there.

12 MR. WILLIAMS: Your Honor, this is -- she went,
13 ultimately, went to the Doctor's Care on Forrest
14 Drive. Your Honor, I have, what has been sent to me,
15 is from Doctor's Care, it was sent out at 2:24 this
16 afternoon. It is sent out by a Charkavious [ph]
17 Dorsey. It is -- and I told the client that they
18 need something to designate what was wrong with them.
19 It states on here, Reason for visit, possible food
20 poisoning. It says -- it's got a nurse practitioner
21 listed here. A FNP Lindsey. And it says that this
22 date it says that she is allowed to return to work
23 slash school on May the 19th. For the Court's
24 edification, Judge--

25 THE COURT: I believe you.

1 MR. WILLIAMS: Okay. That's what it shows.

2 THE COURT: Okay. I mean, do we know when she
3 got food poisoning?

4 MR. WILLIAMS: I don't know that, Your Honor.
5 The only thing I know is I that I received a phone
6 call from her mother at eight o'clock saying that she
7 had been throwing up all night. It was both ways.
8 Her mother had actually told me she thought it was
9 related to a back injury because she had injured her
10 back this past week. But those types of symptoms
11 don't normally come from any kind of back injury
12 unless you got some kind of kidney infection, I
13 guess. But -- so it's, obviously, not a COVID
14 situation. Because I'm sure they test you for that
15 immediately. But it appears to be some sort of food
16 problem. I did tell her to go to the hospital, Your
17 Honor, or emergency room, whatever. It may be a
18 question of money for some clients but she eventually
19 got to the doctor as I instructed her to. And they
20 got a diagnosis of what was wrong with her.

21 THE COURT: All right.

22 What's The State's position?

23 MS. SAMPSON: Your Honor, The State's position
24 is we're ready to proceed. Ms. Fortson was given
25 notice. I don't believe that Mr. Williams is arguing

1 that she didn't have notice and that not why she's
2 not physically here.

3 MR. WILLIAMS: Notice is not an issue, Your
4 Honor.

5 THE COURT: Okay.

6 MS. SAMPSON: So based on that, Your Honor,
7 we're prepared to go forward. We are flying a
8 witness in from Iowa. And we have a doctor on
9 standby who was told to be here tomorrow morning and
10 he arranged his schedule to do that. They're both
11 under subpoena. And we will do what Your Honor tells
12 us to do in terms of we can go forward, we're ready
13 to proceed or we can stop and, I guess, start back on
14 Wednesday morning if that's what Your Honor wants us
15 to do. But we are ready to go forward.

16 THE COURT: What is it you're requesting,
17 Mr. Williams?

18 MR. WILLIAMS: Judge, obviously, on behalf of my
19 client, I request that we start Wednesday morning so
20 that she can be present during the trial.

21 THE COURT: I mean, do we really think she can't
22 be here tomorrow?

23 MR. WILLIAMS: Your Honor, I can only tell you
24 what I see in writing. And that is a Return to work
25 on Wednesday. I have no idea as to her abilities --

1 the one thing that is good, Your Honor, is it appears
2 to be that it's not a communicable type of issue.

3 THE COURT: Well, that's true. Agree with that
4 statement.

5 So who do you have flying in, where?

6 MS. SAMPSON: Shawn Schroder, he's one of the
7 investigators. He's flying in -- he's scheduled to
8 fly in tomorrow and testify tomorrow and literally
9 fly back out. And then Dr. Guy is also on for
10 tomorrow. He arranged his schedule -- he's an
11 orthopedic surgeon, so he did not do surgeries
12 tomorrow because we were going to put him up
13 tomorrow. So he would have to rearrange his schedule
14 in order to be here. And the only thing I would ask
15 is if we were -- I guess this goes against what
16 Mr. Williams is asking, we'll be happy to handle
17 pre-trial, Neil vs. Biggers, if we're not going to
18 start until Wednesday, I ask that we can do the
19 Biggers to get it out of the way. So that when we
20 start on Wednesday, we are starting on Wednesday, but
21 I will do whatever Your Honor wants.

22 THE COURT: Did we get phone numbers, Mr. Bowen?

23 THE BAILIFF: He's getting them now.

24 THE COURT: Who is?

25 THE BAILIFF: Mr. T.

1 THE COURT: Are they all still here?

2 THE BAILIFF: They're still here.

3 THE COURT: All right, tell them to go hold them
4 for one second.

5 So you think we can do the Biggers today?

6 MR. WILLIAMS: Judge, I think that's probably
7 fine. I don't know that she needs to be present.

8 THE COURT: Okay.

9 Well, there's -- how many witnesses -- well,
10 there's a lot of witnesses on here. How many
11 witnesses are y'all really calling?

12 MS. SAMPSON: Theoretically -- I'm sorry, Your
13 Honor, I didn't walk down here with the actual
14 witness list. We have, potentially, 20.

15 THE COURT: Twenty.

16 MS. SAMPSON: I don't think we will call all of
17 them. But that's potential. They're chain, they're
18 chain.

19 THE COURT: I thought this was a driveby
20 shooting case?

21 MS. SAMPSON: They're neighbors. A standby
22 shooting, maybe, a better way of saying it. But six
23 of those are chain. So even when I'm saying that
24 many, six of them are specifically just chain.

25 THE COURT: What's the chain issue?

1 MS. SAMPSON: There's gunshot residue.

2 THE COURT: Okay.

3 MS. SAMPSON: So there's the chain on the
4 gunshot residue. On, unfortunately, several people.

5 THE COURT: Okay. All right. Well, I say we go
6 ahead and do the Biggers this afternoon and then
7 we'll start Wednesday morning. And Ms. Fortson needs
8 to be told if she ain't here, we're going forward
9 without her.

10 MR. WILLIAMS: Yes, sir.

11 THE COURT: This case is four years old.

12 MR. WILLIAMS: Your Honor, for the Court's
13 edification, I realize I'm not required to tell you
14 but I'm going to go ahead and tell you now. We only
15 have one witness and that witness will testify.

16 THE COURT: All right. Okay. Y'all hang tight,
17 let me go tell them Wednesday morning at 9:30.

18 (WHEREUPON, there was a pause in the record.)

19 THE COURT: All right, knock out the Biggers.

20 MS. SAMPSON: Just for the record, there was a
21 out-of-court identification made by one of our victim
22 slash witnesses, Mr. Cruz. So it's my understanding
23 that Mr. Williams is objecting to the introduction of
24 the out-of-court identification; and therefore, we
25 would like to have a Neil vs. Biggers hearing.

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1 WEDNESDAY, MAY 19, 2021

2 (COURT RESUMES AT 9:32 A.M.)

3 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBITS
4 1-64, 70-73, 77-78 FOR IDENTIFICATION.)

5 (CD OF 911 CALLS MARKED AS STATE'S EXHIBIT NUMBER 65
6 FOR IDENTIFICATION.)

7 (CLOTHES MARKED AS STATE'S EXHIBIT NUMBER 66 FOR
8 IDENTIFICATION.)

9 (BAG FROM VICTIM'S HAND MARKED AS STATE'S EXHIBIT
10 NUMBER 67 FOR IDENTIFICATION.)

11 (METAL FRAGMENTS MARKED AS STATE'S EXHIBIT NUMBER 68
12 FOR IDENTIFICATION.)

13 (GUN PAPERWORK MARKED AS STATE'S EXHIBIT NUMBER 69 FOR
14 IDENTIFICATION.)

15 (CRIME SCENE LOG MARKED AS STATE'S EXHIBIT NUMBER 74
16 FOR IDENTIFICATION.)

17 (GSR FORMS INDIVIDUALLY MARKED AS STATE'S EXHIBITS 75,
18 76 FOR IDENTIFICATION.)

19 (GSR KIT OF FORTSON MARKED AS STATE'S EXHIBIT NUMBER
20 79 FOR IDENTIFICATION.)

21 (GSR KIT OF JONES MARKED AS STATE'S EXHIBIT NUMBER 80
22 FOR IDENTIFICATION.)

23 (.40 MILLIMETER GUN MARKED AS STATE'S EXHIBIT NUMBER
24 81 FOR IDENTIFICATION.)

25 (SPENT CARTRIDGES MARKED AS STATE'S EXHIBIT NUMBER 82

1 FOR IDENTIFICATION.)

2 (BOX OF CARTRIDGES MARKED AS STATE'S EXHIBIT NUMBER 83
3 FOR IDENTIFICATION.)

4 (TEST SPECIMENS MARKED AS STATE'S EXHIBIT NUMBER 84
5 FOR IDENTIFICATION.)

6 (DISASSEMBLED ROUNDS MARKED AS STATE'S EXHIBIT NUMBER
7 85 FOR IDENTIFICATION.)

8 (BOX OF CARTRIDGES MARKED AS STATE'S EXHIBIT NUMBER 86
9 FOR IDENTIFICATION.)

10 THE COURT: All right, we're back on record in the
11 *State of South Carolina v. Mandy Fortson*. It's Wednesday
12 morning. The state is present and represented by Ms.
13 Sampson, Solicitor Gipson, and Ms. Nellerhoe.

14 Are you Ms. Fortson?

15 DEFENDANT: Yes, sir.

16 THE COURT: All right. Good morning. How are you?

17 DEFENDANT: Good morning. I'm all right.

18 THE COURT: All right. Ms. Fortson is present and
19 represented by Theo Williams and Anna Williams of the
20 private bar, and do we need to take up anything before we
21 bring in the jury?

22 MR. WILLIAMS: I have something to hand to the court,
23 Your Honor, which is the doctor's paperwork from her being
24 out yesterday.

25 THE COURT: Wonderful. Thank you.

1 MR. WILLIAMS: Thank you, Your Honor.

2 THE COURT: All right, and, Ms. Sampson.

3 MS. SAMPSON: The only thing I wanted to do, Your
4 Honor, is to put on the record a couple of things. I know
5 that yesterday -- or, excuse me, Monday Mr. Williams
6 objected to going forward without Ms. Fortson being
7 present. We did pick the jury and do pretrial. I just
8 wanted to put it on the record for appellate's sake that
9 although Ms. Fortson was not here for jury selection,
10 neither was the victim. So, any kind of prejudicial nature
11 as far as some people being here and some people not, the
12 only person who was here that is a witness was Investigator
13 Clarke. The victim was not here for jury selection either.

14 THE COURT: Okay.

15 MS. SAMPSON: And then I think the only other thing to
16 put on the record, Your Honor, is Mr. Gipson is going to do
17 opening, and in his opening he is using two photographs,
18 exhibit -- State's Exhibit Number 37 and State's Exhibit
19 Number 39. We have shown them to Mr. Williams, and he has
20 no objection to Mr. Gipson using them in opening so long as
21 we introduce them at some point during the trial.

22 MR. WILLIAMS: And, and, Your Honor, obviously I have
23 no objection if they want to introduce them right at this
24 moment. The, the only thing -- it's just a picture of
25 where ---

1 THE COURT: Okay.

2 MR. WILLIAMS: --- item occurred. The only difference
3 is it's, it's lit up because they're having to use lights
4 to see the area.

5 THE COURT: Okay.

6 MR. WILLIAMS: So, I don't really care, Your Honor.

7 THE COURT: Great.

8 MS. SAMPSON: That's it for the state, Your Honor.

9 THE COURT: Okay. All right.

10 So, if you're in the courtroom, welcome and thank you
11 for being -- thank you very much for being here. So, when
12 we bring in the jury in just a few moments, you will need
13 to be prepared to stay in here until the opening statements
14 are over. I don't know how long that's going to take, but
15 the opening statements are the attorneys' opportunity to
16 first really address the jury. So, y'all not moving is a
17 big help to not be distracted. Once both sides have given
18 their opening statements, if you want to slide out of the
19 courtroom at that point in time, that's perfectly fine.
20 But if you're in here now, just make sure you stay through
21 the opening statements so that the jurors can give the
22 attorneys their undivided attention. That would be very
23 much appreciated.

24 And, Ms. Fortson, I know you weren't here on Monday,
25 but if you want to take off your mask while you're at your

1 table, you may. You don't have to, but you're welcome to
2 if you want to, okay?

3 All right, let's bring them in.

4 (THE JURY ENTERS AT 9:36 A.M.)

5 THE COURT: All right. Good morning, ladies and
6 gentlemen. Thank you very much for being on time; I
7 sincerely appreciate that. It is my pleasure to be with
8 you again this morning.

9 Monday when you were here, you took an oath, and that
10 oath was to tell the truth in response to the questions
11 that I was going to ask you. You're going to take a
12 separate oath this morning. This oath is different. It's
13 been used in this country for hundreds -- at least since
14 the beginning of the jury trial system, and the oath, the
15 purpose of this oath is this oath is your promise to not
16 only me but to the lawyers, to the parties, to the
17 witnesses, to each other, and to yourself that you will try
18 this case fairly and impartially, with no one to reward and
19 no one to punish. You will sit there fairly and
20 impartially. You will hear the evidence, decide what the
21 facts are, and then apply those facts to the law that I
22 give you. So, we're going to swear you in right now. If
23 you will please stand, and Becky will administer the oath.

24 CLERK: Mr. Foreman, ladies and gentlemen of the jury,
25 will you please raise your right hand and be sworn?

1 (WHEREUPON, THE JURY IS DULY SWORN.)

2 THE COURT: All right, thank you very much, ladies and
3 gentlemen, and before we begin the actual trial of this
4 case, I thought it might be helpful to, to you to explain
5 kind of how a trial will work. So, first the state, or the
6 prosecution, will be allowed to make an opening statement.
7 Now, opening statements are not evidence; they're simply
8 outlines to help you understand what that party expects the
9 evidence will show. The defendant may, if she chooses,
10 present an opening statement, but she does not have to for
11 reasons that I will explain to you in just a moment.

12 Following the opening statements in the case, you will
13 hear the testimony and the evidence in the case. This will
14 consist of testimony from the state's witnesses, as well as
15 any physical exhibits which will be introduced into
16 evidence.

17 Following the completion of the testimony, the
18 attorneys will again have an opportunity to make what are
19 called closing arguments or closing summations to you.
20 This is an opportunity for the attorneys to summarize the
21 case from their respective points of view. Again, these
22 opening statements and these closing arguments are not
23 evidence.

24 Following the closing statements, I will then instruct
25 you on what the law is in South Carolina as it pertains to

1 the issues that have arisen during this case. When I have
2 completed my instructions to you at the very end -- and I
3 will give you a very definite sign -- at that point in
4 time, at the very end you will be again -- you will be
5 allowed to begin deliberating on the case. And I will give
6 you a very specific sign at that point in time that is your
7 signal that now you may begin speaking and talking and
8 discussing the case.

9 So, what I need to explain to you as we go through
10 this kind of outline is your duty or your responsibility or
11 your role in this trial. So in a nutshell, the easiest way
12 for me to put it is this: it is your duty to decide from
13 the evidence what the facts are. You and you alone are the
14 judges of the facts. So, you will hear the evidence,
15 decide what the facts are, and then you apply those facts
16 to the law that I give you, which I will give you at the
17 end of the trial. So, that's how you will reach a verdict.
18 In doing so, you must follow the law that I give you,
19 whether you agree with it or not.

20 So, what is evidence? This word evidence -- and
21 you've heard me say it three or four times right now. This
22 is the defined term, okay, and I'm going to explain to you
23 what evidence is and what evidence is not. I've already
24 told you the opening statements, closing arguments, those
25 are not evidence, right? So, what is evidence? So,

1 evidence will consist of the testimony of the witnesses,
2 any documents, and anything else received into evidence as
3 an exhibit, and any facts on which the lawyers agree, or
4 anything that I tell you you must accept.

5 Do not take anything that I say or do during this
6 trial as indicating what I think of the evidence or what I
7 think your verdict should be. The way I like to imagine it
8 is this. Between you and I is a line, okay? On my side of
9 the line sits the law. So, I'm the judge of the law in
10 this case. That means you must follow the law and accept
11 the law and apply the law that I give you whether you agree
12 with it or not. The flip side of that is the facts belong
13 to you. I can't tell you what the facts are unless all the
14 lawyers agree on a fact, okay?

15 So, let's -- we're going to make up a silly example.
16 So, let's say in the silly example all the lawyers say on
17 the day in question the sky was blue, and we all agree that
18 the sky was blue, okay? So, I would tell you you must
19 accept as fact that on the day in question, the sky was
20 blue.

21 Now, that's a silly example. Everybody understands
22 that's an example, but other than something like that
23 happening where everybody agrees on something, you will not
24 hear me tell you what the facts are because the facts
25 belong to you, and the law belongs to me. Does that make

1 sense? Everybody tracking me? Okay. All right.

2 So, this is a criminal case; this is not a civil case.
3 So, we are criminal court and this is a case brought by the
4 State of South Carolina, and the state has charged Ms.
5 Fortson with three charges. She is charged, charged with
6 attempted murder. She is charged with discharging a
7 firearm into a dwelling. She is also charged with breach
8 of peace aggravated in nature. Now, I read these
9 indictments to you Monday and as I told you Monday, and I
10 will continue to tell you, these indictments are not
11 evidence; they are not proof of anything. These
12 indictments are simply the formal documents that give this
13 court the authority to hear this case.

14 To these charges, Ms. Fortson has pled not guilty, and
15 that plea places the burden of proof upon the state to
16 prove her guilt beyond a reasonable doubt. Ms. Fortson is
17 presumed to be innocent unless and until proven guilty
18 beyond a reasonable doubt.

19 Proof beyond a reasonable doubt, what does that mean?
20 Well, proof beyond a reasonable doubt is proof that leaves
21 you firmly convinced of the defendant's guilt. A defendant
22 has a right not to testify and never has to prove innocence
23 or present any evidence at all. The burden of proof
24 throughout this trial stays with and is always upon the
25 State of South Carolina.

1 Now, some things that you're going to hear during this
2 trial are not evidence. Remember I told you this word
3 evidence is important, and I told you evidence was the
4 testimony of the witnesses, any documents, and exhibits
5 entered into evidence. You're going to hear a bunch of
6 things in this trial that are not evidence and that's
7 normal, but I need to help you understand what those are.

8 So, number one, the statements and the arguments of
9 the attorneys are not evidence. Number two, the questions
10 and the objections of the attorneys are not evidence, and
11 number three, anything that I tell you to disregard.

12 So, in almost every single case, somebody says
13 something that they shouldn't say, okay, and I will tell
14 you disregard what witness X just said. Now, I used to
15 struggle with this as a lawyer. I'd be, like, well, how
16 are they really going to disregard it? I mean, the witness
17 just that something that they weren't supposed to say. How
18 is the jury going to disregard that, and I literally
19 struggled with it for years.

20 But what I've come to the collusion is this. You
21 heard it, okay, so you either heard what the witness said
22 or you saw something in a picture or something like that
23 you weren't supposed to see, and you can't unsee and you
24 can't unhear those things. I understand that, but when it
25 comes time to deliberate and you're going through the

1 evidence at the end of the case, you cannot consider
2 anything that I tell you to disregard. So, as you kind of
3 come through the checklist of this is the evidence, this is
4 what we're doing, whatever that witness said that I told
5 you to disregard cannot be included in your analysis of the
6 evidence in reaching a verdict. Does that make sense?
7 Okay. All right.

8 So, there's two kinds of evidence. Evidence may be
9 direct or circumstantial. So, what is direct evidence?
10 Direct evidence is what somebody saw, heard, did, touched,
11 sensed by smell, something of that nature. Indirect
12 evidence -- I mean, excuse me, circumstantial evidence is
13 indirect evidence. That is it is proof of one or more
14 facts from which you can then find another fact. You are
15 allowed to consider both direct evidence and circumstantial
16 evidence. You are allowed to give equal weight to both of
17 them, but it is for you to decide how much weight to give
18 any evidence at all.

19 So, during this trial and throughout the course of
20 this trial, there are rules that control everything that we
21 do, okay? There are rules that control who gets to speak
22 first down to who gets to speak last, okay, and there's the
23 South Carolina Rules of Criminal Procedure, the South
24 Carolina Rules of Evidence, okay? Like, this is my
25 evidence notebook, okay, and so this is all my notes from

1 all of the evidence rules. And when someone believes that
2 somebody else may be violating the rules of evidence, what
3 happens is they'll stand up and they'll object.

4 So, when a lawyer hears a question or is worried about
5 an -- or not worried, that's the wrong word -- or thinks
6 that an exhibit is not admissible, they'll stand up and
7 object, okay? They'll stand up and say objection, hearsay.
8 Objection, relevance. Objection. They may call out a
9 number like 403 or 612 or something like that, and what
10 happens is this. If I sustain the objection, that means
11 that the person cannot answer the question or if it's an
12 exhibit, you can't see the exhibit, okay? If I overrule
13 the objection, then the person can answer the question, or
14 if it's an exhibit, you can see the exhibit, okay? So,
15 whenever this happens, no one's trying to keep anything
16 from you, but there are rules of evidence that are at play
17 throughout this trial that I have to decide on as legal
18 issues throughout the case.

19 Now, sometimes -- I don't want to say sometimes. In
20 every single case, legal issues come up that I have to
21 decide outside of your presence, okay? So, a lawyer will
22 stand up and say Judge, we have a matter that we need to
23 take up outside the presence of the jury. Okay, when that
24 happens, I'll send you back to your jury room. I'll decide
25 whatever the matter of law is, and then we'll bring you

1 back in and keep moving forward, okay? That happens in
2 every single case, every criminal case, every single case
3 in the entire country. It's not an issue of if it's going
4 to occur. It's just an issue of when it's going to occur,
5 okay? And when that happens, nobody's trying to keep
6 anything from you or hide anything from you. The law
7 requires that certain legal issues, I decide outside of
8 your presence.

9 Sometimes the lawyer will say can we approach, okay,
10 and they'll come up right here. They'll tell me what the
11 legal issue is. I'll decide the legal issue, and then
12 we'll move forward, okay? Again, whenever that happens, no
13 one's trying to keep anything from you. We're mere -- I
14 have to decide certain legal issues without you being
15 present, okay?

16 Now, let's move on to kind of the next issue. So in
17 this case, you're going to have to decide which witnesses
18 to believe and which witnesses not to believe. So, what
19 are the rules on judging the credibilities of the
20 witnesses? The rules are this. You may believe every
21 single thing a witness says. You may believe none of what
22 a witness says. You may believe part of what a witness
23 says and reject another part of what a -- of the same
24 witness.

25 So, here are things you can consider. What was the

1 witness's ability to see, hear, or know what he or she
2 testified to? How good was the witness's memory? What was
3 the witness's demeanor like while they were testifying?
4 Was the -- does the witness have an interest in the outcome
5 of the case, or do they have any motive or any bias or any
6 prejudice? Was the witness contradicted by anything the
7 evidence -- excuse me. Was the witness contradicted by
8 anything the witness said or wrote before the trial or by
9 other evidence? How reasonable was the witness's testimony
10 when considered in light of the other evidence which you
11 believe?

12 Here's the deal. You judge people's credibility every
13 single day; you do it all day long. You do it so much, you
14 don't even know you're doing it anymore, okay, because in
15 most of your interactions you have with other people, you
16 are judging their credibility.

17 The most common exemplar in my house usually occurs in
18 the morning right before the kids go to the bus stop, and
19 that is I say did you brush your teeth, right, and if you
20 have children, you have asked that question to your
21 children before they leave for school in the morning,
22 right? Okay, and in that moment, you judge that child's
23 credibility. It may be because you see all the cereal in
24 their teeth, or it may be because you know she wouldn't go
25 anywhere without brushing her teeth, but you judge those

1 children's credibility, and you do that with your common
2 sense, okay?

3 And as I like to say, you didn't leave your common
4 sense at the metal detector when you checked into the
5 building, okay? They picked you for a reason: they believe
6 in you. They want you to use your common sense. Just use
7 your common sense in judging people's credibility, okay?

8 Now as I told you Monday -- and this is still true --
9 you are not allowed to discuss this case with anyone,
10 including fellow jurors, friends, family members, and
11 anyone involved in the case. This includes discussions
12 face to face, by telephone, email, text message, blog,
13 Facebook, Twitter, some other kind of app that I don't even
14 know what it is. You cannot use it to get or send
15 information about the case. Your electronic devices should
16 have been taken away from you. They'll be returned to you
17 at lunch and for overnight, but with the use of electronic
18 devices, you cannot use them to get or send information
19 about the case. You cannot go do any research about this
20 case. You can't go Google this case; you can't go Google
21 the parties in the case. You can't try to figure out what
22 the case is about, okay?

23 There, more than likely, there will be a news story
24 about the case some time today or maybe some time tomorrow.
25 You're not allowed to read that news story about the case,

1 okay, because you're the one sitting in the courtroom.
2 You're the ones who have been here the entire time. Your
3 impressions of what's happening in the case is what
4 matters, not somebody else's.

5 I'm going to give you an example of this, okay? I
6 tried this case a long time ago. It was the largest
7 financial crime in South Carolina history, okay? It was a
8 three-week long trial in Greenville County, okay? I was
9 one of the lawyers on the case. Every morning, we woke up
10 and read the newspaper account from the newspaper reporter
11 that had been sitting in the courtroom all day long, okay,
12 and what his story said and what happened on that same day
13 were never the same thing, okay? So, we're not going read
14 any news media or look at any news media about this case.
15 You're the one sitting in here. You're the one seeing the
16 witnesses live, and that's the way I want you.

17 Now, once the case is submitted to you at the very
18 end, you'll only be allowed to discuss it with each other,
19 and the attorneys and the parties in this case have been
20 told to ignore you. So, if they don't speak to you or say
21 hey to you in the hallway, they're just following my
22 instructions; they're not being unfriendly.

23 It's important that you keep an open mind and not
24 decide any issue in this case until all of the evidence has
25 been presented, the parties have made their closing

1 arguments, and I have instructed you on the law in this
2 case.

3 Now I want to talk to you about a new concept, and
4 it's not really a new concept, but it's kind of new to
5 talking about it with juries, and that is the concept of
6 implicit bias. Has anybody ever heard that term before,
7 implicit bias? Okay. So, one of the things I'm going to
8 explain to you is you're not to decide this case based upon
9 implicit biases. Everyone in the room, including me, has
10 feelings, assumptions, perceptions, fears, and stereotypes
11 that are what we call implicit biases that you may not even
12 be aware of, okay? These hidden thoughts can impact what
13 we see and what we hear, how we remember what we see and
14 hear, and how we make important decisions. Because you are
15 making such a very important decision in this case, I
16 strongly encourage you to evaluate the evidence carefully
17 and to resist jumping to conclusions based upon personal
18 likes and dislikes, generalizations, gut feelings,
19 prejudices, sympathies, stereotypes, or biases. The law
20 demands that you return a just verdict which is based
21 solely upon the evidence, your individual evaluation of
22 that evidence, your reason and common sense, and these
23 instructions. It is your sole responsibility to determine
24 the guilt or the innocence of the defendant, and your
25 verdict must be based solely upon the evidence that has

1 been presented in this trial and the law that I give you at
2 the close of the trial.

3 All right, is the state ready to proceed with opening
4 statements?

5 MR. GIPSON: State's really, Your Honor.

6 THE COURT: All right, Mr. Solicitor, the floor is
7 yours.

8 MR. GIPSON: May it please the court?

9 THE COURT: Yes, sir.

10 MR. GIPSON: Judge Hood and Attorney Williams, Mr.
11 Foreperson, ladies and gentlemen of the jury, there's a
12 saying that good fences make good neighbors. Good fences
13 make good neighbors, and I think the theory behind that
14 saying was that if you have a good fence, it may keep your
15 dog off of my lawn, keeps my dog off of your lawn. It
16 keeps your kids out of my yard. May keep my kids out of
17 your yard. Keeps me from getting stuff in your yard and
18 vice versa, and most of all, it provides a level of privacy
19 and protection for neighbors on either side of that fence.

20 But on February 22, 2017, no fence could protect
21 Antonio Jones, Jakari Mills, and Tonya Adams from the wrath
22 of Mandy Fortson. No fence could protect Roman Cruz and
23 his family from the wrath of Mandy Fortson. That evening,
24 she stood at her fence line and fired multiple shots,
25 multiple shots at Roman Cruz and his family and if that

1 wasn't enough, she left. She walked away, went back to her
2 home, reloaded her .41 caliber pistol, walked back to her
3 fence line, and fired multiple shots at Antonio Jones and
4 his family, multiple shots.

5 How do we know this to be true? Because the evidence
6 will show that there was damage done to Mr. Cruz's truck as
7 a result of Mandy Fortson firing her .41 caliber pistol.
8 The evidence will show several bullet holes in Roman Cruz's
9 house as a result of Mandy Fortson firing her .41 caliber
10 pistol at his home. The evidence will show a bullet that
11 went through the washroom, through the laundry room into
12 the dryer as a result of Mandy Fortson's wrath.

13 How do we know this to be true? We know this to be
14 true because Mr. Cruz saw Mandy Fortson firing this weapon.
15 Mr. Cruz heard the racial epithets she was yelling as she
16 fired this weapon. How do we know this to be true? We
17 know this to be true because Antonio Jones stepped outside
18 of his residence and as he stepped outside of that
19 residence, he pleaded with Mandy Fortson to stop firing her
20 weapon, and he pled with her to do that because his ten-
21 year-old stepson was in the house, and his partner was in
22 the house as well. We know this to be true because Antonio
23 Jones was shot in the wrist and shot in the hip by Mandy
24 Fortson.

25 Ladies and gentlemen of the jury, it's those actions

1 that have brought us here today, and it's for those actions
2 that Mandy Fortson has been charged with attempted murder,
3 breach of peace aggravated in nature, and discharging a
4 firearm into a dwelling place.

5 Folks, my name is Byron Gipson, and I'm your solicitor
6 and along with Deputy Solicitor April Sampson and Assistant
7 Solicitor Emily Nellerroe, who's on the other side of that
8 board, we represent the State of South Carolina. And so
9 similar to what Judge Hood did, I'm going to give you a
10 brief roadmap over the next five minutes as to what you can
11 expect as we go through this case in the next day and a
12 half, but first a quick housekeeping matter.

13 If you'll look at my table, you'll see some of us
14 without masks on. We've been vaccinated. We've been
15 working together for a period of time, so we're not making
16 a political statement of any sort. We're comfortable
17 working with one another, but we will respect your space,
18 but we've been vaccinated. That's why we do not have our
19 masks on.

20 And, folks, as I'll tell you, as I mentioned, just
21 giving you a little bit of the lay of the land over the
22 next few moments as to what to expect, Judge Hood went
23 through a long litany of information just about what our
24 roles are in this case. He mentioned that he is the judge
25 of the law, and you are the judge of the facts. He

1 mentioned that you've got to take the law as he gives it to
2 you. So, essentially, as he said, you've got to listen to
3 what he said and as he gives you the law, you'll have an
4 opportunity to, to use that law and apply it to the facts
5 of this case and come back with a verdict at some
6 particular time.

7 Now, what we're asking you to do and as jurors is
8 we're asking you to look at the evidence and to make
9 considerations and to make decisions based on the evidence
10 that you're going to hear in this witness chair beginning
11 in a few moments, and I'll tell you this. You're probably
12 asking how is it that you're expecting -- or that you're
13 expected to make these decisions?

14 I'll tell you that as you start to hear evidence
15 presented from this witness chair, there are going to be
16 basically three types of evidence you're going to hear.
17 There is direct evidence that Judge Hood mentioned that you
18 can touch, that you can see, that you can smell. That's
19 direct evidence. May be a gun, may be shell casings,
20 things of that nature that you can touch, that you can see,
21 that you can smell. That is direct evidence. Those are
22 things that you'll have an opportunity in this case to look
23 at some point in time after it's entered into evidence.

24 There's circumstantial evidence, evidence that you can
25 infer exists based on a series of events. And so one of

1 the favorite analogies that's used is as we're sitting in
2 this courtroom today, we'll probably break for lunch around
3 12:30, 1 o'clock. If you walk outside at that point and
4 you see snow on the ground, you see tracks in the snow, you
5 see penguins walking around, you see icicles hanging from
6 the post office, you can infer that it snowed. And
7 although you didn't see it snowing outside because you were
8 in here and there are no windows in this courtroom, you can
9 infer that it snowed because you can look at all of the
10 evidence and make a decision that it snowed based on the
11 fact that you see those footprints, that you see the ice,
12 that you see the icicles. That's circumstantial evidence,
13 and once you have determined that those are the facts that
14 you believe, then those are your facts to apply to the law
15 that Judge Hood will give you to make the decisions at the
16 end of this case.

17 And then lastly there's something called a
18 stipulation. A stipulation, as Judge Hood mentioned, is a
19 fact that the state has agreed and, and Mr. Williams has
20 agreed exists. So, if we agree on a fact and we let the
21 judge know that we are in agreement, Judge will let you
22 know that a stipulation exists, and that is a fact that you
23 are to accept as if it came from that jury chair and all
24 twelve of you -- excuse me, of that witness chair, and all
25 twelve of you agree to it.

1 You're going to hear in a little while testimony from
2 eyewitnesses who saw what happened. You're going to hear
3 from a doctor who examined Mr. Jones not too long after he
4 was shot by Mandy Fortson. You're going to hear from
5 experts who will offer opinions about different pieces of
6 evidence in this case. And it's going to be your job to
7 weigh their credibility and their believability based on
8 what they give and just the other factors that you hear
9 from this witness chair, and then you'll get to determine
10 exactly what you believe happened and what evidence exists
11 in this case.

12 Now, I can assure you that at some point in this case,
13 probably later today, you're going to hear from a stream of
14 witnesses that will bore the living daylights out of every
15 one of you. These are called chain witnesses. These are
16 witnesses who may have picked up a piece of paper here or
17 picked up shell casing here and put it in an envelope.
18 Then they signed the envelope. Then they hand it off to
19 another investigator, who may take that envelope and sign
20 off on it and take it to SLED and put it in a locker. Then
21 somebody takes it out of that locker and signs for it, and
22 then they test it and sign for it again and put it back in
23 the locker. It's boring. There are several of those
24 people that you're going to hear from, but I submit to you
25 we have to do that as the state because it's our burden of

1 proof to prove that Mandy Fortson did these deplorable acts
2 beyond a reasonable doubt. We have to prove that the
3 evidence that was picked up that particular morning -- or
4 that particular evening, February 22, 2017, is the same
5 evidence that is being brought into this courtroom today.
6 It's the same evidence that was tested by the experts and
7 brought into the courtroom. So, yes, it's painstaking.
8 Yes, it can be a little bit tedious. Yes, it can be a
9 little bit boring, but it is absolutely necessary so that
10 we can bring you the best evidence of the crime that we
11 believe that Mandy Fortson committed.

12 Now in 2021, in today's world there are lots of things
13 that you've come to expect. Of all of these different *CSI*
14 shows that some of you may watch -- you know, *CSI: Miami*,
15 *CSI Zimbabwe*, *Canada*, wherever else they have these days,
16 there is always some magical thing that they are doing that
17 they bring to court that's so explosive. Like oh, man, I
18 didn't know they could do that. You're not going to find
19 that in this case. You're going to learn that body-worn
20 camera did not exist in 2017 at the Richland County
21 Sheriff's Department because they had not been issued it.
22 So, don't expect to see body-worn camera. You're not going
23 to see a Ring doorbell that captured everything that took
24 place that night or cameras that caught all of the shooting
25 that took place that night from Ms. Fortson. You're not

1 going to see that in this case.

2 But what you will see is eyewitnesses who heard and
3 called 911. Eyewitness who saw what she was doing called
4 911. You'll see the effects of the shooting that she did.
5 You'll hear from the person who she shot. You'll see the
6 blood trail of Mr. Jones once he was shot and limped into
7 his apartment before his family was able to call 911.
8 Those are things you'll see, and you'll have an opportunity
9 to listen to those things and judge the credibility and
10 believability of them as you begin to deliberate and make
11 your decisions at some point in this case.

12 Ladies and gentlemen of the jury, I submit to you
13 you'll also see something called gunshot residue, and
14 you'll have an opportunity to learn what gunshot residue is
15 and where it was found and who it was found on in this
16 case. And I submit to you that after you've heard that
17 testimony and whatever testimony comes from this chair,
18 we're going to come back to you at the end of this case,
19 and we're going to ask that you return a verdict of guilty
20 on all counts. We're going to ask that you return that
21 verdict because we believe you'll be firmly convinced of
22 Mandy Fortson's guilt after we've presented all of that
23 evidence. So, if you'll bear with us for the next day and
24 a half as we present this evidence, we appreciate your
25 service today, and we look forward to presenting the case

1 against Mandy Fortson.

2 And I'll say this. Good fences make good neighbors,
3 but no fence could have protected the victims in this case
4 from Mandy Fortson on February 22, 2017. Thank you.

5 THE COURT: All right, thank you very much, Mr.
6 Solicitor.

7 And, Mr. Williams, would you like to give an opening
8 statement?

9 MR. WILLIAMS: I would, Your Honor, once I, once I can
10 look at the jury.

11 THE COURT: We'll get that monitor, TV monitor out of
12 the way. Then you're welcome to go whenever you're ready,
13 sir.

14 MR. WILLIAMS: Thank you, Your Honor.

15 THE COURT: You're very welcome.

16 MR. WILLIAMS: Mr. Foreman, ladies and gentlemen of
17 the jury, I met you yesterday. I'm Theo Williams. I'm
18 from Lexington. Seated next to me is my lovely daughter
19 Anna Williams, who is a partner in the firm, and Mandy
20 Fortson, who is the person charged with the offense, is the
21 young lady seated over here.

22 I'd like to kind of tell you at the beginning of this
23 is that the judge went through a lot of instructions in
24 terms of giving you the ammunition that you need -- excuse
25 the pun -- but so that you can look at things and that you

1 can make a determination so that you can get through this
2 trial without worrying about if you're doing the right
3 thing because I imagine that many of you may not have been
4 on a jury before.

5 But the one thing you just really have to do is just
6 be yourselves. And you have to know what looks like it's
7 real. You have to know what makes sense, why do I believe
8 this witness, why do I not believe this witness. And the
9 one most important thing you need to know is that you don't
10 need to pay a whole lot of attention to what the solicitor
11 has said or what I'm going to say right now in terms of
12 what happened because we're not witnesses to anything.

13 I guess we can dress it up. It's kind of like setting
14 the mood if you want to take your, your young lady out for
15 a date. You can have your pictures and stuff like that to
16 show the location, and you can have some -- and I saw them,
17 that you're going to see-- to get her in the mood, but
18 that's not the way we practice law. That's not the way
19 juries make decisions.

20 And I say that not in any sort of smart alecky kind of
21 way. But you'll note that even on the pictures that were
22 shown to you, obviously those are pictures that were made
23 when they were enhanced by light. So, meaning somebody has
24 to have a lot of light to show what's going on because
25 you'll learn that this alleged event occurred when it was

1 dark. I mean, it was dark dark. The offense occurred
2 around 8 o'clock at night. This was in February the 22 of
3 2017, and you will, you will subsequently find out that
4 back then, you know, sun -- sundown happened about 6:15,
5 and everybody, every witness that will come up here will,
6 will testify that it was dark, that you couldn't see
7 things.

8 So, you don't just necessarily take an opinion from
9 the beginning of the opening argument. Like the judge was
10 telling you, you wait until the witness has testified, and
11 then you wait to hear all the witnesses testify before you
12 make a decision on what's true and what's not true, on
13 whether or not the state has proven its case beyond a
14 reasonable doubt or if they haven't proven their case
15 beyond a reasonable doubt.

16 All I'm going to do -- and I'm not going to go over
17 what the law is right now. I'm not going to go over what
18 the judge has already told you in terms of what you need to
19 do, but I'm going to tell you some things to look for
20 because I think what -- some of the things you'll look for
21 -- and there will be a long list of witnesses that will be
22 called.

23 One will be a 911 operator. You know, everybody know
24 about 911. You call the 911 person when you have a
25 problem. You'll learn that this area where this event

1 occurred, that there were at least eleven phone calls made
2 that night. You'll learn that there were phone calls
3 indicating there was some large party in front of 103,
4 building 103. You'll learn that there was some allegation
5 about some lady in somebody's backyard. So, I'm kind of
6 telling you that this area, the phone calls that are made,
7 it's just, it's just mass hysteria, if you will.

8 And you'll learn that this particular area is, is --
9 sometimes some things happen in that particular area, and
10 you know about that. People can't always pick where they
11 live, you know? I had some neighbors across the street
12 from me I didn't particularly like but, you know, we lived
13 together. But there's nothing, there's nothing from
14 anybody that would indicate there was any type of
15 animosity, any type of reason why the defendant would not
16 like anybody, would not like the people who were alleged --
17 allegedly shot at.

18 So when I say that -- you know, my mama was an English
19 teacher, and she used to say who, what, where, why, and
20 how. So, those basic words kind of lead you through life,
21 if you think about it. So, what I'm going to tell you to
22 focus on is I'm going to tell you to focus on those things
23 which are not subject to assumptions. You know, we've
24 learned about assumptions and what that does. So, what I'm
25 going to ask you to do is think about if you were, if you

1 were trying this case, if you were prosecuting this case,
2 that there was an allegation of alleged shooting, what
3 types of things would you expect to see?

4 Well, number one, even if you don't have cameras, even
5 if you don't have something to videotape the event being --
6 occurring, one thing you would expect is you would expect
7 there to be some experts who do deal with gunshot residue.
8 You would expect that gunshot residue, after you listened
9 to the, to the expert, would be apparent on the clothing of
10 the person who allegedly shot the gun. You would expect
11 that, and that's an indication that you would know that
12 they had been handling a gun.

13 One thing you would expect, I hope, is you would
14 expect that someone would be able to match the bullets that
15 were allegedly fired from that gun to the gun which the
16 alleged person who is alleged to have shot the gun owned.
17 So, you match up the guns. You match up the gunshot
18 residue, all that stuff. It makes sense; that's common
19 sense. You talk about seeing things on TV, but you know
20 those things.

21 So, one of the things I'm going to so ask you is with
22 each witness that comes forward, put him to that test. Who
23 can see what they saw? Whose testimony is consistent with
24 what they said that night? For what reason would they say
25 the defendant did anything because it should all match up

1 if it's true, shouldn't it?

2 Obviously, the defendant has nothing to prove, but I'm
3 going to give you a preamble in regards to what she would
4 say if she were taking the stand, and at the end of the
5 case I guess we'll see if she will say that, but I believe
6 she will.

7 She'll say that she lived in that house and had lived
8 there for a while. That she had been a victim of crime
9 before. That her house had been broken into before. That
10 on the night of February 22 of 2017, three man attempted to
11 come in a door at her apartment or house, I should say.
12 She reached over a gun because she had purchased a gun for
13 protection of herself, to keep herself safe and her
14 property safe, and she realized that there were no bullets
15 in the gun that, that had not been fired, so it would do
16 absolutely no good. She pushes these things out. I don't
17 pretend to know how you hit a plunger or something, and the
18 shells drop out. She reloads it. She runs into the room
19 where these people are, these three males are, and they see
20 her and they take off. So, it's this real hectic yelling
21 and all this stuff going on, and they start tearing out in
22 the backyard. She actually sees, she actually sees muzzle
23 flashes in her backyard, but the one thing she doesn't do,
24 she never fires her gun. Now think about it.

25 So, one of the things you're going to -- obviously

1 you're going to focus on is whether or not that expert can
2 say that that gun was just fired, whether or not that
3 expert can say there are fingerprints on the gun that match
4 hers, whether or not there's, there's an indication there's
5 gunshot residue all over her as a result of that. So,
6 those are the things -- even though she doesn't have to
7 prove that, the burden of proof is on the state to prove
8 that she fired.

9 I want you to focus on one other little thing, too.
10 Anybody that remembers JFK -- and not many people here
11 probably remember JFK, but you remember how they show the
12 direction of firing and how they, they made the
13 determination about the grassy knoll or not the grassy
14 knoll? Any time that there's a shooting, there's always
15 someone who -- concerns -- what direction a bullet goes
16 because we all know, if you, if you study physics, that
17 it's going to go in one direction unless there's a reason
18 why it changes its course.

19 Make the state show you where these people allegedly
20 are, and where the source of that weapon was, and how the
21 injury occurred. It's simple. I just ask that you -- not
22 to assume something. Those, those are things that you
23 would expect to see. This is, this is just basic stuff.

24 So, I will tell you again. We don't know anything
25 because this trial has not begun. The trial begins when

1 that witness starts testifying, and you make a
2 determination of what the facts are and what occurred. And
3 if you do that, you'll get through this fine, and everybody
4 will be happy, and I certainly appreciate your service at
5 this time. Thank you.

6 THE COURT: Thank you very much, Mr. Williams.

7 The state may call their first witness.

8 MR. GIPSON: State calls Andrew Crooks.

9 MS. SAMPSON: Your Honor, while they're doing that,
10 may we, may we approach real quick?

11 THE COURT: Sure.

12 (OFF-THE-RECORD BENCH CONFERENCE.)

13 ANDREW CROOKS, BEING DULY SWORN,
14 TESTIFIES AS FOLLOWS:

15 CLERK: Have a seat on the witness stand, please.
16 State your name for the record.

17 WITNESS: Andrew Crooks.

18 CLERK: Thank you.

19 THE COURT: You all are welcome to move about the
20 courtroom as you need to to see things. You don't need to
21 ask my permission if you want to move to where you can see
22 whatever you need to, both sides.

23 MR. WILLIAMS: Thank you, Your Honor.

24 THE COURT: Feel free to do so. So, if you need to
25 approach a witness, you're fine to do it. So, just go

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1 ahead and do it.

2 MR. GIPSON: Thank you, Your Honor.

3 THE COURT: You're welcome. Our witnesses are
4 sequestered. Is that correct?

5 MS. SAMPSON: Yes, sir.

6 THE COURT: Okay. Great.

7 DIRECT EXAMINATION BY MR. GIPSON:

8 Q. All right, good morning, Mr. Crooks.

9 A. Good morning, sir.

10 Q. Just get myself oriented for a quick minute. All
11 right, Mr. Crooks, who did you work with back in 2017?

12 A. The Richland County Sheriff's Department.

13 Q. Are you presently with them?

14 A. No, sir.

15 Q. Okay. Why not?

16 A. I quit October 4 of last year to go do mechanical
17 contract work.

18 Q. All right, and so let me ask you this question. How
19 many years did you work with the sheriff's department
20 before you left their employment?

21 A. Approximately six years.

22 Q. All right. Tell the jury just a little bit about the
23 training that one would receive to become a sheriff's
24 deputy.

25 A. Yes, sir. At Richland County, before you go to the

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1 academy, they actually have you go through
2 interdepartmental training beforehand just to kind of
3 familiarize yourself with the world of law enforcement.
4 Eventually you get a slot at the Criminal Justice Academy.
5 You go to the Criminal Justice Academy on Broad River.
6 That was a twelve-week course in which you stay on site for
7 those twelve weeks except for weekends, and you learn the
8 ins and out of law enforcement and everything from patrol
9 work to initial investigation, how to conduct an interview,
10 things of that nature.

11 Q. And so it's fair to say that you learned kind of the
12 basics of law enforcement?

13 A. Yes, sir.

14 Q. All right. Did they teach you a little about report
15 writing?

16 A. Yes, sir.

17 Q. What do they generally teach you about writing
18 incident reports?

19 A. To gather the basically facts: who was involved, what
20 had happened, what time that it happened, where did it
21 happen, things of that nature.

22 Q. All right. Now, did you write a report on that --
23 this particular matter?

24 A. Yes, sir, I did.

25 (COUNSELORS CONFER.)

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1 Q. So on February 22, 2017, were you working with the --
2 you were working with the Richland County Sheriff's
3 Department, correct?

4 A. Yes, sir, I was.

5 Q. All right. Did you have an occasion to be called out
6 on a, on a matter?

7 A. Yes, sir, I did.

8 Q. All right, and can you tell us just your -- just what
9 your recollection is of being called out that particular
10 evening?

11 A. It would help if I had my copy of my report with me,
12 but I can tell you just kind of what -- my memory, sir.

13 Q. All right.

14 MR. GIPSON: May I show this report to him, Your
15 Honor?

16 MR. WILLIAMS: Now I have no objection.

17 MR. GIPSON: Thank you. Excuse me. Thank you.

18 THE COURT: Yes, sir.

19 BY MR. GIPSON:

20 Q. Take a look at that and tell me if you -- that
21 refreshes your recollection.

22 A. Yes, sir, it does.

23 Q. All right.

24 THE COURT: Mr. Crooks, I need you to stay close to
25 that microphone.

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1 WITNESS: Yes, sir. I'm sorry.

2 THE COURT: That's okay. There's a lot of screens and
3 barriers up, so it's just important that your voice stays
4 up, please.

5 WITNESS: Yes, sir.

6 THE COURT: Thank you.

7 BY MR. GIPSON:

8 Q. So, just briefly tell us what your job title would
9 have been back in 2017.

10 A. I was a patrol deputy, 2017.

11 Q. All right, and as a patrol deputy, what were some of
12 your -- the things that you would be called on to do?

13 A. Answer any calls such as any time someone called 911
14 or the nonemergency number and wanted a law-enforcement
15 officer. If it was in my patrol area, I could be assigned
16 by dispatch to go to that call.

17 Q. And was this one of those occasions?

18 A. Yes, sir, it was.

19 Q. All right. So, you were called out. Do you remember
20 the address that you were called out to?

21 A. Yes, sir, 107 Thornwell Court.

22 Q. Where is that located?

23 A. It's off of Rosewood. Thornwell is a road that runs
24 between Rosewood and Deerwood Street in Richland County.

25 That's an apartment complex off of that behind the

1 Hardee's.

2 Q. And you said something that's important. So, it's in
3 Richland County?

4 A. Yes, sir, it is.

5 Q. All right, and so were you wearing a body-worn camera
6 at the time?

7 A. No, sir, I wasn't.

8 Q. Why not?

9 A. They were not issued to us.

10 Q. Okay. What time did you arrive at the scene?

11 A. Per the report, approximately 9:57 PM.

12 Q. I'm going to show you what's been marked as State's
13 Exhibit 70 for identification purposes. I'm going to show
14 you State's Exhibits 70, 71, and 72 for ID purposes at the
15 moment.

16 MR. WILLIAMS: We don't have any objection to the
17 introduction of those photographs, Your Honor.

18 THE COURT: Thank you, Mr. Williams. Is that 70, 71,
19 and 72?

20 MR. GIPSON: Yes, sir.

21 THE COURT: Thank you.

22 MR. GIPSON: Thank you, Your Honor.

23 BY MR. GIPSON:

24 Q. And the exhibit numbers are on the back.

25 A. Yes, sir.

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1 Q. Let me show those to you. Do those ring a bell to
2 you, sir?

3 A. Yes, sir, they do.

4 Q. Can you tell us generally what you're looking at?

5 A. Looking at aerial photos of the Thornwell Court area,
6 to include Deerwood Street and a little bit of Barwick
7 Street, South Kilbourne, and Rosewood.

8 MR. GIPSON: May I publish those to the jury by way of
9 the SmartBoard, Your Honor?

10 THE COURT: Any objection ---

11 MR. WILLIAMS: No, Your Honor.

12 THE COURT: --- to these being admitted?

13 All right, 70, 71, 72 are admitted without objection.
14 You may publish.

15 MR. GIPSON: Thank you, Your Honor.

16 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
17 STATE'S EXHIBITS 70, 71, 72.)

18 THE COURT: So, ladies and gentlemen, while they're
19 getting this up, every lawyer does things a little bit
20 differently. I've seen some lawyers show the witness a
21 picture and never show them to the jury. I've seen lawyers
22 blow them up on big poster boards. I've seen lawyers use
23 big screens like this. I've seen lawyers pass the
24 documents around. That's for them to decide. What I need
25 to make sure that you understand is, like for example with

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1 this picture, if you feel like you haven't had enough
2 chance to study this picture, when you're deliberating on
3 the case, you'll have all of the exhibits in front of you,
4 and you can spend as much time as you feel is necessary
5 with the exhibits, okay?

6 Thank you. Sorry for my interruption, Mr. Gipson.

7 MR. GIPSON: Thank you, Your Honor.

8 BY MR. GIPSON:

9 Q. So, as we look at State's Exhibit Number 70, you said
10 that's an aerial view of the, of the vicinity where this
11 matter took place?

12 A. Yes, sir.

13 Q. All right.

14 MR. GIPSON: Can the witness step down, please?

15 THE COURT: Of course. I just need you to keep your
16 voice up for me, Mr. Crooks.

17 WITNESS: Yes, sir.

18 BY MR. GIPSON:

19 Q. Can you just generally orient -- and this is the
20 corner. So, can you orient us to the, to the main roads so
21 we can know what we're looking at, the area of town we're
22 looking at?

23 THE COURT: So if you will come closer to the screen
24 and then actually face the court reporter so that your
25 voice can be heard.

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1 WITNESS: Yes. Yes, sir.

2 BY MR. GIPSON:

3 A. So, this is Rosewood Drive. I've forgot how to work
4 this thing. That's Rosewood Drive. That's Thornwell
5 Court, which is the actual address this apartment complex
6 is on. That's the, I believe, the apartment complex there.
7 There's multiple buildings. That's Deerwood Street which
8 runs through that neighborhood as well. Down here we have
9 a small sliver of Barwick Street which connects to South
10 Kilbourne, then also connects to Rosewood here. There's a
11 Hardee's right there at the corner of Thornwell and
12 Rosewood, if anybody's familiar with that area.

13 Q. And also Jim Casey's Fireworks?

14 A. Yes, yes, Jim Casey's Fireworks is located there,
15 fireworks stand as well as the convenience store Circle-K.

16 Q. All right, and I'm going to move us to State's Exhibit
17 Number 71. So, do you remember the address that you were
18 called to?

19 A. Yes, sir, 107 Thornwell Court.

20 Q. All right, and if -- you can take your seat if you
21 like, sir. Thank you. So, when you arrived at 107
22 Thornwell Court in Richland County, what is it that you
23 observed?

24 A. Once I was able to locate exactly which apartment it
25 was, because there was some confusion as far as where the

1 victim was laying that was shot, I, I observed Mr., Mr.
2 Antonio laying in the hallway of his apartment. He was
3 conscious at the time. There appeared to be a gunshot
4 wound in his wrist and his hip. He was also with -- I
5 believe at the time it was his girlfriend and her son, and
6 that's what I observed.

7 Q. Okay, and as you observed that, was there anything
8 particular that caught your attention?

9 A. What do you mean by that?

10 Q. Just what was the scene? What did it look like?

11 A. It just looks like that obviously the family was very
12 upset at the time. Mr. Antonio appeared to be in a great
13 deal of pain and, and was very worked up I guess was a way
14 to put it. Just, I was just trying to keep him calm and
15 trying to gather what had happened to him.

16 Q. Sure. Were you -- was it your job to take statements
17 at that time?

18 A. No, sir, not, not written statements. I just tried to
19 get a general idea what had happened to him.

20 Q. Okay, and what did you learn? What was the general
21 idea that you learned at that point in time?

22 A. He had told me at that time that somebody was shooting
23 in the area. He went outside his back door to try and
24 figure out what was going on, at which point he was shot
25 twice, and he was able to get back inside the apartment,

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1 and that's when the 911 call was placed.

2 Q. Did he give a description of the shooter?

3 A. No, sir.

4 MR. WILLIAMS: Objection ---

5 A. He did not.

6 MR. WILLIAMS: --- to hearsay, Your Honor.

7 THE COURT: Sustained.

8 BY MR. GIPSON:

9 Q. All right. Now, did you have an opportunity to speak
10 with the young lady in the apartment, Tonya Mills?

11 A. I believe I did, but I can't remember what was said
12 back and forth.

13 Q. Okay, and what about -- you said there was a -- the
14 stepson was in the apartment?

15 A. Yes.

16 Q. Did you have an opportunity to speak with him?

17 A. Yes, sir. I didn't interview him by any means. I was
18 just trying to keep him calm until medical assistance
19 arrived.

20 Q. All right. So, once you get to the scene, what else
21 do you do once you're able to kind of make sure that
22 everything is settled, people are calm? What, what did you
23 do next?

24 A. Like I said, my main concern was to make sure that
25 medical personnel arrived and treated Mr. Antonio. Once

1 that happened, my main focus did shift to regards -- I
2 tried to maintain that crime scene, maintain the integrity
3 of it. I also tried to notify appropriate personnel to
4 come and assist with the investigation.

5 Q. Now, you just used kind of a term of art. You said
6 maintain the integrity of the crime scene.

7 A. Yes.

8 Q. Explain to the jury what that means.

9 A. It's very important that when you have a crime scene,
10 you don't want any disturbance to happen to that crime
11 scene; you want it to be maintained as it was when the
12 first responders arrived as much as possible so there can't
13 be any question of, say, tampering or something being lost.
14 It's important and things like that.

15 Q. Can you tell the jury what a crime scene log is?

16 A. So, a crime scene log is a form that's put out by the
17 sheriff's department. It's basically a list of, once that
18 crime scene is established, of who's entered that crime
19 scene, what time they entered that crime scene, what role
20 they were playing, and why they were there, and the time
21 they left the crime scene as well.

22 Q. All right. I'm going to show you what's been
23 premarked as State's Exhibit Number 74 for ID purposes. Do
24 you recognize that document?

25 A. Yes, sir, I do.

A. CROOKS - REDIRECT EXAMINATION BY MR. GIPSON

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1 MR. GIPSON: And, Your Honor, I've already shown this
2 to defense. I'd like to enter State's Exhibit Number ---

3 MR. WILLIAMS: No objection, Your Honor.

4 BY MR. GIPSON:

5 Q. Well, first of all, tell us what ---

6 MR. GIPSON: I'm sorry.

7 MR. WILLIAMS: I'm sorry. I spoke over him, Your
8 Honor. I'm sorry, Your Honor.

9 MR. GIPSON: I apologize. I jumped the gun.

10 THE COURT: Okay.

11 BY MR. GIPSON:

12 Q. Can you tell us what you're looking at first, please?

13 A. It's a crime scene log.

14 Q. Okay, and is it a crime scene log that, that you
15 authored?

16 A. Yes, sir. It's one that I started for that particular
17 incident.

18 Q. Okay.

19 MR. GIPSON: Now I would like to enter State's Exhibit
20 74.

21 MR. WILLIAMS: No objection, Your Honor.

22 THE COURT: Wonderful.

23 MR. GIPSON: Thank you.

24 (CRIME SCENE LOG MARKED INTO EVIDENCE AS STATE'S
25 EXHIBIT NUMBER 74.)

A. CROOKS - REDIRECT EXAMINATION BY MR. GIPSON

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1 BY MR. GIPSON:

2 Q. Now, you just spoke of a crime scene log which we're
3 referring to as State's Exhibit Number 74. Tell us what
4 you did there.

5 A. It -- it's pretty, I guess, simple in a way. You just
6 mark down names of whoever it was. Say it's John Smith,
7 you get them to initial their own initials. You mark their
8 time in; what division they're with, whether it was the
9 sheriff's department, EMS, fire department, whoever it is;
10 their specific reason for entry; and then the time that
11 they leave; and then I also have to write my name. You
12 have to mark down at the bottom who's maintained that log
13 at whatever time. So, whenever I was done maintaining the
14 log, if I was to hand it off to somebody, there is a record
15 of that as well.

16 Q. So that particular evening, what time did you arrive?

17 A. Per the report, I arrived at 2157.

18 Q. Okay, and what time is that in laymen's terms?

19 A. 9:57 PM.

20 Q. All right, and what time did you leave that evening or
21 the next morning?

22 A. The crime scene log has me ending that crime scene log
23 fifteen minutes after midnight on the 23.

24 Q. All right. Did you get in contact with any other
25 members of the sheriff's department or first responders to

A. CROOKS - REDIRECT EXAMINATION BY MR. GIPSON

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1 come out and do work on the scene that day?

2 A. Yes, sir, I did.

3 Q. Who else would you have contacted?

4 A. I would contact whoever was on call as far as
5 investigation standpoint, as well as the crime scene on
6 call as well.

7 Q. Do, do you remember or do who know you called out that
8 particular evening?

9 A. I called the desk sergeant at the time, and I cannot
10 remember who the sergeant was. It's the desk sergeant's
11 responsibility to log who's on call and to notify the
12 appropriate person.

13 Q. Did you have an opportunity to meet with a person
14 named Roman Cruz?

15 A. Yes, sir, briefly.

16 Q. Okay. Explain just generally that interaction. Don't
17 tell us what he said but just generally that interaction.

18 A. While I was maintaining the crime scene and
19 maintaining the log, I was approached by a man who said he
20 was a witness to the incident and later identified as Mr.
21 Roman Cruz.

22 Q. Okay, and can I show you State's Exhibit -- or can you
23 turn to State's Exhibit, Exhibit Number 7, please?

24 A. Yes, sir.

25 Q. All right. Do you know lives at the residence that's

1 pointed there?

2 A. Yes, sir. Mr. Cruz.

3 Q. All right.

4 MR. GIPSON: I'm publishing that to the jury.

5 Q. That would be [REDACTED] Thornwell Court. Is that correct?

6 A. Yes, sir.

7 Q. All right.

8 MR. GIPSON: Court's indulgence, Your Honor?

9 THE COURT: Yes, sir.

10 (A PAUSE.)

11 BY MR. GIPSON:

12 Q. Again, it happened at [REDACTED] Thornwell Court. Mr. Cruz,
13 did he -- what -- when you had a conversation with him,
14 what was the nature of the conversation?

15 A. As I recall, he didn't ---

16 MR. WILLIAMS: Objection in regards to any hearsay
17 that's coming in.

18 THE COURT: I think he can answer the question. He
19 just can't go into the specifics of it, of the
20 conversation.

21 MR. GIPSON: Thank you, Your Honor.

22 BY MR. GIPSON:

23 A. Can you repeat the question? I'm sorry.

24 Q. Yes. Can -- what was the nature of the conversation
25 with Mr. Cruz?

A. CROOKS - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. As I recall, he didn't speak English very well. So, I
2 had to call a translator out to interpret that
3 conversation, but he was able to communicate to me that he
4 was a witness to the incident that occurred that night.

5 Q. Okay. All right.

6 MR. GIPSON: I think that's all the questions I have,
7 Mr. Crooks. Please answer any questions of Mr. Williams.

8 WITNESS: Yes, sir.

9 THE COURT: All right.

10 MR. WILLIAMS: May I please the court?

11 THE COURT: Yes, sir. If we need to move the TV, we
12 can. If not...

13 MR. WILLIAMS: I'm good. I'll stand over here where
14 he is.

15 THE COURT: Whatever works for you.

16 CROSS-EXAMINATION BY MR. WILLIAMS:

17 Q. Shall I call you officer since you're no longer an
18 officer or?

19 A. No, sir, you don't have to.

20 Q. No? What, what, what should I call you? What's --
21 just Mr. ---

22 A. Andrew's fine.

23 Q. --- Crooks?

24 A. Andrew's fine as well, whichever.

25 Q. Okay, Andrew. On that particular night, you were the

A. CROOKS - CROSS-EXAMINATION BY MR. WILLIAMS

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1 first person that was called out. Did they, did they --
2 whoever was on dispatch, did they call your car number to
3 come over there? Did they know where you were?

4 A. Yes, sir.

5 Q. All right. Is that an area that you patrol?

6 A. Yes, sir.

7 Q. Do you remember where you were at the time that you
8 received the dispatch?

9 A. I believe I was on Bluff Road.

10 Q. Bluff Road?

11 A. Yes, sir.

12 Q. So, Bluff Road.

13 A. It's not pictured there.

14 Q. Yeah. It's kind of way away from there, right?

15 A. Yes, sir.

16 Q. How big a region is it that you have to patrol?

17 A. It's changed over time. At that time, it was from
18 Rosewood and Olympia area all the way out Harmon Hill in
19 the Hopkins area.

20 Q. So, how long did it take you from the time you got the
21 dispatch to get there?

22 A. I couldn't say with any certainty, but I would
23 estimate five to ten minutes.

24 Q. Do you recall your, your method of arrival, meaning
25 what roads you would have come in ---

A. CROOKS - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. I believe ---

2 Q. --- to this location?

3 A. I believe I came up South Beltline Boulevard, which is
4 also not pictured there. It's the next street over from --
5 on the -- it would be on the right from Deerwood.

6 Q. Okay.

7 A. You were able to get on Deerwood Street from South
8 Beltline, and at that point I came up Deerwood Street and
9 then turned that left at the bottom.

10 Q. So, you would have come down Deerwood?

11 A. I would have gone the other way. I would have come
12 up ---

13 Q. You would have ---

14 A. --- Deerwood.

15 Q. Come up here on Rosewood?

16 A. No, sir. I would have come up Deerwood Street and
17 taken a left onto Thornwell Court down at the bottom right
18 of the screen.

19 Q. Oh. So, this is coming up?

20 A. Yes. Yes, sir.

21 Q. And took a left?

22 A. Yes, sir.

23 Q. And come this way?

24 A. Yes, sir.

25 Q. And as you come up this way, obviously you would pass

1 [REDACTED] Thornwell Court first, wouldn't you?

2 A. Yes, sir.

3 Q. Now, [REDACTED] Thornwell Court is not an apartment, is it?

4 A. No, sir.

5 Q. It's a house?

6 A. Yes, sir.

7 Q. And 107 Thornwell Court is part of an apartment
8 complex, is it not?

9 A. Yes, sir, it is.

10 Q. And that it is part of an apartment complex, it's got,
11 like, letters: A, B, C, D, whatever, right?

12 A. Yes, sir.

13 Q. Do you recall which apartment you came to?

14 A. I don't recall it, but it is in my report.

15 Q. Okay.

16 A. It was apartment C.

17 Q. So, not only did you come to -- well, let me ask it
18 this way. Is there a 107 Thornwell Court apartment A and
19 B?

20 A. I'm not 100 percent sure.

21 Q. You understand why I ask that, right?

22 A. Yes, sir.

23 Q. So, the entrance to -- it's called Waverley
24 Apartments?

25 A. I'm, I'm not sure.

A. CROOKS - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. But it's a different name for the apartment complex,
2 isn't it?

3 A. I think so.

4 Q. How would you have gotten there? Is there an entrance
5 down here, or is there an entrance over here that you
6 would've gone into the apartment complex?

7 A. There's just one entrance off of Thornwell Court, and
8 I want to say it's right in the middle of the, the complex.

9 Q. Would it be right about here?

10 A. Somewhere in that area, yes, sir.

11 Q. Oops. Well.

12 THE COURT: Mr. Williams, I've learned through my own
13 experience that that is a touchscreen. So, you're welcome
14 to touch if you want to, but if you ---

15 MR. WILLIAMS: I don't think I want to.

16 THE COURT: Just be careful. I don't know what's
17 going to pop up.

18 Can someone help him get what ---

19 MR. WILLIAMS: Oh, I did it, Judge.

20 THE COURT: I learned that the hard way, too, one day.

21 MR. WILLIAMS: Okay.

22 THE COURT: So, it is a touchscreen.

23 BY MR. WILLIAMS:

24 Q. So as you come, as you come in here, and, and let's --
25 whatever the name of the apartment complex is.

1 A. Yes, sir.

2 Q. 107 Thornwell Court is not the first apartment
3 building going into the apartment complex that you see, is
4 it?

5 A. I don't believe so, but I'm, I'm not 100 percent sure.

6 Q. Because there's actually a 103 Thornwell Court which
7 is the first building that you see on the right as you go
8 in?

9 A. Yes, sir.

10 Q. Okay. As you came through the entrance -- you had to
11 come through the entrance of the apartment complex?

12 A. Yes, sir.

13 Q. Did you observe any cars? Well, obviously you'd see
14 cars. Any unusual number of cars and/or people?

15 A. Not to my recollection.

16 Q. And were you lights and siren?

17 A. I also don't recall. I want to say yes, but I, I
18 can't swear to it.

19 Q. So, everybody knew you were coming, right?

20 A. Yes, sir. I was in a clearly marked patrol car.

21 Q. All right. Now on direct examination, you were making
22 -- there was some confusion about where the victim was
23 shot. What you're indicating is what part of the body the
24 victim had injured, were you not?

25 A. Yes, sir.

A. CROOKS - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. Not where he was shot, not, not the location of where
2 he was shot but what part of his body was injured?

3 A. Correct.

4 Q. All right, sir. Now -- so, you arrive on scene. You
5 keep the log picture, make sure everybody gets there. Do
6 you make any, any investigation in regards to where a
7 bullet would have come from, in regards to finding a hole
8 in a glass, or examining the apartment to see if there's
9 evidence of a gunshot?

10 A. No, sir. No, sir.

11 Q. Your job is done once you do that. Is that correct?

12 A. My job is just maintain that area, make it's safe,
13 make sure nobody comes and disturbs it.

14 Q. Were you there the entire time period?

15 A. At the 107 Thornwell Court? Yes, sir.

16 Q. Did you ever leave 107 Thornwell Court?

17 A. Walk outside the apartment to my patrol car back and
18 forth but never that apartment complex until I was done.

19 Q. You got through about 5 o'clock the next morning?

20 A. No, sir. I -- the report indicates I, I cleared a
21 little shortly after midnight.

22 Q. Okay.

23 MR. WILLIAMS: Thank you, sir.

24 A. Yes, sir.

25 THE COURT: Redirect?

1 MR. GIPSON: Court's indulgence. Your Honor.

2 (A PAUSE.)

3 MR. GIPSON: No, sir. That's all we have.

4 THE COURT: Thank you. Have a great day.

5 WITNESS: Thank you, sir.

6 THE COURT: Thank you.

7 (THE WITNESS EXITS THE STAND.)

8 THE COURT: You may call your next witness.

9 MS. NELLERMOE: Thank you, Your Honor. The state
10 would call Mr. Richard Hill to the stand.

11 MR. GIPSON: Your Honor, may Mr. Richard Crooks be
12 excused?

13 THE COURT: Any objection?

14 MR. WILLIAMS: No objection.

15 THE COURT: Wonderful. I'm going to excuse -- I'm
16 going to assume people are excused unless you tell me you
17 want somebody kept under their subpoena.

18 MR. WILLIAMS: Yes, Your Honor.

19 THE COURT: Okay.

20 MR. GIPSON: Thank you, Your Honor.

21 THE COURT: Ladies and gentlemen, the witnesses are
22 what we call sequestered in this case, which means only the
23 lead investigator and the main victim are allowed to be in
24 here, and so the other witnesses are outside. So, it takes
25 a couple of seconds to get them in. So, that's what's

R. HILL - DIRECT EXAMINATION BY MS. NELLERMOE

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1 happening with this witness.

2 RICHARD HILL, BEING DULY SWORN,

3 TESTIFIES AS FOLLOWS:

4 CLERK: Please have a seat in the witness stand, and
5 state your full name for the record.

6 WITNESS: My name is Richard Hill.

7 DIRECT EXAMINATION BY MS. NELLERMOE:

8 Q. Good morning, Mr. Hill. How are you doing this
9 morning?

10 A. I'm doing well. How are you?

11 THE COURT: I need you to take your mask off for me,
12 sir.

13 WITNESS: Oh. I'm sorry.

14 THE COURT: That's okay. Thank you.

15 BY MS. NELLERMOE:

16 Q. Mr. Hill, what you do for a living?

17 A. I'm a paramedic with Richland County Emergency
18 Services.

19 Q. Okay, and what is your title?

20 A. I am a crew leader paramedic.

21 Q. Okay. How long have you been a paramedic?

22 A. For the better part of fifteen years.

23 Q. Okay, and how long have you been employed with
24 Richland County Emergency Services?

25 A. For the past twelve.

1 Q. What are your duties as a paramedic?

2 A. Triage, treatment, and transport of sick and injured
3 citizens, visitors, visitors to Richland County; and scene
4 command stuff; taking care of the ambulance and the
5 equipment; so on, so forth.

6 Q. Okay. So, generally can you explain to the jury what
7 happens when y'all get a call for service?

8 A. When we get a call for service, normally we get --
9 there's a call to 911, obviously, and they are given two
10 different numbers. There's a PRID number, which is for
11 internal audits, and then there is a run number. Once they
12 get that call in, they dispatch the appropriate people to
13 the call. So, whether it be police, fire, EMS, and we're
14 each given a, a different code that's interlinked between
15 them with that PRID number. And it keeps track of our
16 times from when we come on scene, when we meet -- when we
17 get to patient contact, when we leave the scene, and we
18 arrive at the hospital.

19 Q. Okay. So, once you get a call and you go, you treat a
20 patient, you take them to the hospital, do you have any
21 responsibilities after that?

22 A. Once we drop them off at the hospital, it's, it's just
23 the hospital that, that deals with them. Now, we do keep
24 specific calls for review and for training purposes later
25 on.

R. HILL - DIRECT EXAMINATION BY MS. NELLERMOE

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1 Q. Okay. Were you employed as a paramedic back in
2 February of 2017?

3 A. I was.

4 Q. Okay, and were you working the night of February 22,
5 2017?

6 A. I was.

7 Q. Did you receive a call for service that night?

8 A. We did.

9 Q. And what was the nature of that call?

10 A. It was a gunshot wound.

11 Q. Okay. Do you recall the time that you were sent to
12 respond to that call?

13 A. I would have to see the run report.

14 Q. And the report that you would like to see, is that
15 something that you created in this case?

16 A. Yes.

17 Q. Okay, and would it refresh your recollection to take a
18 look at that report?

19 A. It would.

20 THE COURT: Let Mr. Williams see it.

21 MR. WILLIAMS: No objection, Your Honor.

22 THE COURT: Okay. Thank you.

23 BY MS. NELLERMOE:

24 A. Thank you.

25 Q. And so I had asked you what was the time of the call.

1 A. When it was dispatched to us or when we received it?
2 Or when, like, 911 received it?

3 Q. When you were dispatched.

4 A. 2207, which is 10:07 PM.

5 Q. Okay, and what was the address?

6 A. The address was 107 Thornwell Court, apartment C, in
7 Columbia, 29205.

8 Q. Can you please tell the jury what happened when you
9 arrived to that address?

10 A. We were shown to the apartment where the, the patient
11 was, and we found a black male lying supine on the floor,
12 which is flat on his back, complaining of gunshot wounds.

13 Q. Okay. Were you able to identify who the victim was or
14 the patient was?

15 A. He was able to tell me his name.

16 Q. Okay. Do you have his name there?

17 A. I do. It's Antonio Jones.

18 Q. Okay. Medically what kind of state did he appear to
19 be in?

20 A. Medically he was alert and oriented, able to answer,
21 answer my questions, and his vital signs were stable at the
22 time that we encountered him.

23 Q. Okay. So, what did you and your team do, if anything,
24 at that point?

25 A. Primary thing that we would have done is stop the

R. HILL - DIRECT EXAMINATION BY MS. NELLERMOE

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1 bleeding, bandaged the wound, and due to the type of trauma
2 that he sustained, put him in spinal precautions just in
3 case, and transported him down to the unit.

4 Q. When you say spinal cautious, what does that mean?

5 A. Spinal precautions are putting a C-collar on the
6 patient and putting them on a long board to mobilize their
7 body to keep the spine from moving as much as possible.

8 Q. Okay, and so at that point, then what did you do?

9 A. We loaded him on the stretcher, put him in the
10 ambulance, and transported the patient to the emergency
11 room.

12 Q. Which emergency room did you take you to?

13 A. Richland Memorial Hospital.

14 Q. Okay, and is that what -- does that hospital have a
15 new name now?

16 A. Yeah. It's -- currently it's Prisma Health.

17 Q. Okay. Why would you take him to Richland Memorial,
18 now known as Prisma Health?

19 A. It's -- because it's a level one trauma center, and
20 anything -- any type of traumatic injury proximal to the
21 knee or elbow goes to a level one trauma center.

22 Q. When you say proximal to the knee or elbow, could you
23 tell the jury what that means?

24 A. Yes. Above the knee or above the elbow.

25 Q. Okay. So, those type of gunshot patients would be

1 taken to a level one trauma center. What kind of services
2 or facilities does a level one trauma center have?

3 A. They have the ability to -- they have trauma teams
4 that are on -- that are constantly on grounds for patients
5 that come in with significant traumatic injury, and they're
6 able to, to treat them and get them into surgery much
7 quicker than other facilities.

8 Q. Okay. So, when you arrived at the hospital at the
9 emergency room, what did, what did you do at that point?

10 A. We gave -- we brought the patient into a trauma bay
11 and then gave the doctors and nurses that were in the
12 trauma bay a report of what we found, what we did, and gave
13 care over to them.

14 Q. What is the trauma bay?

15 A. So, they have several different rooms within the
16 emergency room, and then they have two large trauma bays.
17 The difference is the trauma bays are heated, and you can
18 do more inside those rooms. Take x-rays. There's more
19 space for several providers to be there. They have
20 respiratory therapy right there in case the patient needs
21 to have a ventilation assisted, so on, so forth. Basically
22 like a small operating room.

23 Q. Okay. So, a person taken to a trauma bay would be in
24 need of some pretty significant care?

25 A. Correct.

R. HILL - DIRECT EXAMINATION BY MS. NELLERMOE

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1 Q. So, after you handed off Mr. Jones to the medical
2 staff, did you have any further involvement with him?

3 A. Not at that time.

4 Q. Okay, and did you have any further involvement with
5 this case?

6 A. Besides completing the paperwork, that's as, that's as
7 far as my, as my dealings would be with, with the patient.

8 Q. Okay.

9 MS. NELLERMOE: Beg the court's indulgence?

10 THE COURT: Yes, ma'am.

11 MS. NELLERMOE: Thank you, Mr. Hill. I have no
12 further questions. Please answer any questions Mr.
13 Williams may have.

14 WITNESS: Okay.

15 MR. WILLIAMS: No questions, Your Honor.

16 THE COURT: Have a great day.

17 WITNESS: Okay. Thank you.

18 (THE WITNESS EXITS THE STAND.)

19 THE COURT: How long is your next witness?

20 MS. NELLERMOE: Your Honor, the state would call
21 Jackie Richburg. Oh, I'm sorry. I thought you said call
22 the next witness.

23 THE COURT: That's okay. How long do you expect your
24 next witness to be probably?

25 MS. NELLERMOE: Probably thirty minutes.

1 THE COURT: Okay. All right, ladies and gentlemen,
2 let's go ahead and take our morning break at this point in
3 time. We've been going for about an hour and a half or so.
4 So, that's a fairly good point in time as far as the court
5 reporters can go without needing a break. So, as I release
6 you ---

7 Everyone stay seated. Stay seated.

8 As I release you for this break, do not discuss the
9 case. You can't talk about the weather. You can talk
10 about the heat that's coming; you can talk about anything
11 else you want to. You can't talk about this case. Keep an
12 open mind about the case. We'll see you back in about ten
13 to fifteen minutes. You know, get a drink, use the
14 restroom, and we'll be ready to go when we come back in,
15 okay?

16 Everyone else remain seated while the jury is excused.
17 Thank you.

18 (THE JURY EXITS AT 10:53 A.M.)

19 THE COURT: Now that the jury is out of the room, one
20 issue we need to take up is the issue of your client's
21 bond, so.

22 MR. WILLIAMS: Your Honor, in anticipation of that, I
23 have in my possession somewhere something from the bonding
24 company saying that they will remain on her bond. And
25 given about two seconds, I probably could come up with it,

1 Judge.

2 THE COURT: Take your time.

3 MR. WILLIAMS: I put it in a safe place. That's
4 always a bad thing to do, Your Honor.

5 (A PAUSE.)

6 MR. WILLIAMS: Your Honor, so I don't hold the court
7 up, let me just flip to my cell phone to find where the
8 email is.

9 THE COURT: Okay.

10 MR. WILLIAMS: And then I will find it and hand it to
11 Your Honor, and I'll tell you who the person was that sent
12 it. It is...

13 (A PAUSE.)

14 MR. WILLIAMS: It's Justin Smith, Justin M. Smith, and
15 he is the assistant vice president of bail for Crum and
16 Forster. Crum and Forster -- let me hand up the mortgage
17 so I can put it all together, on the bond together.

18 Carolina Bonding Company was the agent that signed.
19 They have been taken over, Your Honor, by Crum and Forster,
20 and here's a copy of the email saying that they're willing
21 to stay on the bond until her case reached completion.

22 THE COURT: All right, what's the state's position?

23 MS. SAMPSON: The state's position, Your Honor, is
24 that -- I had thought we would probably do it later. I
25 don't have a position on during the day, her going to lunch

1 because they would not have that available for her today.
2 But it's the state's position that she be taken into
3 custody at least at night.

4 She already did not come to court Monday. I
5 understand she may have been ill, but we also, because she
6 has a monitor, has a tracking report and she was not just
7 at home that day, nor was she just at Doctors Care. She
8 went to some other places as well. And then yesterday when
9 she was supposed to be home sick, she also was out at
10 Wendy's, at Dollar General, at different places. So, our
11 concern is now that we have started the case, she has every
12 reason to not come back to court by the end of the day.
13 So, we would ask that she be taken into custody.

14 MR. WILLIAMS: There is one additional factor, Your
15 Honor, I might tell the court. Your Honor, it's my
16 understanding in talking with the bail agency that there is
17 actually a mortgage put -- that has been placed on her home
18 to secure the mortgage. So, that would mean that in the
19 event that she did not show up, not only would this court
20 be delayed maybe -- maybe not delayed -- but she would also
21 lose her home because the bonding company would foreclose
22 on her mortgage on her house.

23 THE COURT: All right. So, for right now, for breaks,
24 for lunch, I'm going to allow her to stay out, and then
25 I'll make a decision by the end of the day as to whether or

1 not she needs to go into custody. So, for right now she's
2 welcome to take breaks and go to lunch when we take a break
3 for lunch.

4 But, Ms. Fortson, I need you to understand that if for
5 any reason you don't show back up, this trial is going
6 forward whether you're sitting there or not. I'm going to
7 give you the benefit of the doubt for the Monday issue.
8 Your conduct would not have been a reasonable person's
9 conduct under the circumstances, but I'm going to give you
10 the benefit of the doubt, but I'll make a decision as to --
11 about tonight by the end of the day. But at this point,
12 I'm going to allow you to stay out through the breaks and
13 through lunch, but if you don't show back up for whatever
14 reason, we're going forward whether you're here or not. Do
15 you understand?

16 DEFENDANT: Yes, sir, I understand.

17 THE COURT: Okay.

18 DEFENDANT: I have every intention of being here.

19 THE COURT: All right.

20 DEFENDANT: Let alone I don't have the, the means to
21 get or do anything to anyone. I, I have things that I have
22 to do. I have animals that depend on me. I have to get
23 food for them.

24 THE COURT: Okay, the question was do you understand.

25 DEFENDANT: Yes, I understand.

J. RICHBURG - DIRECT EXAMINATION BY MS. NELLERMOE

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1 THE COURT: Okay. Thank you. All right, let's take
2 a little break.

3 (OFF THE RECORD.)

4 THE COURT: Do we need to wait on Byron?

5 MS. SAMPSON: Oh, no. You can go ahead and start, but
6 he just went to grab the next witness.

7 THE COURT: Okay. Bring them in.

8 (THE JURY ENTERS AT 11:13 A.M.)

9 THE COURT: All right, welcome back, ladies and
10 gentlemen.

11 And, Ms. Nellernoe, you can call your next witness.

12 MS. NELLERMOE: Thank you, Your Honor. The state
13 would call Jackie Richburg.

14 JACQUELINE RICHBURG, BEING DULY
15 SWORN, TESTIFIES AS FOLLOWS:

16 CLERK: Have a seat in the witness stand, and state
17 your full name for the record.

18 WITNESS: Jacqueline Richburg.

19 DIRECT EXAMINATION BY MS. NELLERMOE:

20 Q. Good morning, Ms. Richburg.

21 A. Good morning.

22 Q. Would you please tell the jury what is your
23 occupation?

24 A. Interim director with Columbia Richland 911
25 Communications Center.

J. RICHBURG - DIRECT EXAMINATION BY MS. NELLERMOE

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1 Q. Okay, and what is the 911 Communications Center?

2 A. It is the center that processes emergency and
3 nonemergency calls for Richland County.

4 Q. How long have you been employed with 911
5 Communications Center?

6 A. Thirty-eight years.

7 Q. And how long have you been interim director?

8 A. Since 2018.

9 Q. Before you were interim director, what other positions
10 did you have?

11 A. Deputy director, operations officer, training officer,
12 telecommunicator, and call taker.

13 Q. What are some of your duties as interim director?

14 A. I oversee the 911 center with the staffing, making
15 sure the calls are properly entered, that the staffing has
16 the education that they need to maintain some of their
17 certifications.

18 Q. So, do your duties as interim director include any
19 responsibilities for maintaining or producing records?

20 A. Yes.

21 Q. So, let's talk about 911 calls. Tell us what happens
22 when someone in Richland County calls 911.

23 A. So, the calls are answered by, by one of our staff
24 members. The information is then -- every phone call is
25 recorded, and so the information that's recorded is placed

1 on our recording data, and it's kept on the system for
2 ninety days.

3 Q. And can you tell us about the, the system that you may
4 have?

5 A. It is -- our recording system, it's called the NICE
6 recording system.

7 Q. And can you tell us a little bit about how that works?

8 A. So when a call comes in, like I said earlier, the
9 information, the phone calls are recorded for every phone
10 call. Every radio traffic is recorded. It is stamped and
11 dated with a time and date within the NICE recording system
12 database.

13 Q. And how long are the calls saved?

14 A. For ninety days.

15 Q. When are they saved? Are they, are they saved
16 immediately or some other date?

17 A. Yes. They are saved immediately.

18 Q. Is every single 911 call handled the same way?

19 A. Yes.

20 Q. Who has, who has access to the database of the saved
21 calls?

22 A. I have access and I have -- my deputy director has
23 access, the training officer, and I have two other
24 employees that assist pulling the FOIA requests, assist
25 with that as well.

J. RICHBURG - DIRECT EXAMINATION BY MS. NELLERMOE

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1 Q. Can these files be manipulated or changed in any way
2 once they're saved?

3 A. No.

4 Q. Is the system reliable?

5 A. Yes.

6 Q. And are all these records kept in the ordinary and
7 normal course of business at 911?

8 A. Yes.

9 Q. Can you please tell the jury a little bit about your
10 specific training and your specific experience with the
11 NICE system?

12 A. Yes. So, we were trained with the NICE system. Not
13 sure how long ago it was. Probably about maybe six, seven
14 years ago we had a new system, and the training that we
15 received was from the vendor. We received about a week's
16 training, and so it was pretty -- at first it was kind of
17 complicated, but as we trained and gave different scenarios
18 for just certain one of our employees that were selected to
19 assist with it, and we received that training on when to
20 pull, how to pull data to make sure that that call goes
21 with the incident. We had to kind of read the incident and
22 read the calls, and that's how we were able to compile all
23 the data.

24 Q. Okay, and you mentioned receiving requests for 911
25 calls. Who do you typically -- who's asking for 911 calls?

1 A. We get requests from, of course, the solicitor's
2 office, from attorneys, from citizens, from the news media.
3 Just everybody's asking.

4 Q. And is that a typical part of your day, day-to-day
5 operations of the 911 Communication Center?

6 A. Yes.

7 Q. So, when you receive a request for a 911 call, what is
8 the process used?

9 A. So, it's, it's logged in our FOIA -- we have a FOIA
10 spreadsheet that we log it, all the requests, in.

11 Q. And What, what is FOIA for the jury?

12 A. I'm sorry. Freedom of Information.

13 Q. Okay. Thank you.

14 A. And we log it and give it a FOIA number and the date
15 that we received it, who requested it, what was the case
16 number, what was the address, and then we will pull that
17 information based on which call -- which request was
18 received first.

19 Q. Okay. Do you ever have a situation where there are
20 multiple calls associated with one incident?

21 A. Yes.

22 Q. And how do you determine which calls are associated
23 with that incident?

24 A. So, when the calls come ---

25 THE COURT: Ma'am, you need to pull your mask down.

1 WITNESS: I'm sorry.

2 THE COURT: Y'all need to tell all the witnesses to
3 pull their masks down.

4 MS. NELLERMOE: Yes, sir.

5 THE COURT: I'm sorry. I just recognized that.

6 BY MS. NELLERMOE:

7 A. I'm sorry. What was the question again?

8 Q. When you have a situation where there's multiple calls
9 coming in from one incident, how do you determine which
10 calls are associated with that incident?

11 A. So, we look at the geographics because if the call is
12 not coming from the actual address -- a lot of our calls
13 come from cell phones. So, it will hit the tower, and
14 geographically we know where the tower is based off of the
15 address from the request. So, we will look at the address
16 from the request, and then we will pull all the calls based
17 off the tower that it hits.

18 Q. Okay. Did your organization receive a request to pull
19 911 calls associated with the case we are here for today?

20 A. Yes.

21 Q. And what, if anything, did your office produce for
22 today?

23 A. We produced the close incident report and the phone
24 calls that were related to this incident.

25 Q. How many calls were pulled in this case?

1 A. I am -- I'm not sure. You want me to look through?

2 Q. Yes, ma'am, if you don't mind, and if you could please
3 tell the jury what you're referring to.

4 A. The close incident report. This is the report that
5 when we receive a call, that our employees type this into
6 our CAD system.

7 Q. Okay. Thank you.

8 (A PAUSE.)

9 A. Maybe seven or eight. Could be a little more because
10 I'm seeing the same initials twice.

11 Q. Okay. The calls that you were able to locate, were
12 they -- what -- how were they provided to the solicitor's
13 office?

14 A. We provided the close incident report for the one
15 incident because it has all of the employees' names or
16 initials in the comments of the call.

17 Q. And how about the audio calls themselves?

18 A. Yes. So, that's the information that we would
19 provide. So, for instance, this first call was taken by
20 ALP, which is one of our employees, and so then that would
21 be the first call that we, we would provide. And then I'm
22 seeing a second call saying additional caller, and that's
23 initials ACM. That's Ms. Morris. So, that's how we were
24 able to determine the different calls.

25 MR. WILLIAMS: May we approach the bench a second,

J. RICHBURG - DIRECT EXAMINATION BY MS. NELLERMOE

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1 Your Honor?

2 THE COURT: Sure.

3 (OFF-THE-RECORD BENCH CONFERENCE.)

4 BY MS. NELLERMOE:

5 Q. Ms. Richburg, I'm going to hand you an item that's
6 been premarked for identification purposes as State's
7 Exhibit 65. Would you please take a look at that item?

8 A. Yes.

9 Q. Do you recognize it?

10 A. Yes.

11 Q. And how do you recognize it?

12 A. Because this is the process that we use to complete
13 our CDs, and it has the employee that works with me. It
14 has her initial and the date.

15 Q. Okay, and can you please tell the jury what it is?

16 A. It's a CD for 107 Thornwell Court.

17 Q. Okay, and what is on that CD?

18 A. The phone calls that were called in reference to 107
19 Thornwell Court.

20 Q. And they are all relating to the same date?

21 A. Yes.

22 Q. And what is that date?

23 A. February the 22, 2017.

24 Q. Have you had an opportunity to review all the calls in
25 their entirety prior to your testimony here today?

1 A. Yes.

2 Q. And when you reviewed those calls, how were you able
3 to identify each recording?

4 A. From the employees', the employees' voices that I'm,
5 that I'm aware of.

6 Q. Is there any other way that you were able to identify
7 them?

8 A. Yes. By the beginning of the recording. The voice
9 that's on the beginning of the recording, that's the voice
10 that goes with our NICE system.

11 Q. Are all the recordings on that CD a fair and accurate
12 reflection of the calls as they were recorded on the
13 incident date?

14 A. Yes.

15 MS. NELLERMOE: Your Honor, at this time the state
16 would offer the CD marked as State's Exhibit 65 for
17 admission into evidence.

18 MR. WILLIAMS: So long as that first call -- it starts
19 at 21:20:19 -- we don't have an objection.

20 MS. NELLERMOE: What do you, what do you mean by that?

21 THE COURT: Y'all, y'all talk amongst yourselves.

22 (COUNSELORS CONFER.)

23 BY MS. NELLERMOE:

24 Q. Ms. Richburg, can I ask you the first call that comes
25 in, the time, the specific time that that call comes in?

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1 A. I would have to listen to the recording because the
2 recording will come in, and it will give the time that the
3 call came in. But the dispatcher, this time that's on the
4 close incident report stamps the time that the dispatcher
5 starts typing. So, I would have to listen to see what the
6 recording says for the time received.

7 Q. Okay.

8 MS. NELLERMOE: I beg the court's indulgence.

9 MR. WILLIAMS: Could we have that heard in camera
10 before?

11 THE COURT: Sure. Is there a way to play it for him
12 so just he can hear it?

13 MS. NELLERMOE: We would have to take him to a
14 different location, Your Honor.

15 THE COURT: Okay.

16 (COUNSELORS CONFER.)

17 BY MS. NELLERMOE:

18 Q. Ms. Richburg, could you please turn to page 4 of your
19 incident report?

20 MS. NELLERMOE: Court's indulgence.

21 (COUNSELORS CONFER.)

22 MR. WILLIAMS: Judge, the easiest way to do it is just
23 let her go ahead and introduce it and play it.

24 THE COURT: Okay.

25 MS. NELLERMOE: Okay. So, Your Honor, I'll, I'll try

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1 again. At this time, the state would offer the CD marked
2 as State's Exhibit 65 for admission into evidence.

3 MR. WILLIAMS: Yes, Your Honor, no objection.

4 THE COURT: All right, without objection.

5 MS. NELLERMOE: Thank you, Your Honor.

6 (CD OF 911 CALLS MARKED INTO EVIDENCE AS STATE'S
7 EXHIBIT NUMBER 65.)

8 BY MS. NELLERMOE:

9 Q. Ms. Richburg, when you reviewed the calls on Exhibit
10 65 yesterday, did you also have an opportunity to listen to
11 them as they were played on the solicitor's office
12 SmartBoard?

13 A. Yes.

14 Q. And were the calls on the SmartBoard the same as the
15 calls as they are -- as they sound on the CD?

16 A. Yes.

17 MS. NELLERMOE: Your Honor, permission to publish the
18 911 calls for the jury.

19 THE COURT: Yes, ma'am.

20 MS. NELLERMOE: Members of the jury, I'm now going to
21 play some of these 911 phone calls for you, and for the
22 record, I am playing phone call number two.

23 MR. WILLIAMS: I'm, I'm going to object to, to
24 choosing which calls she publishes from the document. We
25 ask that she play all of them if she's going to play them.

J. RICHBURG - DIRECT EXAMINATION BY MS. NELLERMOE

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1 MS. NELLERMOE: Your Honor, I would submit that since
2 all calls are in evidence, Mr. Williams can play any calls
3 that he would like to. But in our presentation, there is a
4 few calls that we have highlighted at this time.

5 THE COURT: Okay, you're welcome to play the rest ---

6 MR. WILLIAMS: Yes, sir.

7 THE COURT: --- of them on cross if you want to.

8 MS. NELLERMOE: Thank you, Your Honor.

9 THE COURT: They are introduced, so you don't have to
10 introduce them. You're not introducing evidence at that
11 point.

12 (WHEREUPON, EXCERPT OF STATE'S EXHIBIT NUMBER 65 IS
13 PLAYED FOR THE COURT. AUDIO NOT TRANSCRIBED.)

14 MS. NELLERMOE: For the record, I'm now going to play
15 911 call number five.

16 (WHEREUPON, PLAY CONTINUES. AUDIO NOT TRANSCRIBED.)

17 MS. NELLERMOE: For the record, I'm now going to play
18 911 call number seven.

19 (WHEREUPON, PLAY CONTINUES. AUDIO NOT TRANSCRIBED.)

20 MS. NELLERMOE: For the record, I am going to play 911
21 call number nine.

22 (WHEREUPON, PLAY CONTINUES. AUDIO NOT TRANSCRIBED.)

23 MS. NELLERMOE: Thank you, Ms. Richburg. I have no
24 further questions. Please answer any questions Mr.
25 Williams may have for you.

1 WITNESS: Yes.

2 MR. WILLIAMS: May it please the court?

3 THE COURT: Yes, sir.

4 MR. WILLIAMS: Your Honor, for the record, I'm playing
5 call number one. I may require some solicitor assistance
6 since it's their tool.

7 (WHEREUPON, EXCERPT OF STATE'S EXHIBIT NUMBER 65 IS
8 PLAYED FOR THE COURT. AUDIO NOT TRANSCRIBED.)

9 MR. WILLIAMS: Your Honor, we are now playing call
10 number six.

11 (WHEREUPON, PLAY CONTINUES. AUDIO NOT TRANSCRIBED.)

12 MR. WILLIAMS: Now, Your Honor, we're publishing call
13 number eight.

14 (WHEREUPON, PLAY CONTINUES. AUDIO NOT TRANSCRIBED.)

15 MR. WILLIAMS: That's all I have, Your Honor.

16 THE COURT: Thank you very much.

17 Anything else?

18 MS. NELLERMOE: Nothing else, Your Honor.

19 THE COURT: Have a good day, ma'am.

20 WITNESS: Thank you.

21 (THE WITNESS EXITS THE STAND.)

22 THE COURT: Call your next witness.

23 MR. GIPSON: State calls Shawn Schroder.

24 SHAWN SCHRODER, BEING DULY SWORN,

25 TESTIFIES AS FOLLOWS:

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1 CLERK: Please have a seat in the witness stand, and
2 state your full name for the record.

3 THE COURT: Go ahead and take off your mask for me,
4 please.

5 WITNESS: Sure.

6 THE COURT: State your full name for the record.

7 WITNESS: Shawn Schroder, S-c-h-r-o-d-e-r.

8 DIRECT EXAMINATION BY MR. GIPSON:

9 Q. Good morning, Mr. Schroder.

10 A. Good morning.

11 Q. Now, you currently live in Iowa. Is that correct?

12 A. That's correct.

13 Q. All right, and you came back for purposes of this
14 trial?

15 A. Yes, sir.

16 Q. So back in 2017, were you employed by the Richland
17 County Sheriff's Department?

18 A. I was.

19 Q. Tell us your rank and just a little bit about your
20 training.

21 A. I was a crime scene investigator at the time. My
22 training, I had received -- I have a bachelor's degree, a
23 four-year degree in criminal justice, criminal law.

24 THE COURT: You're going to have to pull that
25 microphone and speak up.

1 WITNESS: Sorry.

2 BY MR. GIPSON:

3 A. I have a four-year degree in -- a bachelor's of
4 science in criminal justice, criminal law that I received,
5 and then I later became a crime scene investigator, where I
6 have further education in that.

7 Q. When did you start your career in law enforcement?

8 A. In 2007.

9 Q. In which agency?

10 A. Richland County.

11 Q. And you worked your way up the food chain from there?

12 A. Yes. I started on the road and went to Crime Scene
13 after three years.

14 Q. All right, and so what was your rank -- well, when we
15 fast-forward to 2017, what was your rank at the time?

16 A. I was a crime scene investigator.

17 Q. Are you also a member of the Air Force?

18 A. That's correct.

19 Q. All right. So, let's focus on the 22 of February
20 2017. How did you become involved in this case?

21 A. At the time, I was notified by the desk sergeant that
22 an incident had occurred.

23 Q. And is that the normal protocol?

24 A. It is.

25 Q. All right. So, once you were notified by the desk

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1 sergeant, what did you do next?

2 A. At the time, I responded out to the location.

3 Q. And do you remember what the location was?

4 A. I, I may -- can I refer to my report on that?

5 Q. You may. You may.

6 A. Okay.

7 Q. If it will refresh your recollection, you may refer.

8 MR. WILLIAMS: No objection, Your Honor.

9 THE COURT: All right.

10 BY MR. GIPSON:

11 Q. All right. Yes, sir.

12 A. I was -- responded out to 107 Thornwell Court.

13 Q. And was there a point of contact that you had?

14 A. Yes. It was Deputy Crooks and Investigator Clarke.

15 Q. All right, and so when you got there, the two of them
16 were already on the scene?

17 A. That's correct.

18 Q. To your knowledge, what was Deputy Crooks's role in,
19 in the investigation?

20 A. Deputy Crooks would have been the initial responding
21 deputy, and he was also maintaining the crime scene log.

22 Q. And so when you say the initial responding person,
23 the ---

24 A. Responding deputy.

25 Q. Okay. Is there a particular role that that person

1 plays in an investigation?

2 A. He's, he's going to be the first responder. As soon
3 as a 911 call or there's a call for service that comes in,
4 he would more than likely be one of the first ones on scene
5 to help guide the incident from there. You know, call the
6 desk sergeant, investigators.

7 Q. Are there certain things that that person needs to do
8 before you arrive?

9 A. Generally they're going to secure the crime scene, and
10 that's where the crime scene investigator would come in
11 afterwards to ensure no one else enters the scene.

12 Q. All right, and so when you arrive, was that scene, in
13 fact, secured?

14 A. It was.

15 Q. All right, and how do you know it was secured?

16 A. It was crime scene tape in place, and Deputy Crooks
17 had -- he had been maintaining the crime scene log.

18 Q. I'm going to hand you what's already been marked as
19 State's Exhibit Number 74. Can you tell us with that is,
20 please?

21 A. Yes. This is the crime scene log from that night.

22 Q. All right, and have you initialed that crime scene
23 log?

24 A. I did.

25 Q. Okay, and based on that log that I'm, that I'm, that

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1 I'm referring to as State's Exhibit Number 74, what time
2 did you arrive?

3 A. I signed in the crime scene 2256, 10:56 PM.

4 Q. So, what was your role once you arrived?

5 A. My role was general processing of the crime scene as a
6 crime scene investigator.

7 Q. Okay, and, and tell us what that means.

8 A. When, when I arrived on scene, I would ensure that
9 photographs would be taken and evidence would be collected.
10 And then I would break the crime scene down from there,
11 take it from the deputy and ensure that all the evidence
12 was processed and entered into evidence after that.

13 Q. All right.

14 MR. GIPSON: Court's indulgence for a moment, Your
15 Honor?

16 THE COURT: Yes, sir.

17 (COUNSELORS CONFER.)

18 MR. WILLIAMS: No objection, Your Honor, to any of
19 them.

20 BY MR. GIPSON:

21 Q. Now, I'm going to show you a batch of pictures and
22 just tell us just generally if you ---

23 MR. GIPSON: And these are, just for the record, they
24 are premarked marked at this point State's Exhibits 46
25 through 62. They're chronological, Your Honor, for

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1 identification purposes.

2 BY MR. GIPSON:

3 Q. So, just take a look and see if you recognize that
4 first.

5 (A PAUSE.)

6 A. They're photos from the incident that night.

7 Q. Okay, and who took those photos?

8 A. I did.

9 Q. All right.

10 MR. GIPSON: Your Honor, I'd like to enter State's
11 Numbers 40 -- make sure I get it correct for the record --
12 46 through -- I believe that's 64 into evidence.

13 MR. WILLIAMS: Without objection, Your Honor.

14 THE COURT: You said 62 one time and 64 the other, so.

15 MR. GIPSON: I apologize.

16 THE COURT: Whichever one it is, it's fine.

17 MR. GIPSON: Yes, sir.

18 THE COURT: Just make sure we have it correct.

19 MR. GIPSON: It is 62, Your Honor.

20 THE COURT: Okay. 46 through 62 admitted without.

21 MR. GIPSON: Okay, and I apologize for misspeaking. I
22 had them out of order. There is a 63 and -4 here.

23 THE COURT: Okay.

24 MR. GIPSON: So, please accept my apologies for that.

25 THE COURT: 46 through 64.

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1 MR. GIPSON: I don't do math, Your Honor.

2 THE COURT: You need to look at those other two, or
3 are you good?

4 MR. WILLIAMS: I'm good, judge.

5 THE COURT: Thank you.

6 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
7 STATE'S EXHIBITS 46 THROUGH 64.)

8 BY MR. GIPSON:

9 Q. All right. So, let me show you these. So, is there a
10 procedure that you ---

11 MR. GIPSON: And I'd like to publish them on the big
12 board for the jury.

13 THE COURT: That's perfectly fine.

14 MR. GIPSON: Thank you, Your Honor.

15 THE COURT: Once something is in, y'all are welcome to
16 put it up on the board. Just let Mr. Williams know you're
17 doing it so he can move to see whenever somebody's putting
18 up something.

19 MR. GIPSON: Yes, sir. Thank you, Your Honor.

20 THE COURT: You're very welcome.

21 BY MR. GIPSON:

22 Q. All right. So, tell us a little bit about the
23 process that you use when you take pictures.

24 A. Whenever I take photos at crime scenes, I'm always
25 going, going to start from the exterior and go towards the

1 interior of the residence and generally get an overall
2 photograph. Do a medium-range photograph and then a
3 close-range photograph is how I do photographs.

4 Q. All right. So, I'm going to show you now -- and you
5 can step down if you'd like to be able to kind of point to
6 different pieces if you need to.

7 THE COURT: All right. So, Mr. Schroder, if you're
8 going to step down, that is fine. I just want you to stand
9 where your voice is going this way so the court reporter
10 can hear you, and I need you to speak up loud and clear for
11 me, okay?

12 WITNESS: I will.

13 THE COURT: Thank you very much.

14 BY MR. GIPSON:

15 Q. All right. So, I'm showing you now -- and I'm going
16 to take these originals so I can refer to these as well, if
17 I may. State's Exhibit, State's Exhibit Number 46, tell us
18 what you see there and, and what that picture is and why
19 you took it.

20 A. When I first responded, this was the first photograph
21 that I took, if I remember correctly. This was just 107
22 Thornwell Court, the apartment, entering -- or looking down
23 the stairwell, and so you can see the crime scene tape.
24 This was the back of the building and this was the front of
25 the building.

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1 Q. So State's Exhibit 47, will you explain that picture
2 to us, please?

3 A. This is the back of the building. As -- if we went
4 back to the other photograph, you'd be able to see the
5 grill from the front. So, this is just the back of that
6 area.

7 Q. And you can go back there if that helps.

8 A. So, here's the grill right there and then there it is
9 right there.

10 Q. Okay, and if we proceed from there to what's been
11 marked as State's Exhibit 48, can you explain that to the
12 jury, please?

13 A. As we get closer to -- this was the apartment. I
14 believe it was C. So, this was the -- towards the back
15 left on the initial photograph, and there was some, some
16 blood right here and the crime scene tape that you can see.

17 Q. If you'll swipe, you can move to 49, State's Exhibit
18 Number 49.

19 A. Just, this is the medium-range photograph that I was
20 talking about. So, I tried to do an overall and then just
21 a little closer up of -- you can see some stains here and
22 some stains further back that direction.

23 Q. And that crime scene tape is there. Again, who placed
24 that tape there, to your knowledge?

25 A. I believe it would have been Deputy Crooks.

1 Q. And because he was first responder?

2 A. Correct.

3 Q. All right, and if you'd like to swipe, you can go to
4 the next photo. That State's Exhibit Number 50.

5 A. This would, this would have been my closer up
6 photograph, as well as a marker in place where I would've
7 collected a swab from there.

8 Q. And when you say collected a swab, explain to the jury
9 what that means.

10 A. So, a swab is for DNA collection. It's really a
11 simple process. It's just basically like a big Q-tip,
12 sterile Q-tip where you put distilled water on that, which
13 is clean water. In this case, you didn't have to because
14 it was, it was still wet. But then you just take a
15 collection of whatever you're collecting. In this case, it
16 was a reddish-brown stain believed to be blood.

17 Q. And when you take that swab, what do you do with it?

18 A. And then from there, you put it in a sterile box, a
19 sterile carton, which it gets submitted to evidence.

20 Q. And do you have to -- in order to submit to evidence,
21 you got to put it in that carton. You have to seal it and
22 do anything in particular?

23 A. That's right. It goes in a carton and then -- I'm not
24 100 percent sure what I put it in this time, but generally
25 I put it in a manila envelope and then would seal it with

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1 evidence tape and put it in a secure dropbox.

2 Q. And you sign it?

3 A. Yes. I sign and ---

4 Q. And why do you ---

5 A. --- and initial.

6 Q. I'm sorry.

7 A. Yes. It would be initialed so it's guaranteed that it
8 came from me to verify the chain of custody.

9 Q. All right. So, if you'll flip to State's Exhibit
10 Number 51, please? Anything significant about that photo
11 that you took?

12 A. This is looking at the apartment complex right here
13 where the door was already open, where the victim lived.

14 Q. Okay, and what does that purport to be that's on the
15 door?

16 A. Just more stains.

17 Q. And when you say stains, consistent with what?

18 A. Yeah, consistent with blood.

19 Q. Okay, then turning to State's 52?

20 A. This was just a, a photograph of the door so you can
21 see the apartment C with more of the stains shown in the
22 previous.

23 Q. All right, and to State's 53, anything significant
24 about that photo that you want to point out to the jury?

25 A. This was the first photograph that -- I entered the

1 residence, and I just did this so you could get relation to
2 the outside in the open, in the stairwell. So, you can see
3 where we just walked right in here, and the sliding glass
4 door was shattered, as well as there's some more staining
5 here on the chair, couch.

6 Q. And State's 54, if you would?

7 A. This was the exterior of that apartment. So, this
8 would be the exterior of C. This was, like, a rear patio
9 area which was screened in partially.

10 Q. And can you see that sliding glass door?

11 A. Yes. This is this sliding glass that you see that
12 shattered on the inside there in the apartment.

13 Q. And let's turn to State's 55 if you would, please.
14 Explain to us what that is.

15 A. So this, this photograph was just taken far enough
16 away -- that's why it's not the best photograph -- behind
17 the couch. So, nothing was moved yet, and this was just
18 the shade with the broken glass, but this was actually the
19 shade over that sliding glass door.

20 Q. So blinds, is that ---

21 A. The blinds, yes, sir.

22 Q. All right, and let's look at State's Number 56 if we
23 could, please.

24 A. This was the couch or the chair that -- that was
25 placed right there, and this was a hole consistent with a

1 projectile going through it.

2 Q. And can you explain to the jury what a projectile
3 actually is?

4 A. It would, it would be the bullet from the gun.

5 Q. Now, as you were taking these pictures and observing
6 the things that you observed, were you able to determine an
7 impact point?

8 A. Yes, I was.

9 Q. Okay. Explain to the jury what an impact point is.

10 A. So, an impact point was just where the bullet had
11 impacted an object or something in its path. So, the path
12 in this case looked to be the glass, the shade of the
13 blinds, and then there was, I believe, another piece of
14 matting in the way, and then the couch.

15 Q. And were you able to determine a direction based on
16 the impact point?

17 A. The direction was from the back of the apartment
18 towards the front.

19 Q. Okay, and if you say from the back of the apartment
20 towards the front, what was -- when I say direction, the
21 direction that the bullet traveled, is that what we're
22 talking about?

23 A. That would be from -- the direction that the bullet
24 traveled would be from the, the back of the apartment
25 towards the front. So, that back porch towards the front

1 of that apartment.

2 Q. Okay, and are you able to explain to the jury what was
3 in the back of that apartment?

4 A. In the back of the apartment, that's where you, you
5 saw the porch area, and then I took a photo behind the
6 apartment. There were some trees.

7 Q. Do you know whose property that was?

8 A. Beyond that, I responded later to a the residence back
9 behind there.

10 Q. Okay. Whose residence was that? You can look at your
11 report if you need to refresh your recollection.

12 A. Yeah, I will.

13 Q. Okay. Please do that.

14 (A PAUSE.)

15 A. It was Mandy Fortson.

16 Q. All right. Now, from here I'm going to go ahead and

17 move to -- oh, come on down -- State's Number 56, if you
18 would. I'm sorry, that's 57. I apologize. State's 57.

19 A. This was a further photograph of the chair that you
20 saw with the, with the hole in it. This was the other side
21 of that. So, you can see the, the broken door, the blinds,
22 and then that chair.

23 Q. Could you turn to State's 58, the next slide, please,
24 and explain to us what we're looking at there?

25 A. There was some clothing that was in the apartment I

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1 believe EMS had actually cut off or taken off the victim.

2 Q. And is it a fair and accurate representation of what
3 the clothing looked like when you got there?

4 A. Yes, it was.

5 Q. Now, let's look at that carpet or throw rug that's
6 there. Is there anything of significant that you can see?

7 A. There's more, as you can see, more stains consistent
8 with blood there on the carpet.

9 Q. And let's look at 59, State's 59, and that's another
10 picture of the shoes and the clothing?

11 A. Yeah. This is just a closer up photograph of some of
12 the items I was going to collect.

13 Q. All right. Let's look at 60, if we could, State's
14 Exhibit Number 60. Tell us what we're looking at here,
15 please.

16 A. This is a photo. If, when we talk about the impact
17 point, I put the impact point as marker A. So, basically
18 marker A was the, the path of travel. So, you can see here
19 where it went through the -- it actually came -- this was
20 the back on the other side. So, this was the matting that
21 I was talking about, the cushion. That came through the
22 door towards the front of that chair.

23 Q. Thank you, sir. If you could take your seat again,
24 please. Now, you said you collected evidence in this case?

25 A. I did.

1 Q. All right. Did you collect clothing?

2 A. I did collect clothing.

3 Q. Okay, and did you use a similar process to collect the
4 clothing?

5 A. Yes, just packaged the items securely, and it would be
6 entered into evidence, chain of custody, by me.

7 Q. Okay. By that same process you mentioned earlier?

8 A. By the same process, correct.

9 Q. All right. Now, let's change locations for a minute.
10 When you -- well, before we do that, did you collect
11 anything else, or was there anything else of significance
12 that you did in -- at the Thornwell Street address?

13 A. I collected two swabs from the -- two parts of the
14 reddish-brown stains from the stairwell floor and from the
15 living room floor and some of the clothing, some black and
16 red shorts.

17 Q. All right. Now, were you able to leave and go home
18 after that?

19 A. I was not.

20 Q. What was your next -- what happened next?

21 A. After that, I responded to another location; I spoke
22 with Sergeant Faust about it and met with Investigator
23 Clarke at another location behind the residence.

24 Q. Okay, and what residence was that?

25 A. It was -- I actually don't have that report.

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1 Q. One moment.

2 (A PAUSE.)

3 Q. Take a look at this if you would, please.

4 A. Thank you.

5 Q. Yes, sir.

6 A. It was [REDACTED] Barwick Street.

7 Q. And do you know who lived or owned [REDACTED] Barwick
8 Street?

9 A. As far as I know, it was Mandy Fortson had lived
10 there.

11 Q. Okay, and what did you do when you arrived at [REDACTED]
12 Barwick Street?

13 A. So, when I arrived there, I met with Investigator
14 Clarke and I collected a gunshot residue kit from Mandy
15 Fortson.

16 Q. And when you -- tell us what a gunshot -- first of
17 all, tell us what gunshot residue is. Then we'll talk
18 briefly about the kit, and then we'll go from there.

19 A. Gunshot residue would basically just be the powder
20 from when a bullet is fired. It's just going to be the,
21 the gunpowder or elements from inside of that, inside the
22 bullet which would come out, and it actually can get on
23 your hands, depending on what type of firearm it is.
24 Sometimes it's more; sometimes it's less.

25 Q. And so you were called out to collect potential

1 evidence from Mandy Fortson?

2 A. That's correct.

3 Q. And so essentially you were called to do a gunshot
4 residue test on her?

5 A. Yes, the collection kit.

6 Q. Okay, and just explain briefly what a collection kit
7 is.

8 A. So, the collection kit is, is fairly simple. It's,
9 it's just a kit that comes with sticky tabs and it's marked
10 for whichever hand that you're going to collect from.
11 It's, it's marked, like, your left back or left palm, right
12 back, right palm, and it's sticky tabs. So, you, you just
13 go and you sticky tab the individual you're trying to
14 collect or that you don't have evidence collection on, and
15 then you submit it the same way for the DNA. It's secure
16 chain of custody from me.

17 Q. And you performed that test on Mandy Fortson?

18 A. I did.

19 Q. Do you see the person sitting in this courtroom who
20 you collected that, that kit from?

21 A. Yes. Over there.

22 Q. Can you explain to us where she's sitting and what
23 she's wearing?

24 A. Yes. She's on the far left side of the table.

25 Q. Okay. Is she wearing a mask?

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1 A. Yes.

2 Q. What color is that mask, if you can tell?

3 A. It's a flag.

4 Q. Multicolored mask?

5 A. Yes.

6 Q. All right.

7 MR. GIPSON: I'd ask that the record reflect that Mr.
8 Schroder has pointed out Mandy Fortson as the person he
9 collected that kit from, Your Honor.

10 THE COURT: All right. So reflected.

11 BY MR. GIPSON:

12 Q. Now, I want to hand you something that's been marked
13 State's Exhibit Number 75.

14 (COUNSELORS CONFER.)

15 Q. Let me show you that. Does that ring a bell to you?

16 A. Yes. This is the gunshot residue. This is the
17 analysis, analysis information form that I filled out that
18 night.

19 Q. Okay, and does that appear to be an accurate
20 representation of what you filled out that night?

21 A. Yes, it is.

22 Q. All right.

23 MR. GIPSON: And that is State's Exhibit Number 75, I
24 believe, Your Honor. I'd like to enter this into evidence.

25 MR. WILLIAMS: I'm going to object to this at this

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1 time, Your Honor, as being hearsay.

2 THE COURT: Let me see it.

3 (A PAUSE.)

4 THE COURT: What's the response to the hearsay
5 objection?

6 MR. GIPSON: That it's business records, Your Honor.
7 It's a document that he does in the normal course of
8 business every day. It's a reflection of the information
9 that he took that evening as a result of the gunshot
10 residue test that he submitted to SLED.

11 THE COURT: Your objection is sustained. He can
12 testify to the information that's on here. He can use the
13 document to refresh his recollection, but it's hearsay;
14 it's a hearsay document.

15 MR. GIPSON: Thank you, Your Honor.

16 BY MR. GIPSON:

17 Q. So, just explain to us why you would fill out that
18 actual record.

19 A. This record is filled out, and it goes with the, the
20 information to SLED to actually do the tests so that they
21 have an idea of what happened that night.

22 Q. Okay. So, what, what kind -- what information do you
23 record on that actual document?

24 A. You're going to put the subject information, and
25 you're going to ask the person, you know, if they're

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1 left-handed, right-handed, if they've washed their hands
2 after the incident, what their occupation is. And then
3 some more of the information, whatever you have for the
4 shooting information such as when it occurred, approximate
5 date, time; where it occurred; type of firearm used, if you
6 know it; how many shots were fired. It's...

7 Q. And you received this information from whom?

8 A. From Mandy Fortson.

9 Q. All right. So as you collected this information from
10 her, did you have a chance to speak with her?

11 MR. WILLIAMS: Your Honor, I have a matter of law to
12 take up outside the presence of the jury.

13 THE COURT: Okay. All right, ladies and gentlemen,
14 step back go to your jury room. Do not discuss the case.
15 Keep an open mind. We'll be back with you in just a few
16 moments.

17 (THE JURY EXITS AT 12:10 P.M.)

18 (A PAUSE.)

19 THE COURT: Okay. Go ahead.

20 MR. WILLIAMS: Your Honor, the objection actually goes
21 to, believe it or not, the -- on the form itself, he has
22 put down some sort of recitation that she responds or that
23 she has indicated that she has washed her hands since,
24 since the shooting. It's my understanding, Your Honor,
25 that she has been arrested prior to him coming out there,

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1 and there's been no foundation that she was afforded her
2 Miranda warnings and that these responses were appropriate
3 to be had. You know, she -- he can't just go out there and
4 start asking her questions if she has already been
5 mirandized or not mirandized, as far as that goes.

6 THE COURT: Was she in custody?

7 MR. WILLIAMS: She was in custody. I think he'll own
8 up to that, Your Honor.

9 THE COURT: Did she invoke?

10 MR. WILLIAMS: We haven't gotten there yet, Your
11 Honor.

12 THE COURT: Okay.

13 MR. WILLIAMS: I'm saying he didn't lay that
14 foundation to show that any statement she made would have
15 been free and willing and that ---

16 THE COURT: Okay.

17 All right, Mr. Gipson.

18 MR. GIPSON: Your Honor, I'd say he didn't ask for a
19 *Denno* hearing at any point in time. So, that would have
20 been a chance to flesh some of these things out, but I
21 think it's a party opponent issue.

22 THE COURT: Well, is she in custody or not it custody?
23 When you found her, what condition she in?

24 WITNESS: She was in custody.

25 THE COURT: She was in handcuffs or she was in a car

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1 or?

2 WITNESS: We may have to refer to Investigator Clarke
3 on this.

4 THE COURT: Okay. Well, what was the condition when
5 you found her?

6 WITNESS: I'm trying to remember. This was four years
7 ago. She was in custody, to my recollection.

8 THE COURT: Okay. To your recollection and to the
9 best of your knowledge, she was not free to leave when you
10 were taking the gunshot residue kit from her?

11 WITNESS: Correct.

12 THE COURT: Okay. So, she's clearly in custody. So,
13 I mean, if you're going to attempt to get a statement that
14 she made to him in through him, we have to have a hearing
15 on whether or not the statement was freely and voluntarily,
16 knowingly and intelligently made with the advice of the
17 Miranda warning.

18 MR. WILLIAMS: That, that is really why I'm trying to
19 keep the form out, Your Honor. It's not that big a deal,
20 but, you know, the form is out there, and now they're using
21 some sort of she washed her hands or something like that.

22 THE COURT: Okay.

23 MS. SAMPSON: Your Honor, if we need to have a *Denno*,
24 we can do so. I'll just put Investigator Clarke up to do
25 that.

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1 THE COURT: Okay. Let's do it.

2 Come on down. Investigator Schroder -- I mean, Mr.
3 Schroder, you didn't advise her of her Miranda warnings?

4 WITNESS: Correct.

5 THE COURT: Okay. I'm not saying you -- I'm just
6 trying to figure out what happened. So, come on down.

7 (THE WITNESS EXITS THE STAND.)

8 THE COURT: Investigator Clarke, come on back up or
9 come up.

10 MR. WILLIAMS: I didn't visualize this was a statement
11 situation is all I'm saying.

12 THE COURT: I understand.

13 JACKSON V. DENNO HEARING

14 JOSEPH CLARKE, BEING DULY SWORN,

15 TESTIFIES AS FOLLOWS:

16 CLERK: Please have a seat in the witness stand.

17 State your full name for the record.

18 WITNESS: Certainly. Joseph Clarke.

19 DIRECT EXAMINATION BY MS. SAMPSON:

20 Q. Investigator Clarke, I'm just going to go straight to
21 it so we can get on with this. At any point, did you speak
22 with Ms. Fortson?

23 A. I did.

24 Q. And was this prior to Investigator Schroder getting to
25 the scene?

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1 A. I did, yes.

2 Q. And at the point when you spoke with her, did you at
3 any time advise her of her rights?

4 A. I did.

5 Q. What rights did you advise her of?

6 A. I advised her of her Miranda rights.

7 Q. And what are those?

8 A. You have the right to remain silent. Anything you say
9 can and will be used against you in a court of law. You
10 have the right to an attorney, to answer questions any time
11 with an attorney present or without an attorney present any
12 time. You have the right to stop answering questions at
13 any time.

14 Q. And did you -- did she at any point ask for an
15 attorney?

16 A. She did not.

17 Q. Did she at any point speak with you?

18 A. Yes.

19 MS. SAMPSON: All right, and I don't want to get in --
20 well, are you going to object to this later? Should I do
21 it now or?

22 MR. WILLIAMS: I don't know what you're doing.

23 MS. SAMPSON: She clearly spoke. You know that she
24 spoke with Investigator Clarke. Do you want to do that now
25 as well?

1 MR. WILLIAMS: I'm good with that. If I could just
2 ask him a couple of questions?

3 MS. SAMPSON: Okay. I just didn't know if we needed
4 to do that now, too.

5 BY MS. SAMPSON:

6 Q. Investigator Clarke, so, just so we can get this over
7 with, when you got to the scene initially, did Ms. Fortson
8 let you in?

9 A. Yes.

10 Q. And what happened upon you going into her home?

11 Q. She gave me verbal consent to enter the house because
12 I asked to do so. I would ask the routine things like is
13 there anybody else in the house with you. I remember her
14 saying no. I move 10 feet into the house, small house. I
15 look into a bedroom from where I was standing. Kind of --
16 there was a bathroom directly in front of you, and there's
17 a bedroom off to the right. The lights were on and I could
18 see -- I don't know how far you want me to go into this. I
19 could see empty shell casings sitting on the bedside table.
20 She had powder on her forehead; she had powder on her
21 hands.

22 Q. At that point, was she free to leave?

23 A. To that point, that very point she was -- we were
24 still talking, and at that point I realized I did, in fact,
25 have the person I needed to talk to, and I advised her of

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 her rights at the time.

2 Q. And were those the rights you just told us?

3 A. I did.

4 Q. And what did she tell you after -- or how did the
5 conversation go after you advised her of her rights?

6 A. Well, there was many things said, and again it's been
7 said. It bears repeating. It's been four years ago, but
8 what I recorded at the time was things where while standing
9 in her home, she told me that -- who all she knew in law
10 enforcement. That her father was a retired judge. She was
11 kind of just saying lots of things. None of it was real
12 relevant for what I was there for: to determine where a
13 firearm was; if she was, in fact, you know, the shooter or
14 whatnot.

15 Q. Was she -- what was her demeanor like?

16 A. In all fairness, belligerent. Not very, not very
17 cooperative.

18 Q. But did she speak with you ---

19 A. She did. She did. She, she really talked a lot.

20 Q. Did you force her to speak with you?

21 A. No, ma'am.

22 Q. All right, and was she drinking or eating at the time?

23 A. She had been drinking. She admitted to that, and she
24 seemed with her -- you know, somewhat with her faculties --
25 she wasn't slurring her words necessary any way. I didn't

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 see her staggering, and she had a fresh drink on a table in
2 the living room.

3 Q. And by drink, do you mean like a soda or ---

4 A. Alcohol. She said she was drinking Hennessy.

5 Q. But was she able to speak with you?

6 A. Yes.

7 Q. Did she seem like she didn't understand what was going
8 on?

9 A. No. In fact, she was inquisitive.

10 Q. And what do you mean by inquisitive?

11 A. She asked me a question.

12 Q. What did she ask you?

13 A. She said if any of the porch monkeys had been hit.

14 Q. Had any porch monkeys been hit? And what else did she
15 ask you, or what else did she say?

16 A. I explained a, I explained a man had been hit by
17 gunfire and that he was in the hospital for surgery.

18 Q. And what did she respond to that?

19 A. And she said good. I hope he dies even though I had
20 nothing to do with it.

21 Q. And what did you do at that point?

22 A. At that point, I realized we're, we're definitely at
23 the right place and continued with my investigation.

24 Q. And was, at any point, was she allowed to go to the
25 restroom?

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. Yes.

2 Q. What happened and how did that happen, rather?

3 A. At that point, for security reasons I handcuffed her
4 to the front. It is my -- particularly when I look at the
5 size, weight, gender of my suspect -- in this case, she's
6 not a very large woman. I didn't expect her to be a
7 threat. We want to keep her hands, though, secured, so I
8 handcuffed her to the front. I do that for a number of
9 reasons. One, I may have to get her to sign something
10 or something like that. And then through this process,
11 she kept -- she did say she had to go to the restroom, and
12 we ---

13 Q. Did you let her?

14 A. Yes.

15 Q. Okay, and did you observe her wash her hands?

16 A. I could hear it, I believe. I had to crack the door.
17 We didn't have a female investigator or deputy there at
18 that moment, and she said she needed to go. So, we had her
19 crack the door so we -- she had some privacy. But I could
20 hear the water running and -- you know, small bathroom --
21 after she finished ---

22 Q. And ---

23 A. --- using the restroom.

24 Q. Was she free to go at that point?

25 A. No.

J. CLARKE - DIRECT EXAMINATION / CROSS-EXAMINATION 121

1 Q. I'm going to need you to take your hand off.

2 A. Okay.

3 Q. When Investigator Schroder came to take the gunshot
4 kit, do you remember if he spoke to her or if you spoke
5 with her?

6 A. That I don't recall what was -- what -- exchange
7 there. I know he was going through the perfunctory matter
8 of doing the GS.

9 Q. Okay, and at that point, she'd been read her Miranda
10 rights?

11 A. Correct.

12 Q. She is free not to speak with him?

13 A. Correct.

14 Q. And if she spoke with him, that was of her own free
15 will?

16 A. Correct.

17 MS. SAMPSON: I have no further questions, Your Honor.

18 MR. WILLIAMS: Just, just a couple of questions, Your
19 Honor.

20 CROSS-EXAMINATION BY MR. WILLIAMS:

21 Q. Obviously, you're the, you're the investigator in
22 charge of this particular case, right?

23 A. Yes, sir.

24 Q. So, you're familiar with all the forms that are in the
25 file, to include the form by Investigator Shawn Schroder.

J. CLARKE - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Is that correct?

2 A. I'd have to see it just to refresh myself, sir.

3 MR. WILLIAMS: May I approach?

4 THE COURT: Yes.

5 BY MR. WILLIAMS:

6 A. I have seen these before, yes, sir.

7 Q. And the only importance in that, if -- if you'll look
8 at his form, obviously he states that you told him that she
9 was under arrest?

10 A. Yes.

11 Q. At any point in time, did you tell him that she had
12 been mirandized?

13 A. I do not recall specifically telling him she's
14 mirandized.

15 MR. WILLIAMS: I guess we withdraw our objection, Your
16 Honor.

17 THE COURT: Okay. Come on down.

18 (THE WITNESS EXITS THE STAND.)

19 *END OF JACKSON V. DENNO HEARING*

20 THE COURT: All right, bring them back in.

21 MR. GIPSON: And so just ---

22 MS. SAMPSON: Before you -- wait, Mr. Bowen.

23 MR. GIPSON: Just to be clear, so I'm free to ask the
24 questions and go down the same ground? I don't want to run
25 afoul.

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1 THE COURT: You're good.

2 MR. GIPSON: Thank you, Your Honor.

3 THE COURT: Go ahead.

4 MS. SAMPSON: Sorry. I just didn't want them to walk
5 in while you were talking.

6 THE COURT: The document itself is hearsay.

7 MR. GIPSON: Correct.

8 MR. WILLIAMS: Yes, sir.

9 THE COURT: And -- but -- however, he created it. He
10 can use it to refresh his recollection. That doesn't make
11 it admissible as an exhibit, just like an incident report.

12 MR. GIPSON: Yes, sir. Thank you, Your Honor.

13 (THE JURY ENTERS AT 12:23 P.M.)

14 THE COURT: All right, you may continue. Thank you.

15 MR. GIPSON: Thank you, Your Honor.

16 DIRECT EXAMINATION BY MR. GIPSON RESUMES:

17 Q. So, Mr. Schroder, I want to show you again what's been
18 marked as State's Exhibit Number 75.

19 A. Yes.

20 Q. And that's a gunshot residue analysis information
21 form?

22 A. Correct.

23 Q. Can you talk about the purpose of that form again
24 since we took a quick break? Can you just refresh our
25 recollection of what that is?

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1 A. Sure. The purpose is just to put basic information so
2 when I submit this forward, the examiner that looks at the
3 collection kit has an idea of what had happened. So, it's
4 basic subject information. You know, the name, date of
5 birth, if the person's living, dead, what hand -- if their
6 left hand, right hand -- if there's blood on their hands,
7 the subject's occupation, hobbies, and if anything else had
8 happened during collection or before collection, and then
9 the shooting information. If you know what type of gun,
10 how many times the gun was fired, ammunition, where it
11 happened at. That's the information that's on the form.

12 Q. And you would have collected that information by
13 gaining information from Ms. Fortson. Is that correct?

14 A. Yes. That's correct.

15 Q. All right. So, based on the information that you
16 took, obviously she was living. Was she left-handed or
17 right-handed?

18 A. I put that she was left-handed.

19 Q. Had she washed her hands since the shooting?

20 A. I put that the subject did wash hands after incident.

21 Q. All right. What was her occupation?

22 A. I put her occupation as a hospice nurse is what she
23 told me.

24 Q. And was there any description that you gave based on
25 just information about what happened in the activity with

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1 the shooting?

2 A. I just put that it was outdoors in the backyard.
3 Other than that, I didn't -- I put the basic time. The
4 date was 2/22/2017, and the approximate time was around
5 2200, 10:00 PM.

6 Q. And did you see any visible debris on her hands?

7 A. I did not.

8 Q. Blood, anything like that?

9 A. I did not.

10 Q. All right, and after all of this, you ultimately did
11 collect a gunshot residue kit on Ms. Fortson. Is that
12 correct?

13 A. I did. That's correct.

14 Q. Okay.

15 MR. GIPSON: Court's indulgence.

16 THE COURT: Yes, sir.

17 (A PAUSE.)

18 BY MR. GIPSON:

19 Q. And just want to make sure what -- the protocol that
20 you followed. When it came to collecting the gunshot
21 residue -- the palm, back of hand, palm, back of hand, left
22 and right hand -- did you follow your normal protocol?

23 A. I did.

24 Q. Okay, and you did that to the T?

25 A. I did.

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1 Q. And that's the way you've done it for years as an --
2 that you did as an investigator?

3 A. That's right. I've always followed the same protocol.

4 Q. Okay, and then you sealed that kit and submitted it
5 into evidence?

6 A. I did.

7 MR. GIPSON: All right, that's all I have.

8 Oh, I'm sorry, Your Honor. One more matter.

9 (A PAUSE.)

10 BY MR. GIPSON:

11 Q. Let me show you something. Then I think I'm done.
12 Does that ring a bell to you? I'm showing you what's been
13 marked, premarked as State's Number 79 for ID purposes.

14 A. This is the gunshot residue kit that I collected that
15 night.

16 Q. Okay.

17 A. And it is -- you can tell that -- my initials that I
18 was speaking of earlier with the date, I put that across
19 there.

20 MR. GIPSON: I'd like to enter that into evidence.

21 THE COURT: What number is it?

22 MR. WILLIAMS: Your Honor.

23 THE COURT: Hold on. Let me get a number.

24 MR. GIPSON: Excuse me. You know what? I'll waive
25 that right now. I just wanted to identify it.

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1 THE COURT: Tell me what the number is for we can ---

2 MR. GIPSON: 79, Your Honor, for ID purposes only.

3 THE COURT: So we can put a number on it. Okay.

4 MR. GIPSON: ID purposes.

5 THE COURT: And that's what you collected that night?

6 WITNESS: Yes, sir.

7 THE COURT: Okay.

8 BY MR. GIPSON:

9 Q. And your initials are on the back?

10 A. That's correct.

11 MR. GIPSON: Okay, and this is for ID purposes only at
12 this point.

13 THE COURT: Got it. Anything else?

14 MR. GIPSON: That's all I have.

15 THE COURT: Okay. Wonderful.

16 Whenever you're ready.

17 MR. WILLIAMS: May it please the court?

18 THE COURT: Yes.

19 CROSS-EXAMINATION BY MR. WILLIAMS:

20 Q. Last name, is it Schroder?

21 A. That's correct. Yes, sir.

22 Q. And as I understand, you went to -- did you go to USC
23 or something or where -- you said you had a four-year
24 degree.

25 A. Oh. I went to Weaver State University in Utah.

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. Oh. Okay. So, you're from Utah?

2 A. No. I'm actually from Iowa.

3 Q. Okay. You're from Iowa. You went to Utah. Got your
4 four-year degree. Then you came the South Carolina?

5 A. No. I was actually -- I went -- I'm in the Air Force
6 as well.

7 Q. Okay.

8 A. So, yeah, I went to Texas after that.

9 Q. Okay. When were you in South Carolina working for the
10 Richland County Sheriff's Department?

11 A. From 2007 to this -- 2018. 2007 to 2018.

12 Q. All right, but during that time span, had you already
13 completed your four-year degree from your military service,
14 or did you go later?

15 A. Oh, absolutely. Yeah, I completed my four-year degree
16 in 2005.

17 Q. Okay. So, you got a job in Richland County Sheriff's
18 Department and because of the education that you had, you
19 secured a position as a CSI, criminal scene investigator.
20 Is that right?

21 A. Crime ---

22 Q. Crime scene investigator?

23 A. Crime scene investigator. It helped, yes, your
24 education.

25 Q. Meaning you were first a law-enforcement officer.

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Secondarily, you had some special skills dealing with,
2 what? Photography? Fingerprints? DNA?

3 A. No. I'm not a, I'm not a DNA expert.

4 Q. Okay. So, you're the first step along the way.
5 You're able to secure the scene and pick up the evidence
6 that experts need to look at to make decisions on. Is that
7 correct?

8 A. I would say I'm the second step along the scene, but
9 my job is photography, evidence collection, and processing,
10 and ensuring that it goes to the right places.

11 Q. Gotcha. So, on that night when you arrived there,
12 we've looked at -- I'm not going to pull up all those
13 photographs again, but as you look at those photographs,
14 you see the key point being the, the grill, right? The
15 grill is actually on the back porch, is that correct, of
16 the apartment? It's on the -- or at least on the rear of
17 the apartment complex?

18 A. The grill, it -- we may need to look at the
19 photographs again so I can see what you're referring to.

20 THE COURT: I'm not sure where they are.

21 MR. WILLIAMS: Oh, right here.

22 BY MR. WILLIAMS:

23 Q. Look. Referring to State's Exhibit Number 47.

24 A. Yes.

25 Q. So the grill, is that on the back of the apartment

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 complex?

2 A. So, if -- actually, can I look at the photographs and
3 I'll show you?

4 Q. Sure.

5 A. And they may make more sense this way.

6 Q. Sure.

7 A. Thank you. So, looking at these two photographs --
8 and we can pass them around or get the screen -- this is
9 looking from the front side right here with the crime scene
10 tape towards the grill.

11 Q. Right.

12 A. So, the grill would be on the back of the stairwell.
13 And then from this side, this would be back of the
14 stairwell with the grill and the mop.

15 Q. Okay.

16 A. That's what we're looking at if that's what you're
17 referring to.

18 Q. So, where the grill is would be the back of the
19 apartment building?

20 A. Where the grill is would be the back -- because you
21 can see the back porch.

22 Q. Right. So, it's the back of the apartment building?

23 A. Correct.

24 Q. Thank you. So, apartment C.

25 A. I believe ---

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. Is that correct?

2 A. --- that's correct. Apartment C, yes.

3 Q. All right. Does that mean it's on the third level or
4 does it -- does the C designate that it's on the right-hand
5 side of the building itself?

6 A. No. This is on the main level if you ---

7 Q. Okay.

8 A. --- if you look with the stairwell going up. So, this
9 would be the main level.

10 Q. So, it's on the ground level?

11 A. On the ground level.

12 Q. So, there's no elevation for that apartment C. It's
13 on the ground level, and the back of the building is where
14 that particular front door to the apartment is, correct?

15 A. So if you look there, it appears that there is
16 elevation from the brick.

17 Q. Right.

18 A. Again, you know, without looking at the apartment
19 complex again, but you can see that there is some
20 elevation, and then that's the bottom level, and it looks
21 like there is a top level.

22 Q. Okay. Maybe 3 feet?

23 A. I, I can't, I can't say but, I mean, the grill was
24 probably 3 feet. It might be more than 3 feet.

25 Q. Okay.

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. 3 to 5 feet.

2 Q. And the pictures that you took, you took pictures of
3 -- in the, the breezeway is what we used to call them. I
4 guess you'd call it a breezeway. It's where the breeze can
5 blow through or you can go to your front door. And you,
6 you took pictures of blood which are right at the front
7 door of the apartment complex for apartment C. Is that
8 right?

9 A. In, in the stairwell, yes.

10 Q. In the stairwell.

11 A. I, I believe what you're calling breezeway I'm calling
12 ---

13 Q. Is the stairwell?

14 A. --- the stairwell, okay.

15 Q. I'll go with you. So, it's in the stairwell. You
16 found the blood near the front door of apartment C?

17 A. Correct.

18 Q. So, the front door to apartment C would actually be on
19 the back of the building, though, right? It's not on the
20 front of the building. It's on the back of the building,
21 right, because, because we see the grill there.

22 A. I -- we may need to refer back to the photos to -- so
23 we're not confusing people.

24 Q. I'm not trying to confuse anybody.

25 A. Well, I mean, you're confusing me, so.

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. Well, I can't help that now, so.

2 THE COURT: You're welcome to see the photos ---

3 MR. WILLIAMS: Yes.

4 THE COURT: --- if the photos would help you.

5 BY MR. WILLIAMS:

6 Q. We'll show you anything.

7 A. Well, what I'm saying is for the jury as well. Maybe
8 we need to get the screen.

9 Q. All right.

10 MR. WILLIAMS: Stay away from the screen, if you can.
11 If you'll help me, Solicitor?

12 (A PAUSE.)

13 BY MR. WILLIAMS:

14 Q. All right, I'm going to go back, back to the
15 beginning.

16 (A PAUSE.)

17 MR. WILLIAMS: There we go. Thank you.

18 BY MR. WILLIAMS:

19 Q. So, we see the 107, right?

20 A. Yes, sir.

21 Q. And that tells us it's building 107. The tape here is
22 what's been marked off, and there's the door which has the
23 apartment C on it, correct?

24 A. That's correct.

25 Q. So, are we facing the rear of the building?

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. From there?

2 Q. Yes.

3 A. No. This is the front looking towards the rear.

4 Q. That's what I mean. This is the front and we're
5 facing the rear. So, that would mean that this door is on
6 the rear of the building?

7 A. Yes. That door, if you look, if you look, that --
8 there is two doors on the left-hand side. That would be
9 the second door on the left down near the crime scene tape.

10 Q. Okay. There's a door here which is -- is that B? It
11 is B. So, you've got B on the right. You've got C on the
12 left, and it is the apartment on the left on the end of the
13 building, the rear of the building?

14 A. Yes.

15 Q. Okay, and that's where the shooting occurred because
16 it's out there on that little patio and there's blood, and
17 I don't want to stand in front of anybody. There is blood
18 right here, right?

19 A. You're saying that's where the shooting occurred. It
20 could be. I mean, there's, there's glass also shattered on
21 the inside.

22 Q. Where did you find blood when you came there?

23 A. Well, there's blood right there in the stairwell, as,
24 as well as inside.

25 Q. All right. Was there any blood anywheres else outside

1 besides right here?

2 A. Just where I photographed out there.

3 Q. All right. So, if a history of the event indicated he
4 had been outside and that's where it happened -- and you,
5 you don't know because you weren't there -- that would be
6 where it occurred if he said -- if he was outside, right?

7 A. If, if he said that.

8 Q. Okay.

9 A. Yeah.

10 Q. Now, here's what, what I'm kind of curios about.

11 You'll note how yellow and bright this is.

12 A. Uh-huh.

13 Q. How dark is it back in there?

14 A. Well, this would be a flash because you can see how
15 white it is up front. So, you have yellow incandescent,
16 incandescent bulbs which are going to fade out the light in
17 the back.

18 Q. So, it's very dark, in fact, isn't it?

19 A. From this photo, yeah, it's dark.

20 Q. Well, when you were there, how did it observe to the
21 -- how did you observe it from the human eye? Did it look
22 dark in the back?

23 A. It was dark.

24 Q. Okay. Now, you have described...

25 (A PAUSE.)

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. You have shown pictures showing the sliding glass
2 door, correct?

3 A. Yes, sir.

4 Q. And, and you showed that a bullet obviously hit the
5 sliding glass door?

6 A. Correct.

7 Q. You've shown an area which appears to be the back of a
8 couch, correct?

9 A. Correct.

10 Q. And the back of the couch would have been next to the
11 sliding glass door?

12 A. Correct.

13 Q. And then you -- there is a picture which shows some
14 sort of object which hit the back of a chair?

15 A. Correct.

16 Q. Would the chair have been right in front of the couch.
17 Was it all in one line?

18 A. We may have to refer to the photos again; I mean, I'm
19 just saying it might be earlier for everyone. You're
20 saying there's a chair and a couch?

21 Q. Yeah. Did it just hit the couch And hit this -- and
22 hit the glass?

23 A. No. It, it went through the cushion.

24 Q. Okay.

25 A. From the porch area.

1 Q. Okay.

2 A. To the glass.

3 Q. Okay.

4 A. To the shade to that couch or chair.

5 Q. Okay.

6 A. It's not both. It's a couch or a chair. It's a big
7 cushion.

8 Q. It's one, one item and we're ---

9 A. Correct.

10 Q. --- calling it two things?

11 A. Possibly, yeah.

12 Q. And all of those are in alignment?

13 A. They're in close enough alignment, yes, to call it an
14 impact point.

15 Q. Okay. Was there evidence of any other alignment,
16 meaning more than one bullet, if you will? Or was it just
17 evidence of one alignment, one bullet?

18 A. What I, what I found was where it hit the, the, the
19 glass through the -- you know, on the inside there, but I
20 did search for other impact points, which I did not find.
21 That's not saying it happened. So, obviously if it
22 happened outside ---

23 Q. You can only ---

24 A. --- it'd be more ---

25 Q. --- follow what you see. Is that ---

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. Correct.

2 Q. --- right? So having done that -- you're Air Force?

3 You're not Army. Is that right?

4 A. Air Force.

5 Q. Y'all, y'all shoot guns, right?

6 A. I believe so. Yes, we do.

7 Q. Okay. I was 11 Bravo, so.

8 A. Okay.

9 Q. So, did you have like -- do you shoot guns with sights
10 on your guns, and you also have certain guns that have
11 lasers, don't you?

12 A. Yes.

13 Q. Like SWAT?

14 A. Sure.

15 Q. And they'll shoot that little red light, and it can go
16 straight to whatever they're aiming at, correct?

17 A. Sure.

18 Q. Did you have any type of laser like we would use in
19 court to show and object or point out an object? Did you
20 have any type of -- well, you probably do have one that you
21 could shoot that laser and see the direction that the
22 projectile came from.

23 A. I, I did not that night because when it, when it goes
24 through glass, generally it diverts that -- the angle
25 because glass is, is very hard on a bullet. So, generally

1 if it's not a clear path, I wouldn't do that because the
2 directionality may be off and all, and there was really no
3 point, coming through that screen. If you look at the back
4 also, there was, there was no open area, so you could tell
5 where it came through the screen, but obviously it did.

6 Q. So, you couldn't tell exactly what angle it came in
7 at?

8 A. I couldn't tell exactly the angle, but I can tell you
9 that it was from the back towards the front of that
10 apartment.

11 Q. So ---

12 A. I am 100 percent positive on that.

13 Q. Well -- but you couldn't tell where it came in. You
14 couldn't, you couldn't shine a laser and see a point in the
15 yard beside a tree, whatever, that that, that that weapon
16 was fired from, can you?

17 A. It came from the back towards the front of the
18 apartment.

19 Q. And that's all you know?

20 A. Yes.

21 Q. Did you ever find the projectile that you have talked
22 about?

23 A. No, I did not.

24 Q. So, you have no projectile that you can compare to
25 whatever type of weapon that was used?

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. That -- I did not collect one. I believe ---

2 Q. Okay.

3 A. Yeah, I did not collect one.

4 Q. All right. Somebody else may have?

5 A. Correct.

6 Q. But we don't know if, if we did or didn't?

7 A. I did not collect one.

8 Q. All right. When you arrived at the location where
9 Mandy Fortson was living, describe what she had on.

10 A. I'm not sure exactly what she was wearing.

11 Q. Well, you looked at her and you looked at her hands
12 and you talked to her about if she was left-handed or
13 right-handed, and you don't know if she had on PJs or a
14 T-shirt and jeans or what have you?

15 A. That's correct.

16 Q. You're a crime scene investigator, right?

17 A. I -- yes, I was.

18 Q. You were.

19 A. Yeah.

20 Q. You were. So, one of the more important things that
21 you've learned to do in that is you learn to retrieve
22 clothing, don't you?

23 A. I did retrieve clothing.

24 Q. Which clothing did you retrieve?

25 A. Some shorts that had reddish-brown stains on them from

1 the scene.

2 Q. All right. So, there is at least one item that was
3 taken from the house had some reddish-brown stain on it.
4 Did you secure that item in a plastic bag so that it could
5 be tested for DNA typing?

6 A. Actually, you never put bloody items in plastic
7 because it would mold, but I ---

8 Q. What did you do with it? How's that?

9 A. I don't have the exact -- the, the package that I
10 have, but I'm sure that I put it in some type of a brown
11 paper bag.

12 Q. And the reason you did that was why?

13 A. Just in case we needed evidence collection for the
14 blood later.

15 Q. All right. Just in case the blood was related to some
16 sort of event, correct?

17 A. Correct.

18 Q. Did she have the clothing on at the time that you took
19 it?

20 A. Did she have the clothing on?

21 Q. Did she have it on her person? Was she wearing it
22 when you got there and you made her take it off and took it
23 with you?

24 A. No, no. I didn't make her -- I didn't take any of her
25 clothing.

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. I don't mean anything by that.

2 A. No.

3 Q. Did, did, did you find it somewhere, laying
4 somewhere?

5 A. I'm talking about the shorts that I collected which I
6 referred to earlier.

7 Q. Right.

8 A. Were on the living room floor.

9 Q. Okay. Was it pointed out to you by a fellow officer?

10 A. No.

11 Q. You saw it there. You retrieved it because you saw it
12 there, and you saw something red on it, right?

13 A. Correct.

14 Q. Did you take any other clothing from her apartment,
15 any other clothing from her apartment?

16 A. Well, this was from his apartment.

17 Q. I'm sorry?

18 A. The victim's apartment.

19 Q. Oh, you -- this is coming with the victim's apartment?

20 A. Correct.

21 Q. Did you take anything from Mandy Fortson's apartment,
22 or did you ---

23 A. I did not.

24 Q. So, you didn't take anything from her apartment?

25 A. So, when I'm saying that I personally did not,

S. SCHRODER - CROSS-EXAMINATION BY MR. WILLIAMS

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1 somebody else may have.

2 Q. Okay, but you didn't know what she had on?

3 A. I'm not sure what she was wearing, no. That's
4 correct.

5 Q. Was there more than one crime scene investigator on
6 the scene?

7 A. Possibly. I believe that a crime scene investigator
8 came out after me.

9 Q. You don't remember?

10 A. I believe it was Investigator Woods, but
11 I don't remember exactly.

12 Q. So, you performed no crime scene investigation at the
13 home of Mandy Fortson?

14 A. I collected a gunshot residue collection. That's,
15 that's what I collected there.

16 Q. And that was it?

17 A. That was my part in it. That's correct.

18 Q. Did you -- you didn't, you didn't seize any type of
19 bullets or guns or anything like that?

20 A. I did not collect them. That's correct. I was there
21 for GSR collection.

22 MR. WILLIAMS: That's all the questions I have, Your
23 Honor.

24 MR. GIPSON: Briefly, Your Honor. Thank you.

25 REDIRECT EXAMINATION BY MR. GIPSON:

S. SCHRODER - REDIRECT EXAMINATION BY MR. GIPSON

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1 Q. So, he played up you did not collect any clothing from
2 Mandy Fortson, correct?

3 A. I believe so.

4 Q. Okay, and you were called specifically for gunshot
5 residue purposes, to collect gunshot residue from Mandy
6 Fortson?

7 A. That's correct.

8 Q. All right, who you -- who you've identified as sitting
9 in this courtroom right now?

10 A. Yes.

11 Q. All right. So, you didn't go to the hospital after
12 this, did you?

13 A. I did not.

14 Q. You didn't investigate or go and do anything in Mr.
15 Cruz's home, did you?

16 A. No, and if I can explain?

17 Q. Yes, sir.

18 A. So, when we ran our shifts, generally our shifts when
19 we were on call was, like, 6 PM to midnight, and this was
20 right around that timeframe. So, if anything comes in
21 after that time, the other primary crime scene investigator
22 would take up the collection. That's why sometimes we go
23 to different locations and different places.

24 Q. All right. So, the impact points that you took and
25 that you testified about were at Antonio Jones's home?

S. SCHRODER - REDIRECT EXAMINATION BY MR. GIPSON

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1 A. That's correct.

2 Q. And any other investigation that was done would have
3 been done by whoever the shift was handed to after you
4 signed out?

5 A. That's correct.

6 Q. And on the crime scene log, you signed out?

7 A. I did, yes.

8 Q. Okay. What time did you sign out?

9 A. I signed out at 0014, so at 12:14 just after midnight.

10 Q. And then you went to see Ms. Fortson and then after
11 you saw Ms. Fortson and collected that GSR, you were done?

12 A. I was done with the case, that's correct.

13 MR. GIPSON: Thank you.

14 That's all I have, Your Honor.

15 MR. WILLIAMS: No questions, Your Honor.

16 THE COURT: Have a good day.

17 WITNESS: Thank you.

18 (THE WITNESS EXITS THE STAND.)

19 THE COURT: All right, ladies and gentlemen, we're
20 going to stop there for lunch; now is a good time to stop.
21 It's about 12:45.

22 As I release you for lunch, I want to remind you of a
23 couple things. Number one, you're not allowed to talk
24 about the case or anything about it with anyone in any way,
25 shape, or form. You're not allowed to let anybody talk to

1 you about the case. I want you to go to lunch, enjoy your
2 time. It's a beautiful day outside. I want you to keep an
3 open mind about the case.

4 We're going to start back -- let's see, it's 12:45.
5 Let's see. Let's start back in 2 o'clock. We're going to
6 start back at 2 o'clock, and we'll roll right into the next
7 witness.

8 I want to say now if you need a Coke or you need a cup
9 of coffee or something like that for lunch to keep you
10 awake this afternoon -- I know it kind of gets comfortable
11 in here, and it can be a little easy to close your eyes
12 sometimes. So, make sure you get whatever caffeine you
13 need. I want you wide awake for this afternoon, okay? All
14 right. Thank you very much.

15 Everyone else remain seated while the jury is excused.

16 (THE JURY EXITS AT 12:48 P.M.)

17 THE COURT: All right, anything before we break?

18 MS. SAMPSON: Not from the state, Your Honor.

19 MR. WILLIAMS: Not from the defendant, Your Honor.

20 THE COURT: All right.

21 MR. WILLIAMS: I'll pick back up. I slowed it down a
22 second.

23 THE COURT: What?

24 MR. WILLIAMS: I slowed it down a second.

25 THE COURT: All right. 2 PM. 2 PM. 2 PM.

1 (OFF THE RECORD.)

2 THE COURT: All right, anything we need to take up
3 before we start?

4 MS. SAMPSON: Not from the state, Your Honor.

5 MR. WILLIAMS: Not from the defendant, Your Honor.

6 THE COURT: Bring them in.

7 (THE JURY ENTERS AT 2:09 P.M.)

8 THE COURT: Welcome back, ladies and gentlemen. Thank
9 you for being on time. We'll continue now with the state's
10 case.

11 And you may call your next witness, please.

12 MR. GIPSON: Please the court? The state calls Jakari
13 Adams.

14 THE COURT: All right.

15 JAKARI ADAMS, BEING DULY SWORN,
16 TESTIFIES AS FOLLOWS:

17 CLERK: Please have a seat in the witness stand, and
18 state your full name for the record.

19 WITNESS: My name is Jakari Adams.

20 THE COURT: You can scoot up a little bit to it.
21 There you go. You need speak right into there.

22 WITNESS: My name is Jakari Adams.

23 THE COURT: Perfect. Perfect. Thank you.

24 DIRECT EXAMINATION BY MR. GIPSON:

25 Q. And I'm going to stand a little bit farther back, Mr.

J. ADAMS - DIRECT EXAMINATION BY MR. GIPSON

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1 Adams, to encourage you to just to speak up. You can yell
2 at me. I'm used to it.

3 All right. So, tell me. How old are you now?

4 A. Fourteen.

5 Q. Are you a student?

6 A. Yes, sir.

7 Q. Where do you go to school?

8 A. Crayton Middle School.

9 Q. All right. So, that would put you as an eighth grader
10 maybe?

11 A. Yes, sir.

12 Q. All right, and back in 2017, you were about how old
13 then?

14 A. About ten.

15 Q. All right, and where were you living back then?

16 A. 107 Thornwell Court.

17 Q. And who were you living with back then?

18 A. My mother and Antonio Jones.

19 Q. Okay. Just the two of you?

20 A. Yes, sir.

21 Q. Did you have a dog or anything?

22 A. Yes, sir.

23 Q. All right. What was his name?

24 A. Princess.

25 Q. Her name. What kind of dog are we talking about?

1 A. A Yorkie.

2 Q. So back in 2017, I want us to focus on February of
3 2017. Did you know any of your neighbors around that area?

4 A. Yes, sir.

5 Q. Now, tell us who you knew.

6 A. The people that lived across the hall because I ended
7 up going to school with them a year later, and I think some
8 people a building across.

9 Q. Okay, and you know any neighbors who lived maybe
10 anywhere in the area that didn't live in the complex?

11 A. No, sir.

12 Q. All right. Did you ever speak to any people who lived
13 around the complex?

14 A. No, sir.

15 Q. All right. So, as we talk a little bit more about
16 just focusing on the 22 of February 2017, just kind of tell
17 me what you remember about that day just leading up to the
18 incident.

19 A. It was around 9:30, I want to say. I had just taken
20 out the trash. I was coming back inside; I was tidying up
21 the kitchen, getting ready for bed. That's when I started
22 to hear someone screaming outside and gunshots. I went to
23 my mother's room.

24 Q. Okay. Hold on. So, you, you said you were -- you had
25 taken the trash out first?

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1 A. Yes, sir.

2 Q. So, did you see anything in particular when you took
3 the trash out, anything out of the ordinary?

4 A. No, sir.

5 Q. Parties, crowds, anything like that?

6 A. No, sir.

7 Q. All right. So once you took the trash out, what did
8 you do next?

9 A. I then went to, I then went to go put a trash bag back
10 in the trash. That's when I started to hear a lot of
11 gunshots and screaming. So, I went to my mother's room and
12 asked her if she heard the same thing.

13 Q. Okay, and so where did you hear those gunshots and
14 that, you know, coming from?

15 A. I couldn't really pinpoint where it was coming from;
16 I just knew they were somewhere outside.

17 Q. All right, and you said you heard some screaming?

18 A. Yes, sir.

19 Q. Could you tell the sex of the person doing the
20 screaming?

21 A. No, sir.

22 Q. Okay, and did the -- you said you went to talk to your
23 mother?

24 A. Yes, sir.

25 Q. At that point in time? Where was she?

1 A. In her room.

2 Q. All right, and you said you asked her if she was
3 hearing the same things you were hearing?

4 A. Yes, sir.

5 Q. All right. What happened next?

6 A. That's when I decided to go to bed, and around 10-ish,
7 that's when I heard something break from the living room,
8 and I got scared and decided to get on the ground.

9 Q. All right. So when you heard something break, you
10 said it was in the living room?

11 A. Yes, sir.

12 Q. Who was in the living room?

13 A. Nobody at the time.

14 Q. Okay. What happened after you heard something break?

15 A. That's when I got to the ground. My mother came to
16 check on me, and that's about it.

17 Q. Okay. Did the gunshots continue?

18 A. Not that I could hear of.

19 Q. Okay. What was the next thing of significance you
20 remember that night?

21 A. The next thing I remember was Antonio going outside.
22 Then a few minutes later coming back in, saying that he has
23 been shot.

24 Q. So, you saw him go outside? Do you know how far he
25 went outside?

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1 A. No, sir.

2 Q. Do you know what happened when he went outside?

3 A. No, sir.

4 Q. When he came back into the apartment, tell me what you
5 observed.

6 A. I could see that there was blood leaking from his
7 right wrist, and then he kind of fainted onto the couch.

8 Q. Okay, and you answered this question I'm asking. So,
9 he comes in there. He's bleeding from the wrist?

10 A. Yes, sir.

11 Q. Does he do anything? Does he say anything at that
12 point?

13 A. He then said that he had been shot.

14 Q. And then what happened?

15 A. Just went and...

16 Q. You said he -- something happened with the couch you
17 said?

18 A. Yes, sir. He then ---

19 Q. Okay. What happens?

20 A. --- fainted onto the couch.

21 Q. I talked over you. I'm sorry. he did what?

22 A. He then fainted onto the couch.

23 Q. Okay. He fainted onto the couch is what you said?

24 A. Yes, sir.

25 Q. All right, you still need to speak up a little bit

1 louder, and so what did you do at that point?

2 A. That's when I started to cry and hold on tightly to my
3 dog.

4 Q. Why did you do that?

5 A. Because I was scared.

6 Q. All right. Did you call -- did you do anything
7 particular, or did you observe your mother do anything
8 particular when that happened?

9 A. No, sir.

10 Q. Okay. Now, did there come an occasion where police
11 officers or anybody came to the house that night?

12 A. Yes, sir.

13 Q. Tell us what happened.

14 A. When the officer came, he then proceeded to check on
15 Antonio as he was still bleeding, and from that point on, I
16 went over to a neighbor's house for the night.

17 Q. And why did you go to a neighbor's house?

18 A. Because my mom ended up going to the hospital.

19 Q. Okay. Now, can you tell is how many shots you heard?
20 Do you remember?

21 A. About ten.

22 Q. And was it ten in a row, or were there ten and then --
23 was there ever, was there ever, ever a gap between when you
24 heard the actually shooting?

25 A. Yes, sir.

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1 Q. Okay. Explain that to us.

2 A. It would go about ten shots. Then it would stop for
3 about five minutes. Then it would continue.

4 Q. Now, when you heard these people -- or, excuse me,
5 when you heard -- I'm sorry. Scratch that, if you would.
6 When you heard the yelling outside, can you explain
7 anything about the yelling that you heard?

8 A. It was -- it sounded like they were arguing with
9 someone.

10 Q. Were you able to go outside or look outside and see?

11 A. No, sir.

12 Q. Okay. Now, you said the next day. Well, let me ask
13 you this. Did you go to the hospital after this at any
14 point in time?

15 A. No, sir.

16 Q. Okay. What happened with Antonio?

17 A. He went to the hospital.

18 Q. And did he return the next day? Do you know?

19 A. Yes, sir.

20 Q. Okay, and what kind of condition was he in when he
21 returned?

22 A. He had a cast on his wrist.

23 MR. GIPSON: Court's indulgence for a moment.

24 (A PAUSE.)

25 BY MR. GIPSON:

T. MILLS - DIRECT EXAMINATION BY MS. NELLERMOE

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1 Q. And just circling back with this person who was
2 yelling, do you remember what was said?

3 A. I ---

4 MR. WILLIAMS: Objection. Asked and answered.

5 THE COURT: I think he already answered the question.

6 MR. GIPSON: Okay. Thank you, Your Honor.

7 Well, that's all the questions I have for the moment.
8 Please answer any questions that Mr. Williams has for you.

9 MR. WILLIAMS: I have no questions.

10 THE COURT: Have a good day. Thank you. You may step
11 down.

12 (THE WITNESS EXITS THE STAND.)

13 THE COURT: Who's next?

14 MS. NELLERMOE: Your Honor, at this time the state
15 would call Tonya Mills.

16 THE COURT: Okay.

17 TONYA MILLS, BEING DULY SWORN,
18 TESTIFIES AS FOLLOWS:

19 CLERK: Please have a seat in the witness stand, and
20 state your full name for the record.

21 WITNESS: Tonya Mills. It's Tonya Mills.

22 DIRECT EXAMINATION BY MS. NELLERMOE:

23 Q. Good afternoon, Ms. Mills. Can you tell the jury a
24 little bit about yourself?

25 A. I'm forty-nine years old, mother of three, certified

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1 nursing assistant.

2 Q. Okay. Where are you from?

3 A. Florida.

4 Q. But you live here now in Columbia?

5 A. Yes, ma'am.

6 Q. Okay. Do you know Mr. Antonio Jones?

7 A. Yes, ma'am.

8 Q. How do you know him?

9 A. We were in a relationship for six years.

10 Q. Okay. When did you start that relationship?

11 A. It was February 2014.

12 Q. Okay. Where did y'all meet?

13 A. In Florida.

14 Q. Okay, and at some point, you moved to Columbia?

15 A. Yes, ma'am.

16 Q. Is that correct? When did you move to Columbia?

17 A. It was April of 2015.

18 Q. And where did you live then?

19 A. What do you mean? Before then?

20 Q. When you moved to Columbia, where you live?

21 A. 107 Thornwell Court, apartment C.

22 Q. So, who did you live with in, in that apartment on
23 Thornwell Court?

24 A. It was myself, my son, and Antonio Jones.

25 Q. And how old was your son at the time?

1 A. He was ten.

2 Q. And your son's name is?

3 A. Jakari Adams.

4 Q. Ms. Mills, I'm going to ask you about February 22 of
5 2017. Do you remember that day?

6 A. Yes, ma'am.

7 Q. Okay. Can you tell the jury what happened that day?

8 A. Well, it was a normal day. Got into the night. I was
9 sitting watching television, and my son was getting ready
10 for bed, and all of a sudden I heard about eight to ten
11 shots, gunshots, and then it paused for a minute.

12 Q. How did you know those were gunshots?

13 A. Because it was, like, close to my bedroom.

14 Q. Okay.

15 A. I could hear it, and the window was kind of cracked,
16 too.

17 Q. Okay. So, is your bedroom, is that the back of the
18 apartment? Where is it?

19 A. It's located in the back of the apartment.

20 Q. Okay. So, I'm sorry to interrupt you. You said you
21 heard gunshots?

22 A. Yes.

23 Q. Okay.

24 A. It was about eight to ten.

25 Q. Okay. Could you tell where they were coming from?

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1 A. It sounded like it was -- it was so close, it sounded
2 like it was next door.

3 Q. Okay, and so when you heard those shots, what did you
4 do, if anything?

5 A. At first I kind of, like, waited a few minutes because
6 it kind of scared me. I checked on my son to make sure he
7 was all right, so we, you know, kind of proceeded on. Then
8 about ten minutes later, it started back, the gunshots, and
9 it was about six to eight. Then I heard a glass shatter.

10 Q. Okay. Where was the glass that shattered?

11 A. It was in my apartment, in the living room.

12 Q. Okay, and about what time was all of this happening?

13 A. It was maybe -- I know it was after 9 o'clock because
14 he was getting ready for bed. I'm not sure the exact time.

15 Q. Okay. It was dark outside?

16 A. Yes, ma'am.

17 Q. Okay. What happened next?

18 A. When I heard the glass shatter, I came to the front of
19 the house, me and Mr. Jones, and I stopped in my son's room
20 to make sure he was all right because he was kind of scared
21 and panicky. So, I was trying to calm him down.

22 Q. Okay, and then what happened next?

23 A. Then Mr. Jones, he proceeded to the front door.

24 Q. And what did he do at that point?

25 A. He walked -- and when he opened the door, I could

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1 hear, like, a female voice, like, yelling, but I couldn't
2 understand what they were saying. And then he spoke, you
3 know, and then he turned around and came back in and said
4 I've been shot, and I'm, like, huh? So.

5 Q. Could you tell that he had been shot?

6 A. At first I didn't until I seen the blood.

7 Q. Okay. Where was the blood?

8 A. It was on his wrist.

9 Q. Okay. What, what happened next?

10 A. That's when I called the police, I believe.

11 Q. Okay. Ms. Mills, I'm going to play that 911 call for
12 you, and then I'm going to ask you a couple of questions
13 about it, okay?

14 A. Yes, ma'am.

15 MS. NELLERMOE: Your Honor, this 911 call has already
16 admitted into evidence, but at this time I request

17 permission to play 911 call number 11.

18 THE COURT: Is it part of State's Exhibit Number 65?

19 MS. NELLERMOE: Yes, Your Honor.

20 THE COURT: Okay. That's fine.

21 (WHEREUPON, EXCERPT OF STATE'S EXHIBIT NUMBER 65 IS
22 PLAYED FOR THE COURT. AUDIO IS NOT TRANSCRIBED)

23 BY MS. NELLERMOE:

24 Q. Ms. Jones [sic], do you remember making that phone
25 call?

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1 A. Yes, ma'am.

2 Q. Does hearing it bring back some memories for you?

3 A. Yes, ma'am.

4 Q. We'll wait until they pull this around.

5 (A PAUSE.)

6 Q. Tell the jury what was going through your head at that
7 time you made the phone call.

8 A. I was nervous and I was scared, and I was trying to be
9 strong for my son at the same time.

10 Q. Where was he when you made the call?

11 A. He was standing right there.

12 Q. Okay. So, about how long did it take for EMS to
13 arrive?

14 A. It took a while, but I don't remember how long.

15 Q. Okay, and did you go to the hospital with Antonio?

16 A. Yes, ma'am.

17 Q. How long were you at the hospital with him?

18 A. I want to say maybe about two hours, two to three
19 hours at the most.

20 Q. Okay. Did anyone from law enforcement speak with you
21 that night?

22 A. Yes, ma'am.

23 Q. Were you able to tell them anything?

24 A. I told them what I had heard.

25 Q. Okay. Did you meet with law enforcement later after

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1 that night?

2 A. Yes, with the victim's advocate.

3 Q. Okay. Did you ever provide a written statement to law
4 enforcement about that night?

5 A. No, ma'am.

6 Q. I'm going to show you what's been premarked for
7 identification purposes as State's Exhibit 43 and 45. If
8 you could just take a look at those photos?

9 (A PAUSE.)

10 Q. Do you recognize those photos?

11 A. Yes, ma'am.

12 Q. And how do you recognize them?

13 A. That was my apartment.

14 Q. Are those photos a fair and accurate representation of
15 your home on the night of February 22, 2017?

16 A. Yes, ma'am.

17 MS. NELLERMOE: Your Honor, at this time the state
18 would offer State's Exhibit 43 and 45 for admission into
19 evidence.

20 MR. WILLIAMS: No objection, Your Honor.

21 THE COURT: 43 and 45 admitted without objection.

22 MS. NELLERMOE: Thank you, Your Honor.

23 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
24 STATE'S EXHIBITS 43, 45.)

25 MS. NELLERMOE: Permission to publish to the jury?

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1 THE COURT: Yes, ma'am.

2 BY MS. NELLERMOE:

3 Q. Ms. Mills, can you see this? Can you see the screen
4 from where you are?

5 A. Yes, ma'am.

6 Q. Okay. Can you describe to the jury what we are
7 looking at here?

8 A. The thing that's on the table, those were Antonio
9 Jones's belongings that he had on the night of the
10 shooting, and the clothes that's in the hallway, that's the
11 stuff that he had on.

12 Q. Are you talking about ---

13 A. Yes, ma'am.

14 Q. --- those items here?

15 A. Those items there.

16 Q. And you said the items on the table?

17 A. Yes, ma'am, with the shoe on it.

18 Q. Okay, and what room is this?

19 A. That's the living room right there.

20 Q. Okay, and so this hallway right here, where does that
21 go to?

22 A. That's my bedroom where that door is in the back.

23 Q. Okay, and the front door to the apartment would have
24 been?

25 A. Up to the front part.

1 Q. Okay. So, somewhere up here a notch?

2 A. Yes, ma'am.

3 Q. Okay, and how about this photo, State's 45? What is
4 this a picture of?

5 A. That's my son's room.

6 Q. And is this how it appeared on that night?

7 A. Yes, ma'am.

8 Q. Are you able to tell what he was doing that night in
9 his room?

10 A. He was getting his clothes ready for bed -- for school
11 the next day.

12 Q. Okay, and where was his room in relation to yours?

13 A. If -- on the other picture, there's a door right
14 there. That's a closet door right there where you see the
15 knob in the front and right behind that closet door, that's
16 his room right there.

17 Q. Okay. So, is his room on the back side of the
18 apartment as well?

19 A. Yes, ma'am.

20 Q. And your bedroom was also on the back side?

21 A. Yes, ma'am.

22 Q. Okay.

23 MS. NELLERMOE: I beg the court's indulgence.

24 THE COURT: Yes, ma'am.

25 (A PAUSE.)

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1 MS. NELLERMOE: Thank you, Ms. Mills. I have no
2 further questions. Please answer any questions that Mr.
3 Williams may have for you.

4 MR. WILLIAMS: No questions, Your Honor.

5 THE COURT: All right, you may step down, ma'am.
6 Thank you.

7 (THE WITNESS EXITS THE STAND.)

8 THE COURT: All right, who's next?

9 MS. SAMPSON: State calls Franklyn Rainsford.

10 THE COURT: All right.

11 FRANKLYN RAINSFORD, BEING DULY
12 SWORN, TESTIFIES AS FOLLOWS:

13 CLERK: Please have a seat on the witness stand.
14 Please state your full name for the record.

15 WITNESS: Investigator Franklyn Rainsford.

16 DIRECT EXAMINATION BY MS. SAMPSON:

17 Q. Investigator, while I'm looking for this, can you tell
18 the jury where you're employed?

19 A. The Richland County Sheriff's Department.

20 Q. And how long have you been employed there?

21 A. Since 2007, with the Crime Scene Unit since 2012.

22 Q. And can you tell the jury how you started with the
23 sheriff's department? Where were -- you first started and
24 ---

25 A. Originally I was assigned to the Region Six area,

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1 which is Blythewood, Sandhills, Lake Carolina, as a first
2 responder responding to the initial calls for burglaries,
3 need for assistance, and so forth.

4 Q. And how long were you a road deputy, for lack of a
5 better word?

6 A. For about five years.

7 Q. How did you become a CSI -- or CSI person?

8 A. Actually, you have to apply, submit a letter of intent
9 or interest. There's an interview process, a little bit of
10 a test before they promote you up to the Crime Scene Unit.

11 Q. And do you get training once you're in the Crime Scene
12 Unit?

13 A. Yes, ma'am. There's extensive in-house training, as
14 well as some outside training that we go through to get us
15 up to how to process and document a crime scene.

16 Q. And did you get -- is that the only time you get
17 training, or is it ongoing?

18 A. It's on -- it's an ongoing process.

19 Q. So, would it be fair to say you get training
20 throughout the year as you go on, or is it just one time a
21 year, or how does that work?

22 A. We get trained, you know, kind of capsules, but we
23 have in-house certifications once a -- not certifications.
24 We have a yearly test to keep us up on shooting
25 reconstruction, bloodstain pattern analysis.

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1 Q. Okay, and so I want to move you to back in February of
2 2017. Were you a crime scene -- in the Crime Scene Unit at
3 that time?

4 A. Yes, ma'am.

5 Q. And what -- same duties as you just discussed with the
6 jury?

7 A. My duties include documenting the crime scene,
8 collecting evidence, preserving it, and collecting it to
9 take back to headquarters.

10 Q. And the jury's heard some of this, but are you the
11 only crime scene person that comes, or do several come, or
12 how does that work?

13 A. Depending on the scene, there can be one or several
14 crime scene units, especially if it's spanned out over a
15 day or a couple of days, or it's a large scene, then more
16 than one of us will respond out to a scene.

17 Q. Okay. So, when did you get contacted to go to this
18 scene?

19 A. I was contacted by Investigator Clarke at the time on
20 February 23, 2017, at about 4:25 in the afternoon.

21 Q. And what were you expected to do at that point?

22 A. I was requested to photograph damage at [REDACTED] Thornwell
23 Court and collect any possible projectiles or fragments
24 from the scene.

25 Q. So, did you go to the scene?

1 A. I did.

2 Q. And what did you do when you first arrived?

3 A. First photographed the scene. Surveyed, looked for
4 damage and projectiles at the residence.

5 Q. Was anyone there when you were doing this?

6 A. I believe Investigator Clarke was there and the
7 victim.

8 Q. So, the homeowner was there?

9 A. Yes, ma'am.

10 Q. Okay, because we keep using the term victim.

11 A. Oh.

12 Q. And I want to make sure the jury knows who we're
13 talking about. Who were you talking about when you said
14 victim?

15 A. Roman Cruz.

16 Q. Okay, and he's the homeowner of [REDACTED] Thornwell Court?

17 A. Yes, ma'am.

18 Q. Is this a house or an apartment?

19 A. It's a house.

20 Q. And you -- I interrupted you. You said you took some
21 photographs?

22 A. Yes, ma'am.

23 Q. Did you do anything else besides take photographs?

24 A. I photographed the -- predominantly the back of the
25 residence and a little bit inside the residence.

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1 Q. Did you collect any evidence?

2 A. Yes, ma'am. I collected a total of three metal
3 fragments believed to be projectiles.

4 Q. Okay, and I'm going to have you look at some photos.
5 I'm going to show you what's been marked as State's Exhibit
6 30 -- excuse me, 28 through 34. Want you to take a look at
7 those.

8 (A PAUSE.)

9 A. Yes, ma'am, these are the photos that I took.

10 Q. And do those, those copies of those photos, do they
11 fairly and accurately depict the way the scene looked the
12 day that you took the photos?

13 A. Yes, ma'am.

14 Q. Been changed in any way?

15 A. No, ma'am. These are the photos that I took.

16 MS. SAMPSON: At this time, we'd ask to introduce
17 State's Exhibit Number 28 through 34 into evidence.

18 MR. WILLIAMS: Without objection, Your Honor.

19 THE COURT: All right, give me the numbers one more
20 time.

21 MS. SAMPSON: 28 through 34.

22 THE COURT: Thank you. 28 through 34 admitted without
23 objection.

24 MS. SAMPSON: Thank you, Your Honor.

25 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS

1 STATE'S EXHIBITS 28 THROUGH 34.)

2 MS. SAMPSON: May I have publish?

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

4 BY MS. SAMPSON:

5 Q. While they're bringing this over here, I'm going to
6 have you step down.

7 A. Okay.

8 Q. Just remember to keep your voice up and face the court
9 reporter so she can take down what you say.

10 A. Yes, ma'am.

11 THE COURT: Make sure you speak up, please, sir.

12 Q. I'm going to -- you can stand right there on this
13 side. This is State's Exhibit 34. Can you tell the jury
14 what this shows?

15 A. This is an overall view of the back of the residence.

16 Q. And this is [REDACTED] Thornwell?

17 A. Yes, ma'am.

18 Q. And State's Exhibit -- I'm sorry. That was 28. This
19 is State's Exhibit 29. What does this show?

20 A. This is a close up of a vertical tarp that was hanging
21 kind of at the back of the property line.

22 Q. And why did you take a picture of that?

23 A. There is a defect in the tarp there that was
24 subsequently labeled and marked 2.

25 Q. And I'm going to show you the next one, which is

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1 State's Exhibit 30. Is that what you were discussing?

2 A. Yes, ma'am.

3 Q. And who put that mark there?

4 A. I put that mark right there just to designate that is
5 what I was trying to focus in on in my photograph.

6 Q. And why did you focus in on that?

7 A. There's a defect that I believed at the time to be
8 caused by a projectile.

9 Q. Did you find a projectile in there?

10 A. Not in the shed, no, ma'am.

11 Q. And that's a shed?

12 A. A covered shed.

13 Q. Storage area, I guess?

14 A. Yes, ma'am.

15 Q. All right, and what does State's Exhibit number 31
16 show?

17 A. Marker 4, that is the window at the back of the
18 residence. You can see that in the overall photograph, but
19 that shows the incoming impact point caused by a
20 projectile.

21 Q. I want to show you what's marked -- what's been
22 introduced as State's Exhibit 32. What is that?

23 A. That is a metal fragment that I collected from, again,
24 the back of the residence kind of underneath...

25 Q. And when you say that ---

1 A. Covered area.

2 Q. --- is that what you're talking about right there?

3 A. Yes, ma'am, this.

4 Q. That's a metal fragment?

5 A. Yes, ma'am.

6 Q. What would that metal fragment be?

7 A. I just collect it as a metal fragment. I will -- I
8 packaged that, sealed it, and submitted it to Evidence and
9 Property, where our firearm section would analyze it later.

10 Q. So, is it your job to determine if that's a projectile
11 or something else?

12 A. No, ma'am. I just, based off of my training,
13 experience, believed that to be of importance.

14 Q. Okay.

15 A. So ---

16 Q. And ---

17 A. --- that's why I collected it.

18 Q. Let me ask you this. You brought that up. Is it your
19 job to decide what is, is important to collect, or does
20 somebody come and tell you what to collect?

21 A. I do, at the direction of the lead investigator. They
22 will kind of guide me to where they believe -- which is why
23 I was at the back of the residence, and then I searched the
24 area. Knowing that this was a shooting incident, I was
25 looking for metal fragments or projectiles.

F. RAINSFORD - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. So, you decide where to look, but he may tell you to
2 go in a particular area?

3 A. Yes, ma'am. He'd kind of guide me to the general
4 area.

5 Q. And State's Exhibit 33, what does that show?

6 A. Right above where that metal fragment was previously.
7 Higher up on the wall -- you can see a little bit of the
8 window in this photograph -- was an impact point of damage
9 to the wall.

10 Q. And State's Exhibit 34, what does that show?

11 A. Inside of the room where I previously marked, marker 4
12 is on that window. This shows two metal fragments, 7 and
13 8, and then additionally another marker, 5, where it struck
14 -- is that the washer or the dryer?

15 Q. Either the washer or the dryer, would that be fair to
16 say?

17 A. Yes, ma'am, an impact point to the washer or dryer and
18 then two metal fragments ---

19 Q. And did you ---

20 A. --- on the floor.

21 Q. --- collect those metal fragments?

22 A. Yes, ma'am. I collected and packaged separately,
23 sealed and submitted them to Evidence and Property.

24 Q. You can go ahead and sit down.

25 A. Thank you.

F. RAINSFORD - DIRECT EXAMINATION BY MS. SAMPSON 173

1 Q. So, I just showed you some photographs. Are those all
2 the photographs? The photographs that I showed you, were
3 those all, or did you take other photographs as well?

4 A. No, ma'am. There were other photographs of the scene.

5 Q. I'm going to show you what's been marked as State's
6 Exhibit 68. First of all, do you recognize State's Exhibit
7 68?

8 A. Yes, ma'am. This is -- are the metal fragments that I
9 collected at the scene.

10 Q. How do you know those are the fragments that you
11 collected?

12 A. This is my handwritten evidence label with my name and
13 signature on the front, as well as across the back there
14 are evidence tape with my initials and date on it.

15 Q. And is that the normal procedure when you collect
16 evidence?

17 A. Yes, ma'am.

18 Q. So, tell the jury. They haven't heard this. Take the
19 jury through. What do you do when you collect evidence?

20 A. In this case particularly, after I have marked and
21 photographed the metal fragment or whatever other piece of
22 evidence, I would package that individually, seal it,
23 transport it back to headquarters, and then submit it to
24 Evidence and Property for further analysis if that's what
25 it -- where it's destined to go.

F. RAINSFORD - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. And do you always seal the package?

2 A. Yes, ma'am. All packages prior to being submitted to
3 Evidence and Property are sealed, initialed, and dated.

4 Q. And then once you sealed this, what did you do with
5 it?

6 A. I took it down to our Evidence and Property room,
7 where they lock it in.

8 A. How do you do -- what is that process? Do you -- is
9 there a ---

10 A. I, I will manually or physically go down there to the
11 evidence room, either give it to an evidence technician, or
12 we have secured lockers where we put the evidence in, lock
13 it. And then only an evidence technician is able to go
14 into that locker and retrieve that evidence.

15 Q. So, if you put something in the locker, can you take
16 it out?

17 A. I cannot, no, ma'am.

18 Q. And so did you do this with State's Exhibit 68? You
19 either put it in a locker or gave it to a tech?

20 A. Yes, ma'am. With that piece of evidence, I did it
21 through the locker.

22 Q. And again, you said through the locker. You put it in
23 and once you put it in, you cannot take it out?

24 A. Correct. Once I lock that locker, the only person
25 able to retrieve evidence is an evidence technician.

F. RAINSFORD - DIRECT EXAMINATION / CROSS-EXAMINATION 175

1 Q. Are you allowed to put something in that locker that
2 is not sealed?

3 A. If that does comes -- if it is not properly sealed,
4 then Evidence will notify us. We'll have to come down and
5 correct it, and then and only then will they accept it.

6 Q. Did that happen in this case?

7 A. No, ma'am.

8 Q. Thank you.

9 MS. SAMPSON: Beg the court's indulgence.

10 (A PAUSE.)

11 MS. SAMPSON: Thank you, Investigator Rainsford.

12 No further questions from the state, Your Honor.

13 THE COURT: Cross?

14 MR. WILLIAMS: Certainly. Just briefly.

15 MS. SAMPSON: Mr. Williams, so you want us to move
16 this?

17 MR. WILLIAMS: No, I don't need that. Oh, yes.
18 Please.

19 CROSS-EXAMINATION BY MR. WILLIAMS:

20 Q. So, you went to the home and met with -- was it Roman
21 Cruz? Is that correct?

22 A. Yes, sir.

23 Q. Did you meet with Maria Marquez Lopez or Stephen --
24 Stephanie Marquez Lopez or Schneider Cruz Marquez?

25 A. Not to my recollection.

F. RAINSFORD - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. You only met with one person there?

2 A. I believe so. He was -- took -- photographed a truck
3 that was in the driveway.

4 Q. And from what I understand from your testimony, you
5 have three fragments that you find, one which obviously has
6 hit a brick wall, drops straight down. Then you have two
7 other fragments which you find inside of the room where the
8 washer and dryer is. Is that correct?

9 A. That is correct.

10 Q. And there's no question that these are two separate
11 fragments? They are not one fragment which has broken in
12 half?

13 A. Of that, I do not know. I just marked, photographed,
14 and collected then.

15 Q. And somebody else will make that determination?

16 A. Yes, sir.

17 Q. Did you do anything else by way of investigating?
18 You're a CSI guy, right?

19 A. Yes, sir.

20 Q. Did you do anything else by way of investigation to
21 determine trajectory or directions or any other fieldwork
22 to indicate where the bullets came from other than finding
23 the bullets, locating and taking pictures of them, and then
24 taking those metal fragments back to someone to analyze?

25 A. Not in this, no, sir. I did not do any trajectory.

M. GALINSKI - DIRECT EXAMINATION BY MS. SAMPSON

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1 All the impacts were at the back of the residence.

2 MR. WILLIAMS: Okay. That's all the questions I have,
3 Your Honor.

4 MS. SAMPSON: Nothing further, Your Honor.

5 THE COURT: Have a good day.

6 WITNESS: Thank you, sir.

7 (THE WITNESS EXITS THE STAND.)

8 THE COURT: Who's next?

9 MS. SAMPSON: The state calls Melody Galinski.

10 MELODY GALINSKI, BEING DULY SWORN,

11 TESTIFIES AS FOLLOWS:

12 CLERK: Please have a seat in the witness stand, and
13 state your full name for the record, and please spell your
14 last name.

15 WITNESS: Melody Galinski, G-a-l-i-n-s-k-i.

16 DIRECT EXAMINATION BY MS. SAMPSON:

17 Q. Ms. Galinski, how are you doing?

18 A. Good.

19 Q. Can you tell the jury where you work?

20 A. i work at Richland County Sheriff's Department.

21 Q. I need you to keep your voice up.

22 A. Richland County Sheriff's Department.

23 Q. And what do you do there?

24 A. Now I'm an investigator with the Criminal
25 Investigation Division.

J. HALL - REDIRECT EXAMINATION BY MS. SAMPSON

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1 putting stuff back, that's after it's been tested and after
2 everything's been prepared?

3 A. No, ma'am. That is -- after I complete my portion of
4 it, everything goes back in its original container, and
5 then it goes into a secure location until the analyst pulls
6 it for analysis.

7 Q. And is there a way when you do that, can one kit get
8 cross-contaminated with the other kit?

9 A. No, ma'am.

10 MS. SAMPSON: No further questions, Your Honor.

11 MR. WILLIAMS: No questions, Your Honor.

12 THE COURT: Have a good day.

13 WITNESS: Thank you.

14 (THE WITNESS EXITS THE STAND.)

15 THE COURT: How long is the next witness?

16 MS. NELLERMOE: Your Honor, the next witness will be
17 very brief, maybe five to ten minutes.

18 THE COURT: Let's go ahead and do it.

19 MS. NELLERMOE: Okay. The state would call Richard
20 Carter.

21 RICHARD CARTER, BEING DULY SWORN,

22 TESTIFIES AS FOLLOWS:

23 CLERK: Please have a seat in the witness stand, and
24 state your name for the record.

25 WITNESS: Richard Carter.

R. CARTER - DIRECT EXAMINATION BY MS. NELLERMOE

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1 DIRECT EXAMINATION BY MS. NELLERMOE:

2 Q. Good afternoon, Sergeant Carter. Where do you work?

3 A. Richland County Sheriff's Department.

4 Q. And which department do you work in?

5 A. Currently I'm assigned to Uniform Division, Region 2,
6 which is the Dentsville magistrate area.

7 Q. Okay, and what's your rank?

8 A. Staff sergeant.

9 Q. Okay. How long with you worked with Richland County
10 Sheriff's Department?

11 A. Eighteen years.

12 Q. And you said you're in investigations?

13 A. Not at this time.

14 Q. Okay. Have you previously been?

15 A. Yes.

16 Q. So, what period of time were you working in
17 investigations?

18 A. Up until May of 2017.

19 Q. Okay. Before the sheriff's department, did you work
20 anywhere else as law enforcement?

21 A. I did.

22 Q. Where was that?

23 A. I worked in North Carolina at Carolina Beach PD and at
24 Mount Pleasant.

25 Q. So total years, how many years of law enforcement

R. CARTER - DIRECT EXAMINATION BY MS. NELLERMOE

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1 experience do you have?

2 A. Twenty-five.

3 Q. Okay. So in February of 2017, you would have been an
4 investigator?

5 A. Yes.

6 Q. Is that correct? Tell your -- tell -- please tell the
7 jury a little bit about your duties as an investigator at
8 that time.

9 A. At that time, I was assigned to Motor Vehicle Theft
10 Unit, which was part of property crimes. On this
11 particular day, if that's what you're referring to?

12 Q. Well, yeah. I -- that was my next question.

13 A. Okay.

14 Q. On -- so, if we turn our attention to February 22 of
15 2017, were you working that night?

16 A. I was.

17 Q. Okay, and so did you have a chance to become involved
18 in the investigation of Mandy Fortson?

19 A. I did.

20 Q. Okay, and tell us how you got involved in that.

21 A. I was -- my, my office was at headquarters, and I was
22 working night shift that night on call. I was notified by
23 Sergeant Faust at that time regarding -- to respond to
24 Palmetto Health Richland at the time to meet with a
25 individual who was transported for injuries in a shooting.

R. CARTER - DIRECT EXAMINATION BY MS. NELLERMOE

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1 Q. Okay. Did you have any specific instructions of what
2 to do when you got there?

3 A. Typically it was to go meet with the victim, just
4 obtain the, I guess, initial facts. Find out the, the, you
5 know, the condition of the individual, whether or not the
6 injuries were life-threatening or non life-threatening.

7 Q. Okay. So, what were you able to find out here?

8 A. When I arrived at the hospital, I met with medical
9 staff. I believe Mr. Jones had just had a CT scan. He was
10 conscious and alert. Excuse me. He did have injury to his
11 right wrist and also to his -- I believe his right hip
12 area.

13 Q. Okay, and when you say Mr. Jones, what was his first
14 name?

15 A. Excuse me. Antonio.

16 Q. Okay. Was anyone there with Antonio?

17 A. Not in the ER.

18 Q. Okay. So, were you able to speak with Antonio Jones?

19 A. I was.

20 Q. Did you taken any written statements from him?

21 A. No.

22 Q. And why not?

23 A. Typically -- he was, he was there to receive medical
24 treatment, and it's just protocol to find the basic facts,
25 see what we can -- the condition of the victim, let the

R. CARTER - DIRECT EXAMINATION BY MS. NELLERMOE

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1 medical staff treat his injuries, and at a later date take
2 statements.

3 Q. Okay. So, other than speaking to Mr. Jones, what, if
4 anything else, did you do while you were at the hospital?

5 A. I took pictures of his injuries.

6 Q. Okay. Sergeant Carter, I'm going to show you what's
7 been premarked for identification as State's Exhibits 9,
8 10, and 11. If you could take a look at those? Do you
9 recognize those items?

10 A. Yes.

11 Q. And how do you recognize them?

12 A. Those would be the, the photographs I took.

13 Q. Okay.

14 (A PAUSE.)

15 THE COURT: Are you moving them into evidence?

16 MS. NELLERMOE: Yes. Yes, Your Honor. I was just
17 turning the screen on.

18 THE COURT: That's okay.

19 MR. WILLIAMS: Without objection, Your Honor.

20 THE COURT: All right. 9, 10, and 11 are admitted
21 without objection.

22 MS. NELLERMOE: Okay. Thank you very much.

23 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
24 STATE'S EXHIBITS 9, 10, 11.)

25 MS. NELLERMOE: Permission to publish photos to the

1 jury?

2 THE COURT: Absolutely.

3 BY MS. NELLERMOE:

4 Q. I'm showing you what has been marked as State's
5 Exhibit 9. Can you please explain to the jury what is
6 happening in this photo?

7 A. That's Mr. Jones just laying on the, the bed in the
8 ER.

9 Q. Okay. Is this how he was when you arrived?

10 A. Yes.

11 Q. This is State's Exhibit 10. What is this a photo of?

12 A. His wrist with what appears to be a injury on top of
13 ---

14 Q. Are you able to see the screen?

15 A. Yes.

16 Q. Okay. So, what type of injury did you say?

17 A. It, it -- it's an injury. It appears to be a hole.

18 Q. And State's 11, what is this photo showing?

19 A. That would be his left hand with a bag on it.

20 Q. Do you know why there was a bag on his hand?

21 A. EMS had bagged that, bagged his hand.

22 Q. Okay. So, that was a decision EMS made?

23 A. Yes.

24 Q. Okay. So after you took the photos, did you have any
25 further involvement in this case?

R. CARTER - DIRECT EXAMINATION BY MS. NELLERMOE

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1 A. No, ma'am.

2 MS. NELLERMOE: Beg the court's indulgence.

3 (A PAUSE.)

4 BY MS. NELLERMOE:

5 Q. Sergeant Carter, when you spoke with the victim, did
6 he provide you with a description of the shooter in this
7 case?

8 MR. WILLIAMS: Your Honor, I'm going to object to nay
9 testimony from him, some statements he made or didn't make
10 at the hospital if she's trying to elicit that.

11 MS. NELLERMOE: Your Honor, I'm just asking him
12 whether he was given a description. I'm not asking him to
13 say what that description was.

14 THE COURT: He can answer the question of whether or
15 not he was given a description. He can't go into exactly
16 what he said.

17 MS. NELLERMOE: Yes, Your Honor.

18 BY MS. NELLERMOE:

19 Q. So was the victim, Antonio Jones, able to give you a
20 description of the shooter in this case? Without saying
21 what he said.

22 A. Yes.

23 Q. Okay.

24 MS. NELLERMOE: One moment.

25 (A PAUSE.)

1 MS. NELLERMOE: Thank you, Sergeant Carter. I have no
2 further questions at this time.

3 MR. WILLIAMS: No questions, Your Honor.

4 THE COURT: Thank you. Have a good day.

5 (THE WITNESS EXITS THE STAND.)

6 THE COURT: All right, let's go ahead and take our
7 afternoon break, ladies and gentlemen. It's about a
8 quarter of 4 or ten til 4, one of those two, and so we'll
9 go ahead and take our afternoon break. Do not discuss the
10 case.

11 Everyone remain seated.

12 Do not discuss the case. Keep an open mind about the
13 case. We'll be back with you in about ten or fifteen
14 minutes, okay? All right. Thank you. Get you a Coke or
15 something to drink, get you pepped up now. I don't want
16 you snoozing on me this afternoon, okay? All right, the
17 bailiffs are the only ones who get to sleep. They know how
18 to do it correctly, so don't follow their example, okay?

19 (THE JURY EXITS AT 3:49 P.M.)

20 THE COURT: All right, help me with planning. Who's
21 next?

22 MS. SAMPSON: So, that's what I was going to ask Your
23 Honor. As we emailed with you about yesterday, our next
24 witness is Dr. Guy.

25 THE COURT: Okay.

1 MS. SAMPSON: And he -- we haven't been able to call
2 him -- because we've been in here -- to see if he's done
3 and able to come. He is the last one we have. The rest of
4 ours are pretty lengthy.

5 THE COURT: Okay.

6 MS. SAMPSON: And so we were planning on putting him
7 up, but I hope he's on his way. I don't actually know that
8 as I stand here.

9 MR. GIPSON: May I?

10 THE COURT: Yes.

11 MR. GIPSON: I've been in touch with his office back
12 and forth. They said he had three surgeries scheduled
13 today, and the third was scheduled to begin around 1:30 or
14 so.

15 THE COURT: Okay.

16 MR. GIPSON: So, they are in touch with my paralegal
17 upstairs. I can run upstairs and check with her.

18 THE COURT: All right. So, let's take a break. Y'all
19 go figure out what's going on with Dr. Guy.

20 MR. GIPSON: Will do.

21 THE COURT: And somebody come tell Kate so I can know
22 what -- so, he'll be the last witness for the day?

23 MS. SAMPSON: Yes, sir.

24 THE COURT: Okay. All right. Good.

25 Is that all okay with you?

1 MR. WILLIAMS: Yes, sir.

2 THE COURT: Okay. All right. Just communicate with
3 each other and let me know about what time he'll be here.

4 MR. GIPSON: Thank you, Your Honor.

5 THE COURT: Okay. Thank you. We'll be in recess.

6 (OFF THE RECORD.)

7 THE COURT: You good?

8 MR. WILLIAMS: Yes, sir.

9 THE COURT: You good?

10 MS. SAMPSON: Yes, sir. We're ready.

11 THE COURT: Okay.

12 MR. GIPSON: Yes, sir.

13 THE COURT: Bring them in.

14 Dr. Guy, thank you for your patience with us yesterday
15 and today. Much appreciated.

16 (THE JURY ENTERS AT 4:24 P.M.)

17 THE COURT: All right, ladies and gentlemen, sorry
18 about the little bit longer than normal break.

19 So, when you're doing one of these trials, you're
20 doing your best to take as little time out of people's
21 lives as possible that are witnesses. Does that make
22 sense? So, we had given the next witness a time of 4:30
23 and so -- but we ended a little bit quicker because it's
24 just impossible to know exactly how long every single part
25 is going to take. So, I apologize for having you wait a

J. GUY - VOIR DIRE EXAMINATION BY MR. GIPSON

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1 little bit longer. I take full responsibility for that,
2 and we do -- we are on our last witness for the day.

3 And so whenever the state is ready, you may call your
4 next witness.

5 MR. GIPSON: Thank you, Your Honor. State calls Dr.
6 Jeffrey Guy.

7 THE COURT: All right. Come on up, Dr. Guy. Come
8 right over here.

9 JEFFREY GUY, BEING DULY SWORN,
10 TESTIFIES AS FOLLOWS:

11 CLERK: Please have a seat in the witness stand, and
12 state your full name for the record.

13 MR. GIPSON: Doctor, you can remove your mask also.

14 WITNESS: Great. Thank you.

15 VOIR DIRE EXAMINATION BY MR. GIPSON:

16 Q. Good afternoon, Dr. Guy.

17 A. Good afternoon.

18 Q. I'm going to just encourage you to speak a little bit
19 louder.

20 A. Sure.

21 Q. Or lean into to mic.

22 A. Okay.

23 Q. There we go, and I'll step a little bit farther back
24 as well.

25 A. Oh.

1 Q. Long day for you?

2 A. Always a long day.

3 Q. All right. Tell us your profession, if you would.

4 A. I'm an orthopedic surgeon.

5 Q. And where are you employed as an orthopedic surgeon?

6 A. Prisma Health Orthopedics.

7 Q. All right. So, are you licensed to practice in South
8 Carolina?

9 A. Yes, sir.

10 Q. About how long has that been?

11 A. Twenty years this year.

12 Q. Twenty years?

13 A. Twenty years, yeah. How about that?

14 Q. Yeah. So, if you'll explain to the jury just a little
15 bit about your education?

16 A. So, starting where?

17 Q. Starting with college.

18 A. So, college I went to San Diego State University in, in
19 San Diego, California, for undergrad and an undergrad
20 degree in biology. And then for medical school, I went to
21 Harvard Medical School in Boston. So, I spent four years
22 there. Two years of research. Then I did a six-year
23 residency with Harvard, combined orthopedic surgery
24 residency. I did a year of orthopedic trauma at Mass
25 General Hospital in Boston, Harvard Hospital, and then I

J. GUY - *VOIR DIRE* EXAMINATION BY MR. GIPSON

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1 did a six-month fellowship in sport -- pediatric sports
2 medicine at Children's Hospital in Boston, Harvard
3 Hospital. And then I spent a year at American Sports
4 Medicine Institute Alabama in Birmingham doing adult sports
5 medicine taking care of Auburn University.

6 Q. Did you say all that in one breath?

7 A. Yeah.

8 Q. I want you to do one thing for me. Go back and
9 explain -- you used a term of art: residency. Explain what
10 a residency is.

11 A. So when you're in undergrad, you apply to medical
12 school and -- medical school. So, I went to four years at
13 Harvard Medical School. Then you're a physician, and so
14 residency is special training. So, I did six years, five
15 and a half years of residency training. So, specialty
16 training in orthopedics to be an orthopedic surgeon, and
17 then three fellowships: one in trauma, one in pediatrics or
18 pediatric sports, and one in adult sports, which allows me
19 to be a sports -- a fellowship-trained sports medicine
20 physician, as well as trauma physician, but I don't really
21 practice that side.

22 Q. And can you tell us one of the many hats that you
23 wear?

24 A. A lot.

25 Q. Okay. Just tell us a few of those, if you would?

J. GUY - VOIR DIRE EXAMINATION BY MR. GIPSON

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1 A. So, I'm the medical director for the athletic training
2 programs at South Carolina and, and the University of South
3 Carolina. I've been a team physician in South Carolina for
4 twenty years, and I've been a medical director of the
5 athletic programs for USC for fifteen years. I stopped
6 that a couple of years ago. And then I am a team doctor
7 for about thirty high schools in town. We take care of
8 seven colleges: Benedict, Allen, South Carolina State,
9 USC-Columbia, CIU. And then we take care of the Columbia
10 City Ballet, the classical city -- or classical ballet in
11 town. So, most of the, the sports here in town we, we take
12 care of. So -- and I'm one of the physicians that does
13 that.

14 Q. Any professional associations of note that you'd like
15 to mention?

16 A. I'm a member of the American Academy of Orthopedic
17 Surgeons. I'm -- the American, American Orthopedic Society
18 for Sports Medicine, I'm a member. I'm the current
19 president of the Southern Orthopedic Association, and a
20 member of all the local orthopedic groups and, and
21 organizations here in the city.

22 Q. Sure, and lastly, I'm sure you've published. Any
23 publish -- publications of note you want to mention?

24 A. Of note? I probably have about fifteen published
25 articles.

J. GUY - VOIR DIRE EXAMINATION BY MR. GIPSON

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1 Q. Sure.

2 A. In the literature.

3 Q. Are you board certified?

4 A. Yes.

5 Q. What does that mean?

6 A. That's a -- the American Board of Orthopedic Surgery,
7 the ABOS, is a governing body for orthopedic surgeons. So,
8 in order to become board certified, you have to pass your,
9 your boards your first year out of training, and then
10 that's boards part one. And boards part two is after two
11 years of being an orthopedic surgeon, you have to be
12 certified in, in what's called your orals. So, you have to
13 go and discuss six months of cases with members of the
14 organization in Chicago and pass that, too, and then you
15 have to be recertified every ten years.

16 Q. All right.

17 A. Lots of tests.

18 Q. Lots of tests. All right. Well, have you been
19 declares as an expert in courts in South Carolina?

20 A. Yes.

21 Q. In orthopedic surgery and orthopedic trauma?

22 A. Yes.

23 Q. All right.

24 MR. GIPSON: I'll ask -- like to offer Dr. Guy as an
25 expert in those fields, Your Honor.

1 MR. WILLIAMS: No objection.

2 THE COURT: Would you like to *voir dire*?

3 MR. WILLIAMS: No, sir.

4 THE COURT: Okay. So, normally, ladies and gentlemen,
5 when a person gives their testimony, they are not allowed
6 to give their opinion. Normally when we have a witness,
7 that person must testify as to what they saw, did, sensed
8 by smell, something of that nature.

9 There is an exception under our rules when someone is
10 qualified because of their education or experience. This
11 person is permitted to give their opinion in certain areas
12 if I qualify them in that way. So, this witness -- that
13 is, Dr. Guy -- will be qualified as an expert in the area
14 of orthopedic surgery and orthopedic trauma. He will be
15 allowed to give his opinion testimony in that area.

16 Now, that does not mean that you have to accept his
17 opinions, but it is evidence for you to use in any way that
18 you see fit, and you give it the weight and the credibility
19 that you believe is appropriate, as you are required to do
20 with each and every witness that appears before you.

21 MR. GIPSON: Thank you, Your Honor.

22 THE COURT: Thank you.

23 DIRECT EXAMINATION BY MR. GIPSON:

24 Q. Now, I would like to focus on February of 2017.

25 A. Okay.

J. GUY - DIRECT EXAMINATION BY MR. GIPSON

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1 Q. Which hospital were you attending at that particular
2 point?

3 A. I was the attending physician for orthopedics,
4 orthopedic trauma for Richland hospital.

5 Q. All right. We talked about what a residency is. Can
6 you define what an attending physician is?

7 A. So, an attending physician would be the, the person
8 responsible. So, we have -- we train residents at our
9 program. So, the hospital has the residents on staff in
10 the hospital, and the attending physicians typically are at
11 home until we need to come in for surgery or, or a special
12 case, or we're available for consult, but we're responsible
13 for that particular night for those patients.

14 Q. Sure, and if a resident sees a patient that comes
15 through, then ultimately once they do a report, you have to
16 take a look at that report and sign off on it?

17 A. Yes.

18 Q. All right. Did you have an opportunity to meet with a
19 gentleman named Antonio Jones back in 2017?

20 A. Yes.

21 Q. All right. Do you remember the circumstances under
22 which you met?

23 A. So, I met him after he was seen in the hospital. Now,
24 typically what happens if somebody comes into the emergency
25 room, they have an evaluation. If the trauma specialist in

1 the hospital or the attending physician in the hospital in
2 the trauma room or, or the emergency room thinks that it's
3 an orthopedic reason, they'll consult the orthopedic team,
4 which will generate a, a page or call to the resident. The
5 resident will go see that person, and if that is an
6 outpatient thing where they think it's stable and the
7 patient can potentially go home, then they'll leave the
8 consultation and they'll send me and/or talk to me on the
9 phone, either one, depending on the situation, and I'll
10 follow up with that person on an outpatient basis. So,
11 they'll come see me in the office?.

12 Q. Did you review notes or reports as a result of
13 Antonio's visit to the hospital?

14 A. Yes, the ones in 2017.

15 Q. All right, and would it help you to take a look at
16 those notes?

17 A. Sure.

18 Q. Take a moment, if you would.

19 (A PAUSE.)

20 A. Okay.

21 Q. All right. What was the primary complaint that Mr.
22 Jones had when he came -- when you saw him back in 2017?

23 A. So according to the resident's note, he came in the
24 emergency room with a complaint. We were consulted to
25 evaluate his, his right arm, as well as his right

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1 hip/buttock area where he had sustained two gunshot wounds.

2 Q. And can you explain the diagnosis to his right arm and
3 to his hip?

4 A. So his right arm, he had an entry and exit site, and a
5 bullet had traversed his radius bone, which is basically
6 one of your wrist bones just below your wrist and your
7 forearm. And it had left some fragments, but -- and broke
8 the bone incompletely, but the bullet had left a couple of
9 fragments and, and came out as well. He was also shot in
10 the buttock area; the bullet still remained. It was mostly
11 in the soft tissues.

12 Q. Okay, and so let's talk about that a little bit
13 longer. You said the first was an entrance and exit wound?

14 A. Yes.

15 Q. Which was in his wrist?

16 A. Yes.

17 Q. Right wrist. Am I correct?

18 A. Yes.

19 Q. Okay, and the other you said was in his buttock?

20 A. Right.

21 Q. And so that one is still lodged in him?

22 A. Correct.

23 Q. Okay. Why wouldn't you remove or why wouldn't a
24 doctor remove a bullet in that situation?

25 A. Well, bullets are -- because of the heat and, and the

1 -- and being that type of projectile, they're pretty
2 sterile. So, unless there's a reason why it bothers the
3 patient or whatever, sometimes you cause more damage trying
4 to go get it than it actually causes itself. But we
5 typically offer it to patients if they want to have it
6 removed, but depending on where it is. Sometimes they're
7 in really compromising areas that it's just -- it would be
8 more difficult to get. Bullets can bounce off of things
9 and traverse tissue to make them end up in different places
10 that are really inaccessible.

11 Q. And were there any complaints that you saw Mr. -- did
12 you note any complaints or any issues that he was having
13 with his wrist or his -- or any extremity based on the fact
14 that he was shot?

15 A. So, when -- I mean, just pain in the emergency room.
16 I think that they thought he was stable with the medication
17 and things so that he could go home. And the orthopedic
18 consult in the office -- in the emergency room, they, they
19 stabilized him and put him in a splint, and I think he was
20 able to ambulate with his -- with the, the gunshot in the
21 buttock area. But his wrist was definitely an issue that
22 needed to be addressed as an outpatient and whether it
23 needed surgery or not, and had to be followed.

24 Q. And when you say ambulate, you just mean walk?

25 A. Yes.

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1 Q. Okay. Now, is there a potential concern that you have
2 when there is a gunshot wound?

3 A. Just the soft tissue damage that it can create. When
4 it hits a bone, usually the bone can shatter, it can
5 fracture, and then you, you basically not only have to deal
6 with whether or not there are bullet remains and what the
7 -- tissue damage may have been caused during the, you know,
8 flight through your, your forearm or, or your buttock area,
9 but also what the resulting damage was to the bone or
10 muscle.

11 Q. And in this particular case, when you looked at the,
12 the fracture that he sustained in his wrist, was there any
13 particular concern that you had?

14 A. Well, the, the forearm one, yeah, he had a fair bit of
15 damage. It's -- they call it the metaphyseal area. It's
16 really right before you get to the joint, the flair that
17 you have in your forearm that supports the wrist. That
18 part of the bone is basically what we call combined,
19 which means it was broken into lots of pieces. But, but
20 one part of it was still intact, so it wasn't necessarily
21 in two separated pieces, but one portion of the bone was
22 broken into several pieces. And the, the area around that
23 thing, you have an artery in that, that part of your arm.
24 So, obviously in the emergency room, but also in the
25 office, we always make sure that that person has their

1 blood supply still and make sure that's still intact.

2 Q. If that artery is nicked, what happens?

3 A. It bleeds a lot.

4 Q. Okay, and is that something that could be fatal?

5 A. If it doesn't -- if we don't see it in the emergency
6 room, it certainly could, yes. It's, it's one of your two
7 arteries that go to your hand, and so it would be fatal on
8 a level of that if somebody bled continuously without it
9 stopping and they weren't able to get to some level of
10 care, then yes.

11 MR. GIPSON: Court's indulgence.

12 THE COURT: Okay.

13 (A PAUSE.)

14 BY MR. GIPSON:

15 Q. And I just want to clarify. I know we said in general
16 if a bullet is removed, sometimes if there's a soft-tissue
17 issue -- for instance, in this case we're talking about the
18 buttock area.

19 A. Yes.

20 Q. It can cause more damage. Did you have an assessment
21 in this particular case based on the bullet that was lodged
22 in his buttock?

23 A. This one wasn't too far away from, from his skin. So,
24 it probably wouldn't have been that big of a deal to take
25 it out. I believe we gave him the option, but I think at

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1 the time he probably didn't want to have it taken out or
2 didn't want anything else done. That's, that's not
3 something you can't -- you can take it out electively any
4 time. If somebody develops an infection or something like
5 that, then that would be a little bit more of an urgent
6 issue.

7 Q. Okay.

8 MR. GIPSON: I think that's all the questions I have
9 for Dr. Guy.

10 MR. WILLIAMS: May it please the court?

11 THE COURT: Of course.

12 MR. WILLIAMS: Just, just a couple of questions.

13 CROSS-EXAMINATION BY MR. WILLIAMS:

14 Q. Dr. Guy, I'm Theo Williams. I'm from Lexington.

15 A. Okay.

16 Q. I went to Clemson, not Carolina.

17 So, the injuries to this particular individual who was
18 shot, I think you've already said. He's got some sort of
19 bullet still in his buttocks, but there's not -- there's no
20 problem with it. He could -- you could cut it out if he
21 needs it, cuts it out, but it's, it's not dangerous in any
22 way for him ---

23 A. Right.

24 Q. --- at least? The wrist, I wasn't exactly sure if I
25 could figure what you were telling us about the wrist. In

1 his particular case, I, I assume you put a splint on it or
2 something to keep it from moving around so it wouldn't cut
3 an artery?

4 A. No. I, I was saying that that particular gunshot
5 wound, one of the things that we would be concerned about
6 during an evaluation would be whether or not, because of
7 the proximity to his artery, whether or not that was
8 injured. So, that, that evaluation probably would be more
9 the emergency room. As a follow up in the office, we
10 always check, make sure that their blood supply is, is okay
11 and their nerves are okay, and so his were fine.

12 Q. But in his particular case, there was none of those
13 concerns. He didn't have problems with his blood supply,
14 or there was no cutting of arteries or anything?

15 A. No.

16 MR. WILLIAMS: That's all the questions I have, Your
17 Honor.

18 THE COURT: Anything else for Dr. Guy?

19 REDIRECT EXAMINATION BY MR. GIPSON:

20 Q. And just to be clear, Dr. Guy, you said with that type
21 of gunshot wound to that area of the body, the wrist, that
22 could be a concern?

23 A. That could be.

24 Q. Meaning that the severing of that artery could be a
25 concern?

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1 A. If they did that, yes.

2 Q. Okay. All right, and if it was severed, then that
3 could, if it bled long enough, become an issue that would
4 be fatal?

5 A. Yes.

6 MR. GIPSON: All right. That's all my questions.

7 MR. WILLIAMS: I don't have any more questions, Your
8 Honor.

9 THE COURT: Thank you very much, and thank you for
10 your patience with us this week, Dr. Guy; I appreciate your
11 willingness and everything else. So, thank you. Take
12 care.

13 (THE WITNESS EXITS THE STAND.)

14 THE COURT: All right, anything else for today from
15 the state?

16 MR. GIPSON: No, sir. That's all the state has today.

17 THE COURT: Okay. All right. So, we're at a good
18 stopping point. The next couple of witnesses that are
19 lined up are a little bit lengthier, so instead of kind of
20 pushing y'all into the evening tonight, we're just going to
21 go ahead and stop right here. It's about 4:45, and we'll
22 start back tomorrow morning fresh at 9:30.

23 As I get ready to release you for the evening, I want
24 to remind you of a couple of things. Number one, do not
25 discuss the case with anybody in any way, shape, or form.

1 I had gotten kind of word that there was going to be some
2 news media here today, but I didn't see any of them. I try
3 to know who those people are so I can kind of ID them. But
4 if for some reason you're watching the news or you're
5 looking at the news online or you pick up a *State* newspaper
6 in print form and you see anything about this case, do not
7 read it.

8 Remember -- and the reasons for those rules are the
9 fourteen of you are the ones who have been sitting in here
10 all day long from the moment we started until right now.
11 And other people may come in and go out at different times,
12 and they don't have the view of what, what you have, and
13 they can't see everything that you have. So, I don't want
14 you to be influenced by any outside influences. Does that
15 make sense?

16 So, don't discuss the case with anybody. I want you
17 to keep an open mind about the case. We've made it through
18 about fourteen -- how many did we make it through today?
19 Fourteen witnesses today, I think. Is that right, or
20 thirteen? Fourteen, and we did opening statements. So,
21 that -- that's a good day to make it through that many
22 witnesses and get through opening statements and take a
23 reasonable lunch break. So, you all have done a lot of
24 good work today. I appreciate you staying with us and
25 staying awake.

1 I'm going to release you for the evening. We're going
2 to start tomorrow at 9:30. Don't have any contact with
3 anybody involved in the case, and don't discuss the case at
4 all. I appreciate you, and I appreciate your willingness
5 to serve, and we'll see you tomorrow morning at 9:30.

6 Everyone else remained seated, please.

7 (THE JURY EXITS AT 4:45 P.M.)

8 THE COURT: All right, one of the things we need to
9 talk about before we stop for the evening is this BOPAN
10 charge. Okay, so I'm fairly convinced that the BOPAN
11 charge was created by Joanna McDuffie. So, there is case
12 law that -- out of Richland County from a Joanna McDuffie
13 case in front of Judge Goodstein that says BOPAN is a
14 legitimate charge, so I'm not, I'm not arguing that it's
15 not, okay? But what I am arguing or what I do want you all
16 to look at -- because I have now spent about three days
17 looking for it -- is what are the circumstances of
18 aggravation that apply because in the jury charge that
19 y'all gave me, there are none listed, and I cannot find any
20 in the law anywhere because there is no statute called
21 breach of peace aggravated in nature.

22 So, if we put on our thinking caps -- and all of us
23 but Ms. Neller-moe and Ms. Williams have all been around
24 long enough to know there used to be an ABHAN statute, the
25 old ABHAN that was common law. And in that common law

1 ABHAN statute, we -- not through statute but in that common
2 law ABHAN charge, we through a body of case law had
3 circumstances of aggravation. Some of them were difference
4 in sex, difference in size. I think it used to say
5 indecent liberties with a woman or, you know -- and, of
6 course, this was before ABHAN became codified. So, we had
7 this body of law that when you charged a jury -- I think
8 use of a deadly weapon was one, right? We had this body of
9 law that when we charged a jury, we could define
10 circumstances of aggravation. Well, I've looked and
11 looked, and I think Kate's eyes have probably glossed over
12 at this point, but we can't find what those are or how
13 we're supposed to charge the jury.

14 So, I have read the case, which is a Richland County
15 case. That's the one where the two guys were in a fight
16 after a USC football game. One guy knocks the other guy
17 down. A car drives over him, and they charged the guy who
18 hit him with murder or something. I don't remember what
19 they charged him with. It was like a -- I think Greg
20 Harris defended the guy. Judge Goodstein was the trial
21 judge and the Supreme Court says, Supreme Court clearly
22 says that the BOPAN charge exists in South Carolina and
23 it's valid law.

24 So, I'm not saying it's not. I'm not going down that
25 road, but we've got to figure out what it is we're charging

1 the jury. We just can't say circumstances of aggravation
2 and not define those at all.

3 So, that's just food for thought. I'm not asking you
4 to argue that right now. I'm just telling you about it now
5 so you can think about it tonight as opposed to me bringing
6 that up in the middle of the charge conference. Does that
7 make sense?

8 MS. SAMPSON: Yes, sir.

9 THE COURT: Okay. All right, and then other than Ms.
10 Fortson's bond, do we have any issues we need to take up
11 from the state?

12 MS. SAMPSON: Not from the state, Your Honor. I think
13 we're, we're prepared to go forward on everything else.
14 So, there's nothing from us.

15 THE COURT: Okay.

16 And from the defense?

17 MR. WILLIAMS: Judge, the solicitor and I have been
18 talking. I think we could probably -- they can get their
19 testimony in tomorrow, and I think we can put Ms. Fortson
20 up and get hers done tomorrow.

21 THE COURT: Okay. Great.

22 MR. WILLIAMS: But -- and that would probably -- I
23 don't, I don't know there would enough time to do closing
24 and charge, Judge, and you may or may not have that
25 statewide grand jury thing Friday morning. I don't know if

1 you're the judge on that or not.

2 THE COURT: Well, I mean, it's scheduled, so -- but if
3 you're in here, then we'll ---

4 MR. WILLIAMS: I am in here.

5 THE COURT: Well, I'm pretty sure that -- is it an
6 original bond setting?

7 MR. WILLIAMS: It is.

8 THE COURT: Okay, then we got to do it, so we'll just
9 do it before. If we come back here, just remind me
10 tomorrow, and I'm sure she'll remind me, too. Kate's
11 already told me about it, but some of that state grand jury
12 stuff has to take precedence, and so your guy's got to have
13 a bond setting. So, if we come back Friday morning, I'll
14 just tell the jury to come in a little bit later, and that
15 will give us time to ---

16 MR. WILLIAMS: I ---

17 THE COURT: --- have that bond setting.

18 MR. WILLIAMS: Just figured I'd say it now as opposed
19 to ---

20 THE COURT: No, no. I appreciate you saying it now as
21 opposed to -- as opposed to later.

22 Okay. All right, Ms. Fortson, I'm going to let you
23 stay out on bond tonight, okay? Probably against my better
24 wishes. Who, who is this out here in the audience with
25 you?

1 DEFENDANT: That's my mom.

2 THE COURT: Okay. So, you ---

3 UNIDENTIFIED SPEAKER: I'm her mother.

4 THE COURT: Wonderful. Thank you, and thank you for
5 being here.

6 So, your conduct today has been exemplary. You
7 haven't been an issue, haven't been a problem or anything
8 else. So, based upon that, I'm going to let you stay out
9 on bond tonight. Your ankle monitor is still on; all the
10 terms and conditions of your bond are still in effect.
11 We're going to start tomorrow morning at 9:30.

12 You know, and I'm sure Mr. Williams -- Mr. Williams
13 has been around a lot longer than I have, okay, and so I'm
14 sure -- you know, the way that I, the way that I practiced
15 law, and I'm sure the way he practiced law is he told you
16 it's going to be a lot worse if you're not here than if you
17 are here. And I'm not saying you have to testify, and
18 we'll talk about that tomorrow, but if you have a desire to
19 testify and you're not here, then you're not going to get
20 that chance. So, you know, those are two things to keep in
21 mind.

22 Now, if you're not here tomorrow morning, number one,
23 I'm going to go forward whether you're sitting in that
24 chair or not. And number two, I'm going to issue a warrant
25 for your arrest, okay, and then you're definitely not

1 getting out of jail until some time in the future. You got
2 that?

3 DEFENDANT: I got it. Yes, sir.

4 THE COURT: Okay. All right. So, that's what we're
5 going to do with that.

6 And, okay, we'll see y'all tomorrow morning at 9:30.
7 Great work today. Good work. Good job. We made it
8 through a lot of witnesses, and we're off the record.

9 (WHEREUPON, THE CASE IS AT EASE.)

10 THURSDAY, MAY 20, 2021

11 (COURT RESUMES AT 9:32 A.M.)

12 THE COURT: All right, we're back on the record in the
13 *State of South Carolina v. Mandy Fortson*. Ms. Fortson is
14 present, along with her attorneys, Mr. Williams and Anna
15 Williams, and the state is present, represented by
16 Solicitor Gipson, Ms. Sampson, and Ms. Nellermoe, and the
17 jurors are all present.

18 Is there anything we need to take up prior to bringing
19 them in?

20 MS. SAMPSON: The only thing, Your Honor, and I think
21 Mr. Williams agrees, that during the testimony of Mr. Jones
22 and Mr. Cruz, who will at some point identify the
23 defendant, she will take her mask off.

24 THE COURT: Okay.

25 MR. WILLIAMS: And she doesn't have any objection to

1 pulling her mast down so that you can see her.

2 THE COURT: Great.

3 MS. SAMPSON: I'm sorry. Other than that, the state's
4 ready to go.

5 THE COURT: Okay. Anything we need take up from you,
6 Mr. Williams?

7 MR. WILLIAMS: No, Your Honor.

8 THE COURT: Okay. Great. Let's bring them in.

9 (THE JURY ENTERS AT 9:34 A.M.)

10 THE COURT: Mr. Bowen was worried about whether I was
11 here this morning. He came by to check on me, and I had to
12 give him a hard time about that because he knows. I may
13 have stuck in behind him, but I was here and ready to go,
14 and so I joke with him.

15 Thank you all very much for being on time this
16 morning; I appreciate that and I appreciate you being back
17 with us today. We will now continue with the state's case.

18 And you may call your next witness whenever you're
19 ready.

20 MS. NELLERMOE: Thank you, Your Honor. The state
21 calls Yvonne Woods.

22 THE COURT: All right. Come on up, Ms. Woods.

23 YVONNE WOODS, BEING DULY SWORN,

24 TESTIFIES AS FOLLOWS:

25 CLERK: Please have a seat stand, and state your full

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1 name for the record.

2 WITNESS: Yvonne Woods.

3 DIRECT EXAMINATION BY MS. NELLERMOE:

4 Q. Good morning, Investigator Woods. Can you please tell
5 the jury where you are employed?

6 A. Richland County Sheriff's Department.

7 Q. Okay, and what is your title?

8 A. Crime scene investigator.

9 Q. And what department do you work in?

10 A. The Crime Scene Unit, CID.

11 Q. How long have you been employed with the sheriff's
12 department?

13 A. Nineteen years.

14 Q. And before working with the sheriff's department, did
15 you have any prior law enforcement experience?

16 A. I did. I worked at another county prior to moving
17 here.

18 Q. Okay. How many years?

19 A. Six years.

20 Q. So, you've had about twenty-five total years with law
21 enforcement?

22 A. Yes, ma'am.

23 Q. Okay. So, in order to be a CSI investigator, do you
24 have any specialized training?

25 A. Yes, ma'am. We go through a year and a half of

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1 training within the department. Some of the things that we
2 have to go through, like, shooting reconstruction, crime
3 scene reconstruction, bloodstain pattern analysis, photos.
4 I can go on with the list.

5 MS. NELLERMOE: I'm sorry, the court reporter -- you
6 need for her to speak up?

7 Q. If you would just speak into the microphone. There's
8 a lot of glass in here. Okay, and then what are some of
9 your duties as CSI investigator?

10 A. We process all scenes and collect physical evidence at
11 the scene.

12 Q. So, Investigator Woods, I want to direct your
13 attention to February 22, 2017. Were you working that
14 night?

15 A. I was.

16 Q. And on that night, did you become involved in the
17 Mandy Fortson investigation?

18 A. I did.

19 Q. Tell us how you first became involved.

20 A. I was notified by Investigator Carter to respond to
21 the hospital to collect GSR from the victim.

22 Q. Okay, and what is GSR?

23 A. That's what we call gunshot residue and it's a kit.

24 Q. Okay. Do you recall which hospital you responded to?

25 A. Yes, ma'am, Palmetto Health emergency room.

1 Q. Thank you. About what time did you arrive there?

2 A. My records indicate around 11:30.

3 Q. And when you got there, what happened next?

4 A. I was directed to the victim's room to collect the GSR
5 kit.

6 Q. And were you able to find him?

7 A. Yes, I was.

8 Q. And what was his name?

9 A. Antonio Jones.

10 Q. Okay. What kind of state was he in when you got
11 there?

12 A. In a lot of pain.

13 Q. Was he passed out? Was he awake?

14 A. He was awake and aware of what was going on. I spoke
15 with him.

16 Q. Okay. Did you observe anything about him? Any
17 injuries?

18 A. Yes, ma'am. He was bleeding from the right form hip
19 area.

20 Q. Okay, and could you see both of his hands?

21 A. One hand was covered with a bag.

22 Q. And you know why that hand might have been covered
23 with a bag?

24 A. Because it was covered with blood.

25 Q. Okay. One moment.

Y. WOODS - DIRECT EXAMINATION BY MS. NELLERMOE

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1 (A PAUSE.)

2 Q. Ms. Woods, I'm now -- or, Investigator Woods, I'm
3 going to show you what's been premarked for identification
4 purposes as State's Exhibit 67, and I'm also going to hand
5 you a pair of scissors. If you could look at that item.
6 Do you recognize that?

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

8 Q. And how do you recognize it?

9 A. I packaged it.

10 Q. Okay. How can you tell that you packaged it?

11 A. My name and initials, the date is on there, and time.

12 Q. Okay.

13 MS. NELLERMOE: Please let the record reflect that
14 Investigator Woods is opening that box right now.

15 THE COURT: All right.

16 BY MS. NELLERMOE:

17 A. Yes, ma'am, it's the bag that was on the victim's
18 hands.

19 Q. Okay. As you look at that bag, is it in substantially
20 the same condition and appearance now as when you first saw
21 it?

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

23 Q. And you were the one who collected the bag and you
24 placed it inside of that box?

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

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1 Q. And what did you do with it after you placed it in the
2 box?

3 A. I placed it in the box, sealed it, put my initials on
4 it, and the date, and submitted it the Evidence and
5 Property.

6 Q. Okay.

7 MS. NELLERMOE: Your Honor, at this time the state
8 would offer State's Exhibit 67 for admission into evidence.

9 MR. WILLIAMS: Your Honor, I don't think the chain is
10 complete yet. I think we got it to evidence, but I don't
11 thing it's got to where it's been analyzed at all.

12 THE COURT: Is that the bag or the GSR kit?

13 MS. NELLERMOE: It's just the paper bag from victim's
14 hand.

15 THE COURT: Okay.

16 MR. WILLIAMS: Withdraw the objection.

17 THE COURT: Okay. All right, is it 67 or 6 and 7?

18 MS. NELLERMOE: 67.

19 THE COURT: 67 is admitted without objection.

20 MS. NELLERMOE: Thank you, Your Honor.

21 (BAG FROM VICTIM'S HAND MARKED AS STATE'S EXHIBIT
22 NUMBER 67.)

23 BY MS. NELLERMOE:

24 Q. So, let's talk about the GSR sample and, Investigator
25 Woods, if you wouldn't mind putting that box -- well, I'll

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1 put it down. Let's talk about the GSR sample that you took
2 from Mr. Jones. When you approach someone to collect GSR,
3 what is the process that you use?

4 A. We talk to the victim and we collect information. I
5 ask questions so I can put it on a form that we submit to
6 evidence.

7 Q. And what type of questions do you ask?

8 A. We'll ask him his name. I look at where he's been
9 possibly hurt at because I don't know the area. I can the
10 blood. We ask him if he works. We asked him his hobbies.
11 Pretty much it.

12 Q. And why, why are all these questions asked of the
13 victim?

14 A. Because the form has to be filled out and put with the
15 gunshot residue kit to be submitted into evidence.
16 Therefore, if it goes to SLED, SLED will have the
17 information.

18 Q. Okay.

19 MS. NELLERMOE: beg the court's indulgence.

20 THE COURT: Yes, ma'am.

21 (A PAUSE.)

22 BY MS. NELLERMOE:

23 Q. So, Investigator Woods, after you complete the consent
24 form, what, what do you do next?

25 A. I collect GSR from gunshot residue kit.

1 Q. Okay. Were you able to bring an example ---

2 A. Yes, ma'am.

3 Q. --- with you today? Could you please demonstrate to
4 the jury how you take that?

5 A. This is how it comes to us. We order it through
6 TriTech, and it's placed -- a bunch of them are placed in a
7 box and it's sealed. It comes to us. We always keep these
8 in our vehicles.

9 When we talk with the victim, we let the victim know
10 what we're doing at the time. What's in this, this has not
11 been opened. It comes with gloves and the paperwork that
12 you fill out that you ask the victim.

13 These are two items that come in here. It don't hurt,
14 and what you do is take it apart, and you do both hands.
15 You take -- well, it's sticky and it collects any residue
16 that's on your hands. We place this back in after we've
17 done both hands. We fill out the paperwork, the time and
18 date that it was done. We submit it back in this envelope
19 with the paperwork after we've made a copy of it. We
20 package it and seal it and submit it to Evidence and
21 Property.

22 Q. Thank you, Investigator Woods. Was that process you
23 just described the same process you used with Antonio
24 Jones?

25 A. Yes, ma'am.

Y. WOODS - DIRECT EXAMINATION BY MS. NELLERMOE

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1 Q. Okay. Investigator Woods, I'm going to show you
2 what's previously been marked as State's Exhibit 80. If
3 you could take a look at that? Do you recognize that item?

4 A. Yes, ma'am. This is a sealed envelope that I packaged
5 with my name and date and signature, submitted to Evidence
6 and Property.

7 Q. And according to the label, what is inside that
8 package?

9 A. Gunshot residue kit of victim Jones, Antonio Jones.

10 Q. And in this particular case, you were the one who
11 packaged that item?

12 A. Yes, ma'am.

13 Q. And then what did you do with it?

14 A. Submitted it to Evidence and Property.

15 Q. Okay. While it was in your custody, did you alter the
16 GSR kit in any way?

17 A. No, ma'am.

18 Q. Did you tamper with or expose it to contamination?

19 A. No, ma'am.

20 Q. Thank you. Were you able to do anything else while
21 you were at the emergency room regarding this
22 investigation?

23 A. No, ma'am.

24 Q. Okay. Did you do anything else that night regarding
25 this investigation?

1 A. Yes, ma'am.

2 Q. Okay, and what was that?

3 A. I responded and met with the lead investigator,
4 Clarke.

5 Q. Where ---

6 A. And Sergeant Faust.

7 Q. Okay. Where did you meet them?

8 A. [REDACTED] Barwick Court.

9 Q. Okay, and who lived at that address?

10 A. Mandy Forston -- Fortson.

11 Q. So, when you got there to [REDACTED] Barwick Street, what
12 were you instructed to do at that point?

13 A. I met with Investigator Clarke at that point.

14 Q. Okay, and what did he tell you to do?

15 A. He had collected items that they -- when they executed
16 the search warrant, and I took possession of those items
17 through a chain of custody form.

18 Q. Now, did you search for those items yourself?

19 A. No, ma'am.

20 Q. They had already been searched and found?

21 A. Yes, ma'am.

22 Q. And your, your position is just to collect those
23 items?

24 A. That is correct.

25 Q. So, in general can you explain to the jury the process

Y. WOODS - DIRECT EXAMINATION BY MS. NELLERMOE

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1 of what happens when you collect physical evidence from a
2 crime scene?

3 A. When I collect evidence, I usually photograph the
4 evidence first and foremost before collection, but this was
5 already collected. So, I took photos of the outside of the
6 home, and then I also took the items, and I went back to my
7 office.

8 Q. When you collect those items, are you following any
9 protocols for contamination?

10 A. My protocols are always use gloves and submit it in a
11 bag and transport it back to the office so I can process.

12 Q. Thank you. Do you recall what items you collected
13 from the defendant's house this particular occasion?

14 A. Yes, ma'am. Smith and Wesson .41 caliber, twelve
15 fired .41 caliber cartridge casings, a box of fifty .40
16 caliber cartridges, twenty-five loose .41 caliber
17 cartridges in a black box, two Glock .40 caliber magazines,
18 and paperwork on a Glock .40 caliber model .22.

19 MS. NELLERMOE: I beg the court's indulgence.

20 (COUNSELORS CONFER.)

21 BY MS. NELLERMOE:

22 Q. Investigator Woods, I'm going to show you several
23 items. I'm going to hand you State's Exhibit 81, State's
24 Exhibit 86, State's Exhibit 82, and State's Exhibit 83. If
25 you could take a look at those items?

1 THE COURT: 80 what?

2 MS. NELLERMOE: 83 was the last one.

3 BY MS. NELLERMOE:

4 A. Yes, ma'am.

5 Q. Do you recognize these items?

6 A. Yes, ma'am. These are the items that I collected from
7 Investigator Clarke.

8 Q. Okay. Let's start with State's Exhibit 81. Can you
9 please tell the jury what that item is?

10 A. It's a .41 caliber revolver.

11 Q. Are you able to hold it up for the ---

12 A. Yes, ma'am.

13 Q. --- jury to see?

14 THE COURT: Could you make sure it's secure, please?
15 Okay, it is.

16 WITNESS: It is, sir.

17 THE COURT: Thank you.

18 BY MS. NELLERMOE:

19 Q. Yes. Thank you, and you were the person who collected
20 the item from the defendant's house?

21 A. Investigator Clarke.

22 Q. Yes, ma'am, and what did you do with it at that point?

23 A. I secured it and went back to the office for
24 processing.

25 Q. Is that gun in substantially the same condition now as

Y. WOODS - DIRECT EXAMINATION BY MS. NELLERMOE

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1 it was when you collected it?

2 A. Yes, ma'am.

3 Q. And how long was it in your custody?

4 A. I processed it the second night, which I work night
5 shift. So, it lapped over. It was processed and submitted
6 to Evidence and Property.

7 Q. Okay, and we'll, we'll talk about what you did to
8 process it in a minute, but let's go now to State's Exhibit
9 82. Can you please tell the jury what that item is?

10 A. Yes, ma'am. These are fired cartridge cases, .41
11 caliber.

12 Q. And are those, all of those cartridge casings the same
13 ones you collected from Investigator Clarke at the
14 defendant's house that night?

15 A. Yes, ma'am.

16 Q. And you were the one who placed those items into
17 evidence?

18 A. After it was processed.

19 Q. After processing. Are the items, are the cartridge
20 casings in substantially the same condition as when you
21 collected them?

22 A. Yes, ma'am.

23 Q. And how long were those in your custody?

24 A. Approximately maybe twelve hours.

25 Q. Okay. Let's go now to State's Exhibit 83.

1 A. Yes, ma'am.

2 Q. Could you please tell the jury what that item is?

3 A. This is a box of .40 caliber Smith and Wesson.

4 Q. And how many bullets are in there?

5 A. Fifty.

6 Q. Okay. Is that the same item you collected from the
7 defendant's house that night?

8 A. From Investigator Clarke, correct.

9 Q. And you were the one who placed that item into
10 evidence?

11 A. Yes, ma'am.

12 Q. How long was it in your custody?

13 A. About the same time, about twelve hours.

14 Q. Thank you, and finally State's Exhibit 86, could you
15 please tell the jury what that is?

16 A. These are multiple cartridges, .41 caliber.

17 Q. About how many are inside of that box?

18 A. Give me a second. I think I wrote it down.

19 Twenty-five.

20 Q. Thank you. Were those items the same items you
21 collected from the defendant's house February 22?

22 A. Yes, ma'am.

23 Q. And you were the person who placed those items into
24 evidence?

25 A. Yes, ma'am.

Y. WOODS - DIRECT EXAMINATION BY MS. NELLERMOE

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1 Q. About how long were those in your custody?

2 A. Approximately twelve hours.

3 Q. Okay. Now, as it relates to all of these items, 81,
4 82, 83, and 86, did you do anything to any of these pieces
5 of items that would alter their characteristics?

6 A. No, ma'am.

7 Q. Did you tamper with them or expose them to
8 contamination?

9 A. No, ma'am.

10 Q. Okay. So, now let's talk about the processing that
11 you mentioned. You mentioned you processed two of the
12 items, State's Exhibit -- the gun. Is that correct?

13 A. That's correct.

14 Q. And that would be State's Exhibit 81. What was the
15 other item that you processed?

16 A. The fired cartridge casings, the .41 caliber.

17 Q. Okay. Can you please explain to the jury what -- how
18 you process those items?

19 A. What we do is once we bring them back to headquarters,
20 we have a tank and it's -- we put -- fancy word --
21 cyanoacrylate, which is like SuperGlue. We put it in that
22 tank for it to be processed. If there's any prints on
23 there, the glue will adhere to it. The second process, we
24 take black powder and we process it with a brush, and it
25 will come -- become evident that -- if there was a print

1 there. Once that's done, we collect a swab from it for
2 possible DNA, and then we take that, submit it to Evidence
3 and Property.

4 Q. So, Investigator Woods, when you say print, do you
5 mean -- what kind of print are you talking about?

6 A. Latent prints, like from your hands, your fingers.

7 Q. Okay. Why specifically did you process the gun and
8 the fired cartridge casings for prints and not the other
9 items?

10 A. I was looking for detailed fingerprints on the gun
11 itself where it was possibly used and on the fired
12 cartridge casings.

13 Q. Thank you, and when you processed these items, did you
14 find any fingerprints?

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

16 Q. Is that common?

17 A. It is common. Once a bullet is put in the chamber and
18 you have explosion, explosion and pressure, there's chances
19 you won't see a fingerprint there.

20 Q. Are fingerprints themselves, are, are they durable, or
21 what is the nature of a fingerprint?

22 A. People have faint distinctions of fingerprints. You
23 secrete a lot of -- there's compounds, there's sweats in
24 your fingerprint, and sometimes they're faint, and that
25 could be from somebody in construction work that use their

Y. WOODS - DIRECT EXAMINATION BY MS. NELLERMOE

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1 hand or damaged their fingers, or it could be somebody, a
2 chef or somebody that washes their hands so much. Not
3 everybody secretes, sweats like other people do, and some
4 that do, it's how you handle it. If it's too much pressure
5 on it, it will smear it. And then if it's not enough
6 secretion there, it will not pick up.

7 Q. So if I'm following, just because you do processing
8 for fingerprints and you don't find any prints, does that
9 necessarily mean that someone has not touched an item?

10 A. No, ma'am.

11 Q. Okay. So, it would be possible for someone to touch
12 and there still be no fingerprints found?

13 A. That's correct.

14 Q. Okay.

15 MS. NELLERMOE: Beg the court's indulgence.

16 (COUNSELORS CONFER.)

17 BY MS. NELLERMOE:

18 Q. Before I move on to another piece of evidence, let's
19 wrap up our discussion of what you're doing here. So, once
20 you're done with your processing, your fingerprint and your
21 DNA analysis, what do you do with those items?

22 A. I package them, seal them with my name, the date, and
23 I submit them to Evidence and Property.

24 Q. Okay. When you -- can you talk a bit about submitting
25 something to Evidence and Property?

1 A. Once we get through processing items, we have our
2 protocol procedures where we package them, and we're still
3 wearing gloves at all times. And once we package them, we
4 always seal it with our name that we process it and the
5 date, and then we submit it to Evidence Property after we
6 put our -- show you. Can I have that, please? We place
7 the label on it, indicating what's in the package, and then
8 it's submitted to Evidence and Property.

9 Q. When you submit something to Evidence and Property, is
10 it secure at that point?

11 A. Yes, ma'am.

12 Q. Do you have any access to it at that point?

13 A. No, ma'am.

14 Q. Who has access to the items after that?

15 A. Evidence and Property.

16 Q. Okay, and how many people have keys or, or access
17 within the department?

18 A. Evidence and Property.

19 Q. Okay. Just to clarify, Investigator Woods, when you
20 went to the defendant's house and these items were there,
21 you said you received them from Investigator Clarke, but
22 did you still collect them yourself, or he physically
23 handed them to you?

24 A. I collected them from him.

25 Q. Thank you. When you say you collected them from him,

Y. WOODS - DIRECT EXAMINATION BY MS. NELLERMOE

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1 did he ---

2 A. Investigator Clarke.

3 Q. --- hand them to you or did you pick them up with
4 gloves?

5 A. Everything -- we both had gloves on. Both of us had
6 gloves, so he handed to me. Whether I picked it up or -- I
7 cannot recall, but we both had gloves on.

8 Q. Okay. I'm going to show you what's been previously
9 marked for identification purposes as State's Exhibit 69.
10 Would you please take a look at that?

11 A. Yes, ma'am.

12 Q. And do you recognize it?

13 A. Yes, ma'am. It is the paperwork on the Glock .40
14 caliber model .22 from Fortson's home.

15 Q. And that's one of the items collected by you?

16 A. Yes, ma'am.

17 Q. And you were the one who placed it in the envelope?

18 A. Yes, ma'am.

19 Q. Has that envelope ever been opened?

20 A. No, ma'am.

21 Q. And how can you tell?

22 A. My name and the seal's not broken.

23 Q. Okay.

24 MS. NELLERMOE: Your Honor, permission for the witness
25 to open that envelope?

Y. WOODS - DIRECT EXAMINATION BY MS. NELLERMOE

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1 THE COURT: All right.

2 BY MS. NELLERMOE:

3 A. Yes, ma'am.

4 Q. Can you please look at the item that's inside? Is it
5 in substantially the same condition now as it was when you
6 collected it?

7 A. Yes, ma'am.

8 MS. NELLERMOE: Your Honor, at this time the state
9 would offer State's Exhibit 69 for admission into evidence.

10 MR. WILLIAMS: No objection, Your Honor.

11 THE COURT: Without objection.

12 (GUN PAPERWORK MARKED INTO EVIDENCE AS STATE'S EXHIBIT
13 NUMBER 69.)

14 BY MS. NELLERMOE:

15 Q. And, Investigator Woods, can you please explain to the
16 jury what that says?

17 A. This is for a Glock. Has the Glock symbol here, and
18 it indicates who it's sold to, the address, the model
19 number, the caliber, the dealer, and the date of purchase,
20 the serial number.

21 Q. Thank you, Investigator.

22 MS. NELLERMOE: Beg the court's indulgence.

23 (A PAUSE.)

24 MS. NELLERMOE: Thank you, Investigator Woods. I have
25 no further questions.

Y. WOODS - CROSS-EXAMINATION BY MR. WILLIAMS

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1 MR. WILLIAMS: May it please the court?

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION BY MR. WILLIAMS:

4 Q. Investigator, your last name is what?

5 A. Woods with an S.

6 Q. Gotcha. How long you been with Richland County?

7 A. Nineteen years.

8 Q. Start out as a patrol officer?

9 A. Yes, sir.

10 Q. And then worked your way up to CSI?

11 A. Yes, sir.

12 Q. Most recent item ---

13 MR. WILLIAMS: May I approach the witness, Your Honor?

14 THE COURT: Of course.

15 BY MR. WILLIAMS:

16 Q. I believe it was -- which is the item you just opened
17 that had the ---

18 A. This one.

19 Q. All right. This is a -- well, you tell, you tell the
20 jury what this card is.

21 THE COURT: What number exhibit is that just so we're
22 clear?

23 WITNESS: Sorry. It's 59.

24 MR. WILLIAMS: 69, Your Honor. I'm sorry, Your Honor.

25 THE COURT: That's okay.

Y. WOODS - CROSS-EXAMINATION BY MR. WILLIAMS

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1 BY MR. WILLIAMS:

2 A. Once again, this is a Glock and it has the -- it's a
3 card for a Glock. Has the name of the person, the address,
4 the model number, the caliber, serial number, and the
5 dealer, and date of purchase.

6 Q. Is it a warranty card? Is that what it is?

7 A. It says:

8 This firearm is supplied together with the
9 manufacturing instructions by the original
10 manufacturer. Assist on receiving the
11 manufacturer.

12 Q. Ma'am, you -- the court reporter needs for you to kind
13 of ---

14 A. I'm sorry.

15 Q. --- speak. That's all right.

16 A. It's a card for your records of the gun, the serial
17 numbers and stuff.

18 Q. So, it's not specifically -- and I'll speak up, too.
19 It's not specifically just a warranty. It's just something
20 that tells the owner this is my gun and this is the serial
21 number?

22 A. That is correct.

23 Q. And whose name is on that?

24 A. Clifron G. Marlowe.

25 Q. Can you spell that first name?

Y. WOODS - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. C-l-i-f-r-o-n.

2 Q. All right. So, it is not Mandy Fortson?

3 A. No, sir.

4 Q. Now, what is the date of that warranty card?

5 A. The date it was purchased ---

6 Q. I'm sorry. I shouldn't say warranty card. Of the
7 card.

8 A. Date was purchased on 10/13/99.

9 Q. So, that would have been twenty-two years ago if we
10 were going from today's date, right?

11 A. Correct.

12 Q. Now, the items that you have talked about that you
13 placed into evidence, you talked about placing a revolver
14 into evidence. Is that correct?

15 A. That is correct, .41 caliber.

16 Q. Revolver?

17 A. Yes, sir.

18 Q. Now, is there a difference between a revolver and a
19 Glock?

20 A. Yes.

21 Q. What is the difference?

22 A. Glock is a semiautomatic weapon, and this is a
23 revolver.

24 Q. How many shots does a revolver hold?

25 A. It can hold up from five to six shots.

1 Q. And the one that you have in your possession that you
2 have seized, how many does that hold?

3 A. Revolver, five to six. The Glock holds anywhere from
4 fifteen -- thirteen to sixteen.

5 Q. All right. Did you seize a Glock?

6 A. No, sir.

7 Q. Okay. Now as I understand it, your, your, your duties
8 or your purpose in this particular case dealt with handling
9 the GSR from the patient that you met at the hospital. Is
10 that correct?

11 A. That is correct, sir.

12 Q. All right. What hand was, was -- did the -- was the
13 paper bag on when you saw the patient in the hospital?

14 A. Left hand.

15 Q. Who had packaged the patient's left hand?

16 A. I could not advise, sir.

17 Q. But it was already packaged, right?

18 A. That is correct.

19 Q. And the item which has already been placed into
20 evidence is the paper bag which you took off of Mr. Jones's
21 hand. Is that correct?

22 A. That is correct, sir.

23 Q. You have gone through the, the procedure where you
24 glued the bullets -- can I call them bullets? I should
25 call them cartridges, I guess?

Y. WOODS - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. Yes, sir.

2 Q. You glued cartridges. Then you put the powder on it
3 so that the powder would pick up any type of fingerprints
4 that were left on it?

5 A. That's correct.

6 Q. And it was negative?

7 A. That's correct.

8 Q. And the reason you said it was negative was because
9 once it is fired, then sometimes the heat destroys the
10 ability of the fingerprints to be on it?

11 A. That's correct.

12 Q. Now, how many of those cartridges did you pick up to
13 test?

14 A. Each one, which was twelve.

15 Q. Twelve?

16 A. Thirteen.

17 Q. Thirteen. All right, your revolver holds five or six,
18 right, at a time?

19 A. Yes.

20 Q. And when you were referring to the heat that was --
21 that could destroy fingerprints, it would occur when the,
22 when the cartridges fire. Is that correct?

23 A. That is correct.

24 Q. And so possibly if somebody touched the cartridge and
25 placed it into, into the revolver, you're saying that when

1 you fire, it gets rid of the fingerprints, right?

2 A. There's a chance that can happen, yes, sir.

3 Q. How long does that cartridge stay hot?

4 A. For a while.

5 Q. Any idea?

6 A. I can -- I cannot give you a time limit, sir.

7 Q. Is there, is there any way that you are capable of
8 saying when these cartridges were actually fired?

9 A. Yes, sir.

10 Q. Okay, and that is based on what?

11 A. Based on my experience once it's fired through the
12 weapon.

13 Q. Okay, and then how long before you received it -- was
14 it something that was physically distinctive about the
15 cartridge that would indicate how long ago it was fired?

16 A. No, sir.

17 Q. So, these cartridges could have been fired three years
18 ago?

19 A. I have no idea, sir.

20 Q. They could be any number, right?

21 A. Correct.

22 Q. 1999 except this is not a Glock, correct?

23 A. That's correct.

24 Q. So, of the cartridges that you picked up, are they
25 capable of being fired through a Glock?

Y. WOODS - CROSS-EXAMINATION BY MR. WILLIAMS

271

1 A. No, sir.

2 Q. They can only be fired through a revolver?

3 A. Yes, sir.

4 Q. So, you cannot tell when these cartridges were fired?

5 A. No, sir.

6 Q. You can't tell who touched the cartridges?

7 A. No, sir.

8 Q. So, if you were going to tie down -- and I use the
9 word tie down not like in Australia, but if you were going
10 to tie down that anything came from the revolver, would the
11 only thing that you had left to deal with be the metal
12 fragment that might have been fired into a building and/or
13 whatever else and trying to match that up to the revolver?

14 A. I cannot say that. Firearms would have to answer
15 that. That's ---

16 Q. But ---

17 A. --- beyond my expertise.

18 Q. All right. When you say Firearms would have to answer
19 that is because they would have to look at the spiraling?

20 A. Yes, sir.

21 Q. The marks that are left on the projectile when it is
22 fired, correct?

23 A. That's correct.

24 Q. Now, I believe you said that you were processing those
25 items. Well, maybe you did say this. I want to make sure

1 I understood. Did you process these items for DNA also?

2 A. Yes, sir, I did.

3 Q. Well, you said that fingerprints might be destroyed by
4 firing, by heat. You didn't say anything about DNA.

5 A. DNA, there's a chance it could be there.

6 Q. Did you get swabs of DNA which you subsequently took
7 to forensics so that they could test the DNA, determine
8 where the DNA came from?

9 A. No, sir. I collected the DNA from the items,
10 submitted them to evidence.

11 Q. All right. At some -- so, you did collect some items
12 that you thought DNA might be on?

13 A. We always -- that's our protocol, to collect DNA once
14 we process.

15 Q. And it was sent somewhere?

16 A. Submitted to Evidence and Property.

17 Q. And from there, you don't know?

18 A. Yes, sir. That's correct.

19 MR. WILLIAMS: That's all the questions I have, Your
20 Honor.

21 THE COURT: Redirect?

22 MS. NELLERMOE: Yes, Your Honor.

23 (MAGAZINES INDIVIDUALLY MARKED AS STATE'S EXHIBITS 87,
24 88 FOR IDENTIFICATION.)

25 REDIRECT EXAMINATION BY MS. NELLERMOE:

Y. WOODS - REDIRECT EXAMINATION BY MS. NELLERMOE

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1 Q. Investigator Woods, are you the person who decides
2 whether an item that you tested for DNA is ultimately
3 analyzed for DNA?

4 A. No, ma'am, I'm not.

5 Q. Your job is simply to?

6 A. Collect and submit.

7 Q. And who makes the decision about whether something is
8 submitted for further DNA analysis?

9 A. Lead investigator of the case.

10 Q. I'm going to show you two items previously marked for
11 identification purposes as State's 87 and 88. Do you
12 recognize those items?

13 A. Yes, ma'am.

14 Q. How do you recognize them?

15 A. I collected these items from Investigator Clarke.

16 Q. And what are they?

17 A. They're two .40 caliber magazines.

18 Q. Now, do those magazines work in the revolver that's in
19 front of you?

20 A. No, ma'am.

21 Q. What type of gun would those be associated with?

22 A. A Glock, .40 caliber semiautomatic weapon.

23 MS. NELLERMOE: Nothing further. Thank you.

24 MR. WILLIAMS: A couple of questions on recross.

25 RE-CROSS-EXAMINATION BY MR. WILLIAMS:

Y. WOODS - RECROSS-EXAM / A. JONES - DIRECT EXAM 274

1 Q. Did you process those two magazines for any reason?

2 A. No, sir.

3 Q. Where there any bullets found in the magazines?

4 A. No, sir.

5 MR. WILLIAMS: That's all the questions I have, Your
6 Honor.

7 THE COURT: All right. Thank you very much. Have a
8 nice day.

9 (THE WITNESS EXITS THE STAND.)

10 THE COURT: All right, call your next witness.

11 MS. SAMPSON: Thank you, Your Honor. The state calls
12 Antonio Jones.

13 ANTONIO JONES, BEING DULY SWORN,
14 TESTIFIES AS FOLLOWS:

15 CLERK: Please have a seat in the witness stand, and
16 state your full name for the record.

17 WITNESS: My name is Antonio Jones.

18 MS. SAMPSON: Beg the court's indulgence.

19 DIRECT EXAMINATION BY MS. SAMPSON:

20 Q. Before I get started, Mr. Jones, I'm going to move
21 this stuff out of the way, okay?

22 A. Yes, ma'am.

23 Q. Good morning, Mr. Jones.

24 A. Good morning.

25 Q. Can you hear me okay?

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. Yes, ma'am.

2 Q. Mr. Jones, how old are you?

3 A. Thirty-nine.

4 Q. And did you grow up here in Columbia?

5 A. No, ma'am.

6 Q. Where did you grow up?

7 A. In Florida.

8 Q. And when did you come to Columbia?

9 A. 2014.

10 Q. And who did you come here with?

11 A. My sister.

12 Q. And at some point, I believe we've heard some
13 testimony you had a relationship with Ms. Mills?

14 A. Yes, ma'am.

15 Q. Okay, and when did you start dating her?

16 A. Before I left Florida in, like, 2014, '13, something
17 like that.

18 Q. And so why did you decide to come to Columbia?

19 A. A new start at life.

20 Q. Okay, and so did you live -- where did you live when
21 you came here?

22 A. The Summit area, Sandhills. My sister was in the
23 military, so I moved in with her.

24 Q. And did you at any point live with Ms. Mills?

25 A. Yes, ma'am.

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. And where did you live when you lived with Ms. Mills?

2 A. 107 Thornwell Court, apartment C.

3 Q. And who all lived there with you?

4 A. Me, her, and her son, Jakari.

5 Q. And tell the jury a little bit about what y'all did.

6 What was your life like back in 2017? Were you working?

7 A. Yes, ma'am. I was a manager at McDonald's, two

8 McDonald's.

9 Q. Two McDonald's, okay.

10 A. Yes, ma'am.

11 Q. Which ones?

12 A. In Ballentine.

13 Q. Okay.

14 A. The one in Ballentine and Chapin.

15 Q. So, up near in the Irmo-Chapin area?

16 A. Yes, ma'am.

17 Q. And was Ms. Mills working, too?

18 A. Yes, ma'am.

19 Q. Where did she work at the time?

20 A. She been a CNA.

21 Q. CNA?

22 A. Yes, ma'am. She always, you know, take care of the
23 elderly people.

24 Q. Okay, and Jakari was in school?

25 A. Yes, ma'am.

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. And did you do stuff with Jakari?

2 A. Do I do stuff with him? Always.

3 Q. Like what?

4 A. Trying to get him to play basketball, football,
5 baseball but, you know, we'll get out of the yard because
6 my son, he already plays football. So, I get out there
7 with them and my daughter when she was out there with us,
8 but, you know, throw the ball, teach them routes and stuff
9 like that of that nature. Football games, football
10 practice, whatever it was. Anything dealing with school
11 they wanted to do, you know what I'm saying? Going to
12 little carnivals and stuff. Just stay active with the
13 kids, you know.

14 Q. And you like sports. Is that fair to say?

15 A. Yes, ma'am.

16 Q. So, I'm going to take you back to February of 2017,
17 February 22 to be specific. What were y'all doing that
18 day? It was a Wednesday, correct?

19 A. I think so, yes, ma'am.

20 Q. Okay. What were you guys doing?

21 A. Really getting ready for the night, and I was watching
22 the basketball game really, the Duke and the North Carolina
23 game.

24 Q. Do you watch a lot of college basketball?

25 A. When it gets to the playoff time.

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. And so where were you watching the game? Where in
2 your apartment?

3 A. We was in the room, in the back of the apartment.

4 Q. And were -- was Tonya in there with you watching the
5 game?

6 A. Yes, ma'am.

7 Q. And I'm going to show you just for...

8 (COUNSELORS CONFER.)

9 Q. All right, I'm going to show you what's been marked as
10 State's Exhibit 40 -- I'll start with 73 first. Do you
11 recognize this?

12 A. Yes, ma'am.

13 Q. And what does it show?

14 A. Basically that's the back area of the apartment, the
15 house that's in that little area right there because we're
16 all connected through the backyard mainly.

17 Q. It has three addresses?

18 A. Yes, ma'am.

19 Q. Is this a fair and accurate depiction of where
20 everyone lived in this case?

21 A. Yes, ma'am.

22 Q. And had -- does it -- has it been changed in any way?

23 A. No, ma'am.

24 Q. Okay.

25 MS. SAMPSON: At this time, Your Honor, I'd ask to

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 introduce State's Exhibit 73 into evidence.

2 MR. WILLIAMS: No objection, Your Honor.

3 THE COURT: Without objection.

4 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
5 NUMBER 73.)

6 BY MS. SAMPSON:

7 Q. And I'm not going to go through the effort of pulling
8 out that SmartBoard, but is this what we were talking
9 about?

10 A. Yes, ma'am.

11 Q. And so 107, who lives there?

12 A. That's where I was living at.

13 Q. And 8 -- and so [REDACTED], the backyard connects to your
14 back. Is that fair to say?

15 A. Yes, ma'am.

16 Q. For [REDACTED] Thornwell, that backyard is next to your
17 backyard at [REDACTED]. Is that correct?

18 A. Yes, ma'am. It's connected.

19 Q. All right. So, that's where you were back on March
20 22nd of 2017?

21 A. Yes, ma'am.

22 Q. All right. So, while you were watching the basketball
23 game, does anything happen?

24 A. Yeah. Hear the gunshots.

25 Q. You hear gunshots. How did you know they were

1 gunshots?

2 A. Because I, where I grew up from, you normally hear
3 them all the time, you know, but you try to stay out of the
4 mix if it ain't anything to do with you or kids involved.
5 So, being that I was in the house and I kind of figured
6 someone would call the police, I didn't really, like, jump
7 and panic because I know not to panic at stuff, a lot of
8 things, you know.

9 Q. So, I'm going to ---

10 A. From growing up.

11 Q. --- stop you for a second and kind of go through a
12 little.

13 A. Okay.

14 Q. So, you hear gunshots?

15 A. Yes, ma'am.

16 Q. Can you tell the jury how many you heard?

17 A. When I first heard it, yes, ma'am. It was about,
18 like, eight. Then it stopped.

19 Q. And I want to ask you this. Were you counting or were
20 you just listening?

21 A. Really was listening.

22 Q. And did you do anything when you heard those shots?

23 A. First round, no, ma'am.

24 Q. Did anybody in the house do anything?

25 A. No, ma'am. No one really panic but then, you know,

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 Kari came and ---

2 Q. You said Kari. Is that ---

3 A. Well, Jakari, yes, ma'am. He came and informed us as
4 if we didn't hear the gunshots, you know what I'm saying,
5 whatnot. So, we was, like, yeah, we hear the gunshots, you
6 know? Just stay inside. They shooting outside, you know
7 what I'm saying? So.

8 Q. So, would it be fair to say your goal was just to keep
9 everybody inside at that point?

10 A. Yes, ma'am.

11 Q. So, then what happened?

12 A. Then you hear it start again. When you hear it start
13 again, when it hit the -- when it ricocheted and busted the
14 window.

15 Q. How did you ---

16 A. The back sliding glass.

17 Q. Okay, I'm going to stop you for a second. How did you
18 know that it broke a window?

19 A. Because you could hear it shatter.

20 Q. Was anybody in your house shooting?

21 A. No, ma'am.

22 Q. Okay. So, when you heard the glass break, then what
23 did you do?

24 A. Now, that's when I thought about -- his room was,
25 like, if, if you had the pictures, it's sliding door, then

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 his window. So, my first thing was if whomever shooting,
2 if they hit that, they can hit him next. So, I was trying
3 to divert attention off of his room really. That what made
4 me go outside because I was thinking about him. Like, if
5 they shooting at the house, you know what I'm saying, they
6 shoot at his room next. So I rather go out there and
7 diversion towards me because, see, I'm -- I don't mean to
8 say it like this, but I'm grown already. He's still a
9 child, you know what I'm saying, and if somebody ---

10 Q. And I want to stop you just a second, and we'll come
11 back to that, okay? The way the rules work, I've got to
12 ask you questions, and you've got to answer them, okay?

13 A. Yes, ma'am.

14 Q. All right. So, you said that you were concerned
15 because his room was close to that -- to the glass, to the
16 sliding glass doors?

17 A. Yes, ma'am.

18 Q. So, when you come out of your room, where do you go?
19 You were in your room and ---

20 A. I came straight out the door. I went straight out the
21 door.

22 Q. When you say ---

23 A. I let ---

24 Q. --- straight out the door, you mean the door of the
25 apartment?

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. Out the front door, yes, ma'am. I let Ms. Mills check
2 on her son. I walked straight out the door because I was,
3 like, in protective mode, you know?

4 Q. And when you get out to the -- out -- I'm going to
5 show you State's Exhibit 7 -- excuse me, 44. What does
6 this show?

7 A. The patio, onto my patio. The hallway next to our
8 apartment. Our grill. That's our -- that's my chair.

9 Q. Okay, and is this a fair and accurate depiction of the
10 way it looked on February 22, 2017?

11 A. Yes, ma'am.

12 Q. Has it been changed in any way?

13 A. No, ma'am.

14 MS. SAMPSON: Your Honor, at this time I'd ask to
15 introduce State's Exhibit 44 into evidence.

16 MR. WILLIAMS: Without objection, Your Honor.

17 THE COURT: Without objection.

18 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
19 NUMBER 44.)

20 BY MS. SAMPSON:

21 Q. And again, I'm going to get that big old SmartBoard
22 and -- but is this what you were talking about?

23 A. Yes, ma'am.

24 Q. And is this where you went?

25 A. Yes, ma'am.

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. Okay. So, what happened when you got out there?

2 A. Well, it's not very lit, but you can see, you know
3 what I'm saying, anyone who might be out there. So, when I
4 got out there, I hear a bunch of commotion, fussing.

5 Q. What do you mean by commotion or fussing?

6 A. Like somebody was just yelling. They was -- sound
7 like they was mad at someone, you know what I'm saying?

8 Q. And could you -- when you heard the yelling, could you
9 understand what was being said?

10 A. At first I didn't til I pinpointed where it was coming
11 from.

12 Q. And how did you pinpoint where it was coming from?

13 A. Because when you -- in that picture, I was standing by
14 the rail. I was looking straight forward in the backyard
15 of the, of the person where I heard the gunshots coming
16 from.

17 Q. And so you just said that you were -- so, you were
18 standing here? Is that correct, near the grill?

19 A. Right. Yes, ma'am. I was standing right here.

20 Q. Okay. So, right -- you're pointing near the rail?

21 A. Uh-huh.

22 Q. And that railing looked out to what?

23 A. To the back, the back area of everybody whose houses
24 connected. Like, to the left it was Mr. ---

25 Q. So using this picture, where does it look out to?

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. If I would be standing right here, I would be looking
2 to the left here, and then right over here. So, I was
3 looking in this vicinity because if you look straight
4 across, you can see the neighbor's backyard and they had,
5 like, a light or whatever, and you can see out there.

6 Q. So, you could see ---

7 A. So, that's what made me look that way because that's
8 where the light was on, and I trying to pinpoint where the
9 noise, where it was coming from.

10 Q. So, even though it's dark outside, there's light?

11 A. Yes, ma'am.

12 Q. And so what did you see when you looked out there?

13 A. At first I didn't see anyone; I just heard the lady
14 holler.

15 Q. The lady hollering?

16 A. Yes, ma'am.

17 Q. Did you know who that was?

18 A. No, ma'am.

19 Q. Okay, and so what did you do as that's going on?

20 A. When I heard her holler, I thought it was, you know,
21 they was arguing and fighting, whatever the case may BE
22 that they was over there doing. However, when I actually
23 pinpointed the noise, she was by herself.

24 Q. How did you know ---

25 A. I had looked to the right ---

1 Q. I'm sorry. How did you know she was by herself?

2 A. Because I had -- once I looked to the right, I seen
3 her standing beside her shed. She was standing, like, at a
4 angle. Like, her shed was standing right here. She was
5 standing right here by her shed at the back by the gate.

6 Q. Could you see her?

7 A. Yes, ma'am.

8 Q. And what was she doing?

9 A. She was standing right there still hollering, but then
10 that's when I knew she was hollering at me, but at the same
11 time, I was trying to get a conversation going to let them
12 know, whomever, that they need to chill out with all that
13 noise because we have kids in here.

14 Q. So, what did you say?

15 A. I was, like, y'all need to stop with all the noise.

16 Q. And you said y'all, and that's a very southern thing.
17 Did you think there was more than one person out there?

18 A. Yes, ma'am.

19 Q. Did you see more than one person?

20 A. No. I only saw one person.

21 Q. And was it a male or female?

22 A. It was a female.

23 Q. Was she white? Black?

24 A. She was white.

25 Q. Did -- and when you said y'all need to calm down,

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 whatever, what did she respond?

2 A. She was, like, I don't care about that, you know?

3 Like as if what I was saying didn't matter, didn't register
4 to her at the moment because she didn't care about whatever
5 I had to say.

6 Q. Did she just say it one time or multiple times?

7 A. Like, she said it, like, a couple of times.

8 Q. And what did she say?

9 A. She was, like, I don't care.

10 Q. And then what happened?

11 A. Then I was, like, well, I have a child over here. You
12 might not care about whom you're over there with, but we
13 actually care on this side, you know? If you could, just
14 stop with the noise.

15 Q. Did you say all of that out loud?

16 A. Yes, ma'am.

17 Q. Could she hear you?

18 A. Yes, ma'am.

19 Q. How do you know she heard you?

20 A. Because we wasn't -- we was little distance off, but
21 we wasn't too far where we couldn't understand or hear each
22 other.

23 Q. Did she ---

24 A. Because we was, like, how me and you are. We were
25 looking right at each other.

1 Q. She looked at you?

2 A. Yeah.

3 Q. Did she respond?

4 A. Yeah.

5 Q. What did she say?

6 A. She was saying she don't care.

7 Q. And so when she said she didn't care again, what did
8 you do?

9 A. That's when I said I care. By the time I said I care,
10 that's when I felt the pinch in my side, and then I felt it
11 in my hand, but I didn't think it was no gunshot. It just
12 like burn. So, I -- once I looked down, I see that I was
13 just dripping with blood.

14 Q. Now, I'm going to ---

15 A. And that's when I was like ---

16 Q. --- slow it down a little bit. You said you didn't
17 know you were shot. Did you hear a shot?

18 A. I heard the gunshot, but I didn't feel it; it didn't
19 register right then. It wasn't like a big impact. You
20 know when somebody get hit, you start looking for
21 something, but at that time it just felt like something was
22 in me, but I couldn't actually move at that time. It just
23 stung me right then.

24 Q. And did you ---

25 A. Because I had to sit still.

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. --- see a gun?

2 A. Did I see the gun?

3 Q. I need you to say yes or no.

4 A. Oh. Yes, ma'am.

5 Q. And who had the gun?

6 A. The, the white female.

7 Q. And I want you to look at this here. Do you see the
8 person who had that gun?

9 A. Yes, ma'am.

10 Q. And where is she? I need you say it out loud.

11 A. Right here to my left.

12 Q. And what does she have on?

13 A. What she have on now?

14 Q. Yes, sir.

15 A. A dark shirt. She has a pen in her hand. She got a
16 few rings on her finger, bracelet on her wrist, earrings.

17 Q. Thank you.

18 MS. SAMPSON: At this time, Your Honor, I'd like the
19 record o reflect that Mr. Jones has identified the
20 defendant.

21 THE COURT: All right.

22 BY MS. SAMPSON:

23 Q. Did you know her at all?

24 A. No, ma'am.

25 Q. Had you ever spoken to her prior to that day?

1 A. No, ma'am.

2 Q. And are you sure that that is the woman who shot you
3 that night? I need you to say yes or no.

4 A. Oh. Yes, ma'am.

5 Q. How sure are you?

6 A. How sure? Because ---

7 Q. How sure are you that she's ---

8 A. Real sure. I can remember her hair. Even though it
9 was dark, like I said, you still can see her almost like up
10 on you, you know what I'm saying? We wasn't that close,
11 but you could still identify whom it was. That was the
12 whole reason of me going out there, too. So, once the
13 police had come, I was able to identify whomever was
14 shooting.

15 Q. Do you remember what kind of shirt she had on?

16 A. She had a white shirt at that time, white. Like,
17 white T-shirt and, like, some dark bottoms.

18 Q. And so after you feel the pinch or the shot, or you
19 said that was a pinch, something in you?

20 A. Right.

21 Q. What did you do?

22 A. When I felt it, well, like I said, when I saw I was
23 bleeding, I turned around and walked back into the house to
24 inform Ms. Mills call the police because I had been shot.

25 Q. And were you bleeding?

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 A. Yes, ma'am, bleeding real bad, but I had to lay down
2 because, you know, it started making me, like, drowsy,
3 woozy and stuff. So, I collapsed on the floor in the
4 middle of the front room.

5 Q. And at some point, does EMS show up?

6 A. Yes, ma'am, they showed up.

7 Q. And do police show up?

8 A. Yes, ma'am.

9 Q. And do you tell them what happened?

10 A. Yes, ma'am.

11 Q. Were you able to talk to them?

12 A. Yes, ma'am.

13 Q. What did you tell them as far as the description of
14 who shot you?

15 A. The description, I told them it was a white female.
16 She wasn't tall as me. She was about in her -- like,
17 forty-five, forty-nine, something like that. She had,
18 like, a little bushy hair. It wasn't blown at the moment
19 but, you know, it just -- and it was, like -- well, like,
20 they were basically saying we got you because, like I say,
21 I was, I was -- to me, it felt like I about to go out. You
22 know, I wasn't trying to panic. I was losing so much
23 blood.

24 Q. And ---

25 A. I just...

A. JONES - DIRECT EXAMINATION BY MS. SAMPSON

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1 Q. --- the jury's heard some of this, but where were you
2 shot?

3 A. I was shot in my, in my wrist right here.

4 Q. Do you -- and can you hold it up? Do you still have
5 any injuries from that?

6 A. Yes, ma'am. Every day. Right here.

7 Q. And where else were you shot?

8 A. In my hip.

9 Q. And I'm not going to ask you to show that one because
10 ---

11 A. It's not that bad, but you can see it.

12 Q. It's covered up by your clothing. Would that be fair
13 to say?

14 A. Yes, ma'am.

15 Q. And is the bullet still in you?

16 A. Yes, ma'am.

17 Q. Why haven't you had it removed?

18 A. Because I didn't have money at this time. The
19 insurance was kind of high, and I, and I, like I say, I was
20 just moving down here, and I didn't know nobody. And, and
21 he was saying that where it's located, it could have -- he
22 could get it, but it might mess me up, something like my
23 spine or something, stop me from moving. So, I was kind of
24 panicking like now ---

25 Q. And ---

A. JONES - DIRECT EXAMINATION / CROSS-EXAMINATION

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1 A. --- I won't be able to walk.

2 Q. I'm going to take you back a little bit to when this
3 happened. When, when you were shot, were you scared?

4 A. Kind of but not really.

5 Q. Who were you scared for when you were shot?

6 A. Really my stepson.

7 Q. And why were you scared for him?

8 A. Because, like I said, if she wouldn't have hit, you
9 know, me, she was going to hit somebody else because she
10 just, like I say, just she was shooting.

11 Q. And other than hearing her say I don't care, I don't
12 care, did you hear any of the other things she was yelling?

13 A. No, ma'am.

14 Q. And had you had any dealings with Ms. Fortson before
15 this?

16 A. No, ma'am.

17 Q. Did you even know her name before this?

18 A. No, ma'am.

19 Q. Had you spoken to her?

20 A. No, ma'am.

21 Q. No animosity with her?

22 A. No, ma'am.

23 MS. SAMPSON: Beg the court's indulgence.

24 Thank you, Antonio. I have no further questions at
25 this time. Please answer anything that Mr. Williams has

1 for you.

2 MR. WILLIAMS: Beg the court's indulgence one minute,
3 Your Honor.

4 THE COURT: Of course.

5 (A PAUSE.)

6 CROSS-EXAMINATION BY MR. WILLIAMS:

7 Q. Sorry to keep you waiting there, Mr. Jones. I was
8 just doing a little research. So, you play a lot of
9 basketball?

10 A. I like football better but I play basketball.

11 Q. I gotcha. You an ACC ---

12 A. I play basketball, but I like football better.

13 Q. You an ACC fan?

14 A. ACC.

15 Q. That's the best basketball around.

16 A. Yes, sir.

17 Q. Even if you're from Detroit, right? Aren't you from
18 Detroit?

19 A. No, sir.

20 Q. Where you from?

21 A. Florida.

22 Q. Florida?

23 A. Yes, sir, Quincy ---

24 Q. Oh, so you're ---

25 A. --- Florida.

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. --- SCC?

2 A. No. I'm an ACC fan.

3 Q. Okay. Florida State.

4 A. You know it.

5 Q. So, how about maybe February the 22, maybe it was Duke
6 versus Syracuse that night? You think that might have been
7 a possibility?

8 A. Uh-huh. It was happening, it was happening, like,
9 going on right before March Madness start.

10 Q. So, you sure on February the 22 it was Duke versus
11 North Carolina?

12 A. I want to say, I want to say that was exactly who it
13 was, that I was getting ready for that game.

14 Q. Okay. Okay. What time, what time was that game?

15 A. What time it started?

16 Q. Yeah.

17 A. I can't remember what time it started.

18 Q. Well, if it, if it was the ACC tournament and if they
19 were the ones who were competing for the championship, it
20 probably started about 9, didn't it?

21 A. It could have.

22 Q. I gotcha.

23 A. I just know they were playing at the time.

24 Q. I gotcha. Who were you pulling for?

25 A. At that time, I was pulling for North Carolina.

1 Q. And who won?

2 A. Who did win? I don't think I get to see the rest of
3 the game.

4 Q. Well, how far did you get into the game before you got
5 -- before this shooting occurred?

6 A. Before the shooting occurred? I mean, I can't even
7 remember. It's been so long, I can't, you know what I'm
8 saying, pull it out right here. You got to give me a
9 second.

10 Q. Okay.

11 A. But I don't, I don't remember exactly what it was.

12 Q. All right. Well, were you relaxing? Were you
13 drinking any beer, something like that? Eating some chips?

14 A. Oh, no, sir. I don't drink.

15 Q. Okay, and had you -- what time -- had you worked at
16 McDonald's that day? Do you remember?

17 A. Earlier at my shift? No, sir. I was off this night
18 here.

19 Q. Okay, but you were working, like, at two McDonald's
20 since you were manager at both of them, right?

21 A. Yes, sir.

22 Q. All right, and so you, you're from Florida. You came
23 up to South Carolina when?

24 A. December the 1, 2014.

25 Q. All right, and you were staying with this young lady

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 up until when?

2 A. I was staying with my sister when ---

3 Q. I'm sorry.

4 A. --- I first moved here.

5 Q. Staying with your sister. When did you move in with
6 this young lady?

7 A. My sister, December 1, 2014.

8 Q. All right.

9 A. I remember her birthday is December the 4th.

10 Q. And when did you -- where were you staying -- when did
11 the shooting occur?

12 A. Where? On 107 Thornwell Court.

13 Q. When did it occur?

14 A. In February.

15 Q. When in February?

16 A. The date?

17 Q. Yeah.

18 A. The 20, around the 20-something, 22-something.

19 Q. 20-something?

20 A. Yes, sir.

21 Q. Of 2017?

22 A. Yes, sir.

23 Q. Who were you living with then?

24 A. Tonya Mills.

25 Q. All right, and how long had you been living with Tonya

1 Mills?

2 A. At that address?

3 Q. Right.

4 A. We was there for a couple of years.

5 Q. Okay, and did you subsequently move away from there?

6 A. No, sir. I was still living with her. We didn't move
7 right after the incident had happened; we wasn't able to
8 move right after then.

9 Q. Okay.

10 A. We still stayed there for, like, a year or so before
11 we was even able to move.

12 Q. All right, and when did you move?

13 A. 2000, what '18. Right before the coronavirus started,
14 somewhere up in there.

15 Q. 2018?

16 A. Yeah. Like, towards the end of '18, something like
17 that. I ain't exactly sure, but it's, like, in '18, '19.

18 Q. Wasn't coronavirus around in 2019? Isn't that when it
19 began?

20 A. Like, it started in 2019.

21 Q. 2000 when?

22 A. '19.

23 Q. That's when the coronavirus started, and that -- when
24 the coronavirus started, where did you move to?

25 A. Where did I move to then? I was just back and forth

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 then; I wasn't really stationary then because me and Ms.
2 Mills had done broke up by that time.

3 Q. Oh. So, you -- okay. So, y'all broke up?

4 A. Yeah.

5 Q. And where did you go after y'all broke up?

6 A. Back to my sister house.

7 Q. Okay, and then how long did you stay there?

8 A. I'm still there.

9 Q. You're still there?

10 A. Yes, sir.

11 Q. Did you ever move out of state?

12 A. Did I ever move out of state? For a brief moment.

13 Q. All right. How long were you out of state?

14 A. About, what, four months, four or five months.

15 Q. Where did you move to?

16 MS. SAMPSON: Your Honor.

17 A. Florida.

18 MS. SAMPSON: I've let this go on for a little bit,
19 but I'm going to object. I don't know what any of this has
20 to do ---

21 A. Florida ---

22 MS. SAMPSON: --- with after this happened.

23 THE COURT: It's, it's relevant. Go ahead.

24 MR. WILLIAMS: Thank you.

25 THE COURT: Objection overruled.

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 BY MR. WILLIAMS:

2 Q. I'm sorry?

3 A. Florida.

4 Q. Okay, and, and when did you come back from Florida?

5 A. February of this year. It was this year.

6 Q. Okay. So, now you were talking about, about what
7 happened that, that night when this occurred.

8 A. Yes, sir.

9 Q. And do you remember that you actually gave your
10 statement to law enforcement on March the 3 after this
11 occurred in February? You remember giving a statement to
12 them?

13 A. Yes, sir.

14 Q. All right, and one of the things you said was you said
15 that when this shooting occurred, that you yelled at them,
16 and you said y'all need to stop, right?

17 A. Yes, sir.

18 Q. Because you said just a little while ago -- because
19 something about a child being in the apartment, right?

20 A. No. I was saying y'all need to stop.

21 Q. And?

22 A. Because it was going on too long, for one.

23 Q. And?

24 A. And then that's when, you know, you get the I don't
25 care at first.

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. So.

2 A. And then I said, well, we have a child in this
3 apartment over here. So, if y'all could -- because, like I
4 said, I thought it was a couple, but, like I say, come to
5 find that it wasn't a couple. So, that's when I was, like,
6 well, I have a son over here, you know what I'm saying, and
7 that what y'all got going on -- because, like I said, when
8 the shooting going on, I'm like, I care about him, you
9 know?

10 Q. And you yelled ---

11 A. And that's when I got shot.

12 Q. I'm sorry. You yelled all that stuff back to whoever
13 was in that yard, right?

14 A. Yes, sir.

15 Q. That's what you said to her?

16 A. Yes, sir.

17 Q. Did you tell that police officer all that when you
18 gave your statement to him? Let me ask you to look at
19 this, get you to read.

20 MR. WILLIAMS: May I approach the witness, Your Honor?

21 MS. SAMPSON: Your Honor, may I see what he's handing
22 him?

23 THE COURT: Yes.

24 (COUNSELORS CONFER.)

25 BY MR. WILLIAMS:

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. Let me show you one that is signed. Let me get you to
2 read that paragraph there, that, that bigger paragraph in
3 the middle, I guess. See, see the little section where you
4 talk about that you're yelling at somebody in the back?

5 A. Uh-huh.

6 Q. All right. Now, where in that statement do you make
7 any comment at all about your stepson?

8 A. Okay, about my stepson?

9 Q. Uh-huh.

10 A. It's not right there, but it's up in this area when I
11 was -- when we had the conversation back and forth.

12 Q. I'm sorry. So, show me. Can you, can you kind of
13 show me where you're talking about your stepson?

14 A. Yeah, right here.

15 Q. Let me ---

16 MR. WILLIAMS: May I approach again?

17 A. When I say y'all need to stop, when I started, that
18 was right here. When we started -- where you said when we
19 started yelling.

20 Q. Uh-huh.

21 A. At first I thought it was a couple.

22 Q. Right.

23 A. That what make me say y'all. You know what I'm
24 saying?

25 Q. Right.

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

303

1 A. But that's when I find out it just a female by
2 herself, and that's when we had the conversation because I
3 was, as you can see, I was letting her know that she had
4 busted the window, and I was, like, right up in here when I
5 say, well, also my son, stepson is in here.

6 Q. What, what -- where is, where is that in the
7 statement?

8 A. It's not in there.

9 Q. No. Now, was, was this -- was your memory more
10 accurate, I guess, three weeks after the event than it is
11 four years later, or, or you -- could you be mistaken?
12 That maybe you didn't say anything about your stepson being
13 in there?

14 A. Am I mistaken that I didn't say anything about him?

15 Q. Yeah.

16 A. No, sir.

17 Q. But this is your signed statement you gave to law
18 enforcement in March of 2017, right? Okay.

19 THE COURT: Is that a yes?

20 WITNESS: Yes.

21 THE COURT: Okay.

22 BY MR. WILLIAMS:

23 Q. Let me ask you to look through this one more -- well,
24 let me ask. Do you remember just a little while ago you
25 said you could see the woman standing by the storage -- did

1 you call it the storage building?

2 A. By her shed.

3 Q. A shed?

4 A. Yeah.

5 Q. You said you saw her standing by her shed?

6 A. Yes, sir.

7 Q. Let me get you to look at this statement. Tell me
8 where in the statement you said that you saw this woman
9 standing by her shed. You can look at it.

10 (A PAUSE.)

11 A. That doesn't look like they put everything that I said
12 was in the report. That's all that was, but I don't see it
13 in here either.

14 Q. Okay. So, you, you just, you just didn't tell the
15 police officer everything that you're now telling us?

16 A. No, they -- because they was asking me how can I
17 identify whom I was talking to.

18 Q. Right.

19 A. So, that's when that came up. That's why I know I
20 told them that she was standing by her shed.

21 Q. Well, that would, that would be important, wouldn't
22 it, in terms of how you could see or not see her if you
23 could describe where that person was, wouldn't it?

24 A. They write it up. I don't know, but, you know.

25 Q. Right, and you remember the description you just gave

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 a few minutes ago? You said that it was a white woman
2 about forty-five. Is that what you said?

3 A. Somewhat in that area at that time of the incident.

4 Q. Forty-five years old.

5 A. That was my guesstimate.

6 Q. Okay, and I think you said she had on white with black
7 pants or dark pants?

8 A. Yes, sir.

9 Q. And ---

10 A. White T-shirt.

11 Q. Okay. Let me ask you to look at your statement again,
12 and tell me where in your statement you say that she had a
13 white T-shirt, black pants on.

14 A. Right here where -- after county, county of origin.
15 It say she was white. She looked like she was about forty.
16 I never seen her before. She was wearing something white
17 with some colors on it.

18 Q. Okay. So, you didn't describe her pants at all, did
19 you?

20 A. No. I just said that she -- the part that I saw, the
21 top. The bottom, I know it was dark. I couldn't say it
22 was blue, black, purple, green because I wasn't -- it --
23 you know what I'm saying? I couldn't see the actual color.

24 Q. And, and you didn't even say anything at all about her
25 pants in your statement, did you?

1 A. Not in that statement.

2 Q. Well, I mean, do you have another statement? And when
3 you were describing her age, you said she was forty, not
4 forty-five, correct?

5 A. Yeah, forty-something.

6 Q. Well, you didn't say forty-something in your
7 statement, though, did you? You said forty, didn't you?

8 A. She was forty-something. I don't know her, so I can't
9 say she was actually forty. That would be saying that I
10 know her. So, I don't know her, so I just said
11 forty-something. Now, I didn't write it up. That's beyond
12 me, you know?

13 Q. And, and you didn't actually say she had a white
14 T-shirt on in your statement either, did you?

15 A. She had on a white shirt, yes, sir. She had on a
16 white shirt.

17 Q. Can you tell me in your statement where you say that
18 she actually had on a white shirt?

19 A. Okay, this says that she had something white on it.

20 Q. Right.

21 A. He didn't put a shirt on it. He just say she was
22 wearing white with colors in it, no.

23 Q. So, so, it was a shirt which was white and it had
24 colors in it, correct?

25 A. I -- at the time, all I saw was the white shirt, be

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 honest with you, sir. I, I was shot. I don't know what
2 was -- after that, I don't know what they heard. I don't
3 know what they put. This is my first time hearing all this
4 together. I ---

5 Q. You couldn't really see or, or really describe
6 everything well?

7 A. Not, not too well because -- you know, I was able to
8 identify enough.

9 Q. And, and white with some colors in it, that means it's
10 a shirt versus a T-shirt, right, because if it was a white
11 T-shirt, it would be just white, right?

12 A. Not necessarily.

13 Q. What did you ---

14 A. White T-shirt ---

15 Q. --- mean?

16 A. --- could be something with some colors, you know what
17 I'm saying? Now a days, I can have on a white shirt and it
18 got colors in it. Somebody just say it was a white shirt
19 but it also got colors, or they can say it got colors and
20 it ain't got none besides, like I say, a Nike check on it,
21 but it got colors in it the Nile check was in it. So, it
22 just all depends on how you look at it. I don't know.

23 Q. You remember on direct examination you said that you
24 heard eight shots, and then it stopped, right?

25 A. Yeah, it was a couple of shots I heard. You asked me

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 how many, but I said I heard a couple of shots. Heard the
2 gunshots.

3 Q. On direct you said ---

4 A. Then I said ---

5 Q. I'm sorry.

6 A. When you asked me how many, I said it could be about
7 eight.

8 Q. I didn't ask you.

9 A. Well.

10 Q. That was the prosecutor.

11 A. It could be about eight, yeah.

12 Q. So.

13 A. Go ahead.

14 Q. It was eight? So, it was eight shots the first time,
15 right? So, you heard eight shots, and then there was a
16 lull, and that there was some more shots, right?

17 A. Yes, sir.

18 Q. You didn't tell the officer that it was eight shots
19 the first time, did you?

20 A. I can't even recall, not that part; I'm not exactly
21 sure. I may have told them. I...

22 Q. You don't really know, do you?

23 A. How many shots it was? Like total or the first round?

24 Q. The first round.

25 A. First round, I don't, I can't recall how many total it

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 was, sir. It was a bunch of shots the first time. It
2 stopped and it started back, but when it bust mine, that's
3 when I outside and do my investigation.

4 Q. So, how long was it between the first shots that were
5 fired and the second shots that were fired?

6 A. The first and second set? About five minutes. Like,
7 enough to reload and unload again.

8 Q. So, it was, like, three minutes?

9 A. Five give or take, seven, up in that area.

10 Q. And I believe in your ---

11 A. I ain't -- go ahead.

12 Q. Sorry. I believe in your statement, you said that you
13 actually saw that person in the yard with a gun, right?

14 A. Yes, sir.

15 Q. You, you saw that person raise the gun, right?

16 A. Yes, sir. When we was having our little conversation,
17 that's when it was pointed at me.

18 Q. It was ---

19 A. I was letting her know that, you know, I don't know
20 what y'all have going on but, you know, if y'all could just
21 tone that down. That's all I was trying to get them to do,
22 calm down.

23 Q. So, you ---

24 A. And it was just one person.

25 Q. So, you could actually see the gun, right?

A. JONES - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. I wasn't seeing the gun. I saw her.

2 Q. So, you never saw a gun?

3 A. Yes. She was pointing at me. You see what I'm
4 saying, but I don't know. It was dark. You hear what I'm
5 saying? The gun was kind of dark. I ain't going to say
6 that it was purple when it could have been black. It's
7 dark, but I see the gun, you see what I'm saying, because
8 me and her was -- just like I told her, me and her be just
9 like you and I are now. We just was a little far off. We
10 was actually looking at each other.

11 Q. And you weren't in a lit courtroom, either, were you?

12 A. No, but it was enough light to know how -- you know
13 what I'm saying, to give a description of what she had on
14 and stuff of that nature.

15 Q. And how far away was she?

16 A. Give or take right from me to this, this young lady
17 right there. That's about how far, the young lady in the
18 back.

19 Q. Right there?

20 A. Yes, sir.

21 Q. And ---

22 A. About that far apart.

23 Q. Where is, where is the shed at Ms. Fortson's house?

24 A. In the backyard close to her fence, and it's a pool
25 she had at that time. It was a baby pool back there, like

A. JONES - CROSS-EXAMINATION / REDIRECT EXAMINATION 311

1 a blue one or a pink one. It was, like, full of ---

2 Q. Blue or pink?

3 A. I think she had two of them back there, to be honest.

4 Q. To -- covering both sections, maybe, blue or pink?

5 A. No. It was just, like, in the area, you know. Stuff
6 for little kids and stuff like that. That's what the
7 backyard consisted of.

8 Q. Now, you said you heard your glass break, right?

9 A. Yes, sir.

10 MR. WILLIAMS: Your Honor, I think that's all the
11 questions I have.

12 THE COURT: Redirect?

13 MS. SAMPSON: Yes, sir.

14 REDIRECT EXAMINATION BY MS. SAMPSON:

15 Q. Mr. Jones, do you still have that statement with you?

16 A. That who?

17 Q. That statement or did Mr. Williams take it with him?

18 A. No, ma'am.

19 Q. All right, Mr. Jones, since he wanted to talk about
20 this statement, let's talk about how it was taken.

21 A. Okay.

22 Q. When you went down to headquarters to take this, were
23 they talking to you like you and I are talking?

24 A. When I went to headquarters? Yes, ma'am.

25 Q. Okay. Did you write it or did he write it?

A. JONES - REDIRECT EXAMINATION BY MS. SAMPSON

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1 A. The officer wrote it.

2 Q. And did he write it as you were talking? Did you guys
3 talk and then he wrote it?

4 A. It was kind of, like, writing it and listening and
5 then once he finished, I signed it because it basically
6 what I was saying and...

7 Q. Let me ask you this. Did you check it to say, hey,
8 you should add some more stuff to it?

9 A. Oh, no, ma'am.

10 Q. And he went through this with you, but he kind of
11 picked and choose what he wanted to talk about, so I'm
12 going to talk about what you ---

13 MR. WILLIAMS: Objection to the question, Your Honor.

14 THE COURT: Sustained. Disregard the statement just
15 made by Ms. Sampson, ladies and gentlemen.

16 BY MS. SAMPSON:

17 Q. So, let's go through your whole statement. It starts
18 with Mr., Mr. Clarke was questioning you. Is that correct?

19 A. Yes, ma'am.

20 Q. And then you answered. Is that right?

21 A. Yes, ma'am.

22 Q. So, what's the first question he asked you?

23 A. His question: Mr. Jones, please tell me about the
24 events on the night of 2/22/17 where you were shot.

25 Q. Okay. Now, is there just a one-sentence answer, or

A. JONES - REDIRECT EXAMINATION BY MS. SAMPSON

313

1 how long is your answer?

2 A. It's pretty lengthy.

3 Q. A whole paragraph?

4 A. Yes, ma'am.

5 Q. And then he asked you more questions. Is that
6 correct?

7 A. Yes, ma'am.

8 Q. All right, and he asked you about some statements in
9 here. Did you tell him that she said I don't care, I don't
10 care?

11 A. Yes, ma'am.

12 Q. Is that the same thing you told the jury today?

13 A. Yes, ma'am.

14 Q. Is that, in fact, what happened?

15 A. Yes, ma'am.

16 Q. All right, and in here where he asked you -- what did
17 you say about her looking at you?

18 A. I say she was looking at me, yelling, and I asked her
19 to calm down.

20 Q. And is that what happened?

21 A. Yes, ma'am.

22 Q. And is that what you told them back then?

23 A. Yes, ma'am.

24 Q. Same thing you told the jury today?

25 A. Yes, ma'am.

A. JONES - REDIRECT EXAMINATION BY MS. SAMPSON

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1 Q. And today you talked about feeling faint. Do you
2 remember that?

3 A. Yes, ma'am.

4 Q. Did that happen?

5 A. Then? Oh, yes, ma'am.

6 Q. Now, did you put that in there?

7 A. I don't think they put it in there.

8 Q. Okay, and you were watching a basketball game. I
9 think he asked you about it being Duke. Is that in your
10 statement?

11 A. It just said watching the basketball game.

12 Q. So, would it be fair to say that everything that
13 happened that night is not in this statement?

14 A. Correct.

15 Q. But did it happen? I need you to say yes.

16 A. Oh. Correct. Yes.

17 Q. And you did say in the statement she was wearing
18 something white?

19 A. Yes, ma'am.

20 Q. Just like you said today, right?

21 A. Yes, ma'am.

22 Q. And he asked you about seeing the gun and her pointing
23 at you?

24 A. Yes, ma'am.

25 Q. Can you tell this jury about that? What happened, how

A. JONES - REDIRECT EXAMINATION / RECROSS-EXAMINATION 315

1 that happened?

2 A. When I, when I finally located her, she was to my
3 right. So, when I looked to the right, like I'm looking at
4 him, that's how she was in our backyard. But me and her
5 was holding a conversation. Then when I seen her pull it
6 up, you know, I'm thinking she was about to calm down. But
7 after I said I, I care about whatever I was talking about,
8 that's when I -- she shot it.

9 Q. And did ---

10 A. When it hit me, I felt it. That's why I didn't panic.

11 (A PAUSE.)

12 Q. Are you all right to go on, Mr. Jones?

13 A. I had panic. I didn't panic, but I wanted to because,
14 like I say, when you see that much blood and you been hit,
15 you know what I'm saying, it's a whole nother atmosphere.
16 And when I looked at her, she was in a rage and here it is,
17 I'm trying to be calm about the situation. So, when she
18 shot it, I seen it coming from -- I couldn't tell exactly
19 what -- the color of the gun, but I seen the, the bullet
20 come out of it, and that's another reason how I know I had
21 got hit.

22 Q. And, Mr. Jones, is there any doubt in your mind as
23 you're sitting there reliving this moment that Mandy
24 Fortson was the person that had that rage and shot that gun
25 at you?

A. JONES - RECROSS-EXAMINATION BY MR. WILLIAMS

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1 A. Yes, ma'am.

2 Q. There's no doubt in your mind?

3 A. None whatsoever.

4 MS. SAMPSON: No further questions, Your Honor.

5 MR. WILLIAMS: Just a couple of questions.

6 RECROSS-EXAMINATION BY MR. WILLIAMS:

7 Q. When the solicitor just said is there any doubt in
8 your mind that Mandy Fortson was the one that shot the gun,
9 you said yes, ma'am and then she ---

10 A. None whatsoever.

11 Q. --- asked you another -- huh?

12 A. No, sir. No doubt ---

13 Q. That's not ---

14 A. --- in my mind.

15 Q. --- what you just said? Let me ask you this. Are
16 these two statements, the one you gave to the police
17 officer and the statement that you have given to this jury
18 today, are they the same?

19 A. Yes, sir.

20 Q. They are the same? Is that right?

21 MR. WILLIAMS: That's all the questions I have, Your
22 Honor.

23 THE COURT: All right, you may step down.

24 (THE WITNESS EXITS THE STAND.)

25 THE COURT: Okay, ladies and gentlemen, we're going to

1 take our morning break at this point in time. Now, as I've
2 told you from the very beginning and I will continue to
3 tell you, you're still not allowed to talk about the case,
4 okay? As you know, this is -- you know, chain witnesses
5 are one thing. You've actually heard from some more
6 substantive witnesses this morning. This is a time where,
7 you know, the normal thing to do would be go back in the
8 room and start talking about what you just heard, right,
9 but you can't do that. You can't have any conversation
10 about the case. You can talk about the weather, how the
11 heat's coming, or what you're going to do on Memorial Day,
12 but you can't talk about the case. You are to keep an open
13 mind about the case, and we'll see you back in about ten to
14 fifteen minutes, okay? All right, thank you very much.

15 Everyone else stay seated.

16 (THE JURY EXITS AT 11:01 A.M.)

17 THE COURT: All right, anything before we break from
18 the state?

19 MS. SAMPSON: Not from state, Your Honor.

20 MR. WILLIAMS: Not from the defendant, Your Honor.

21 THE COURT: All right, let's take about ten, fifteen
22 minutes. Thanks.

23 MR. WILLIAMS: Your Honor, I do have one matter to
24 take up with the court.

25 THE COURT: Hold on. Hold on. Go ahead.

1 MR. WILLIAMS: Your Honor, when I was, what I was
2 examining the last witness, Mr. Cruz came in.

3 THE COURT: Okay.

4 MR. WILLIAMS: And sat in the back.

5 THE COURT: All right.

6 MR. WILLIAMS: We're under sequestration as far as I
7 know, Your Honor.

8 THE COURT: Yeah.

9 MS. SAMPSON: My understanding is that as soon as they
10 saw him, they made him go back out. I didn't even seen him
11 come back in. But I just spoke with my victim's advocate.
12 When she turned and saw him, she took him right back out.

13 THE COURT: Well, the question is how long had he been
14 in prior to that?

15 MS. SAMPSON: Everybody says he walked in. As soon as
16 they saw him, they walked him out. I can put them on the
17 stand if you need me to, but my understanding is as soon as
18 he walked in, they saw him and walked him right back out.

19 MR. WILLIAMS: The only thing I know is I was doing my
20 recross.

21 THE COURT: Okay. All right.

22 MR. WILLIAMS: But I can't, I can't affirm to the
23 court any more than...

24 THE COURT: Well, I mean, we've been sequestering
25 witnesses for forty, fifty years. I mean, I don't know how

1 hard it is to tell your witnesses not to come in the
2 courtroom or to post somebody from your office outside the
3 door to make sure they don't come in the courtroom. It's
4 not rocket science.

5 MS. SAMPSON: We told him not to come in. I didn't
6 know how -- I didn't even know he'd done it until just
7 this ---

8 THE COURT: I mean, how did you not even know he was
9 here?

10 MS. SAMPSON: He wasn't supposed to be until later
11 today. I don't know why he's here right now. We told him
12 to come at 1. I'm not even sure why he was here. There
13 was no reason for me to be looking.

14 THE COURT: Okay. So, you think he was just in on the
15 recross?

16 UNIDENTIFIED WOMAN: Yes, Your Honor.

17 THE COURT: All right.

18 SECOND UNIDENTIFIED WOMAN: Just recross.

19 THE COURT: Well, let's make sure it doesn't happen
20 again.

21 MS. SAMPSON: Yes, sir.

22 THE COURT: Thank you.

23 (OFF THE RECORD.)

24 THE COURT: All right, let's go ahead and bring them
25 in.

D. COLLINS - VOIR DIRE EXAMINATION BY MS. SAMPSON

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1 (THE JURY ENTERS AT 11:20 A.M.)

2 THE COURT: Welcome back, ladies and gentlemen.

3 (A PAUSE.)

4 THE COURT: All right, welcome back, ladies and
5 gentlemen. Some of you got donuts. Those, those were the
6 A-plus students, and the rest of you didn't know. They had
7 some leftover donuts, so Judge Newman was being sweet.

8 So, all right, you ready to call your next witness?

9 MS. SAMPSON: Yes, sir.

10 THE COURT: Okay.

11 MS. SAMPSON: State calls David Collins.

12 THE COURT: Come on up, Mr. Collins.

13 DAVID J. COLLINS, BEING DULY
14 SWORN, TESTIFIES AS FOLLOWS:

15 CLERK: Please have a seat in the witness stand and
16 state your name fully for the record.

17 WITNESS: David Jeffrey Collins.

18 VOIR DIRE EXAMINATION BY MS. SAMPSON:

19 Q. Good afternoon -- well, I guess it's morning still.

20 Mr. Collins, can you tell this jury where you're employed?

21 A. I'm employed with the Richland County Sheriff's
22 Department.

23 Q. And what do you do there?

24 A. I'm a field training officer, and I'm assigned as a
25 firearms master at the firearms range.

D. COLLINS - VOIR DIRE EXAMINATION BY MS. SAMPSON

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1 Q. And how long have you been with Richland County?

2 A. I've been with Richland County since 2002.

3 Q. And were you with any law enforcement agency prior to
4 that?

5 A. Yes. I was with SLED from 1990 to 2002.

6 Q. And can you tell them a little bit about your
7 education?

8 A. I have -- I received a bachelor's degree from the
9 Citadel in 1984. After I went to SLED, I was trained by
10 SLED to be a firearms and tool marks examiner.

11 Q. And what is -- you just said a firearm tool mark
12 examiner?

13 A. Firearms and tool marks examiner, which is commonly
14 often referred to on television as a ballistics examiner.
15 We prefer firearms and tool mark examiner. That is an
16 individual who examines firearms-related evidence for court
17 and for criminal cases.

18 Q. And I'm going to need you to speak up because you, you
19 keep kind of going down with your ---

20 A. Move the microphone over just a little bit There you
21 go. All right. So, what kind of training do you get in
22 order to be an examiner?

23 A. The initial training that one goes through as a
24 firearms examiner trainee is an on-the-job training
25 program. I received that training at SLED from 1990 to

D. COLLINS - VOIR DIRE EXAMINATION BY MS. SAMPSON 322

1 1993. It's basically an apprenticeship-type of program.
2 Through that -- during that program, you understand or you
3 come to understand the basics of all types of firearms
4 mechanisms, firearms history, firearms function, the way
5 that firearms mark bullets and cartridge casings that are
6 fired in them, and various other techniques that are
7 related to the scientific study of firearms as it relates
8 to criminal cases.

9 Q. And you said you started this back in 1999. Do you
10 get ---

11 A. 1990.

12 Q. 1990, wow. Sorry about that. Do you continue to have
13 the education, or is that the last time you get trained?

14 A. During the course of my career in firearms and tool
15 marks examinations, which lasted from my period at SLED in
16 1990 when I started training and when I was certified in
17 1993, from then it continued until I left the firearms
18 examiner field in 2018. During the course of that tenure,
19 I received continuing education and training in my field of
20 expertise in the form of specialty schools and training
21 conferences, which I attended as often as possible.

22 Q. All right. So, you used a couple of terms. What is
23 it to be certified?

24 A. Well, certification comes from the agency that hires
25 you. There -- at that time, there was not national

D. COLLINS - VOIR DIRE EXAMINATION BY MS. SAMPSON

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1 certification, and really today there is still no national
2 certification from a, a central entity that truly counts,
3 if you will -- our professional association has a
4 certification process, but we received our certification
5 process through SLED once you've completed training and
6 they release you to do casework on your own, and once you
7 had testified in court as an expert.

8 Q. So, it's fair to say you are SLED certified?

9 A. SLED certification carries over into the industry, so
10 yes.

11 Q. And you mentioned your field of expertise. What do
12 you mean by that?

13 A. Field of expertise being as a firearms tool mark
14 examiner, the ability to examine firearms and
15 firearms-related evidence as it pertains to criminal cases
16 for the purposes of obtaining results for court. And also
17 we examine what is basically called tool marks, which is in
18 addition to the firearms-related aspect, which can be any
19 mark left by any tool on any surface that we can
20 potentially use to identify a tool to a surface. For
21 instance, a pair of wire cutters to a -- some wires or
22 something like that.

23 Q. And have you ever been qualified as an expert in
24 court?

25 A. Yes. I've testified in the circuit courts of South

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1 Carolina in excess of 200 times as an expert witness on
2 firearms-related cases. I've also testified as an expert
3 witness in federal court, military court system, and in the
4 state courts of Georgia and North Carolina.

5 Q. And what were you qualified as an expert in?

6 A. Firearms and tool marks identification.

7 Q. And do you do training? Do you train others, or have
8 you trained others on this?

9 A. I have in the past before I left the laboratory in
10 2018. I have been responsible for the training of several
11 people.

12 MS. SAMPSON: At this time, I'd ask to qualify David
13 Collins as an expert in the field of firearm and tool marks
14 examination.

15 MR. WILLIAMS: No objection, Your Honor.

16 THE COURT: All right, ladies and gentlemen, as I told
17 you yesterday, normally a person is not allowed to give
18 their opinion. Normally a witness has to testify to what
19 they saw, they heard, they did, they touch, they sense by
20 smell, something of that nature. However, there is an
21 exceptions under our rules when someone is qualified
22 because of their education or their experience. Then that
23 person is permitted to give their opinion in certain areas
24 if I qualify them in that way.

25 So, this witness, Mr. Collins, will be qualified as an

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1 expert in the area of firearms and tool marks examination.
2 He will be allowed to give opinion testimony in that area.
3 That doesn't mean that you have to accept his opinion, but
4 it's evidence for you to use in any way that you see fit,
5 and you give it the weight and the credibility that you
6 believe is appropriate, as you are required to do with each
7 and every witness that appears before you.

8 MS. SAMPSON: Thank you, Your Honor.

9 THE COURT: Yes, ma'am.

10 DIRECT EXAMINATION BY MS. SAMPSON:

11 Q. So, Mr. Collins, can you tell jury what is a tool
12 mark?

13 A. A tool mark is any mark that is left by a hard tool or
14 hard surface on a softer surface. How that relates to
15 firearms is that the bullets and cartridge cases that are
16 fired in firearms are typically softer than the steel, the
17 steel material of the firearm itself, and so when they are
18 fired in that gun, the surfaces of that firearm can leave a
19 mark on those items that is unique to that particular
20 firearm. And I can explain further as to why that...

21 Q. Can you tell the jury why it is unique?

22 A. During the manufacturing processes, there are various
23 machining and other types of industrial processes that go
24 on to produce the various parts of the firearm, including
25 the inside of the barrel. When the firearm is fired and

1 when it's cleaned and used, over time additional
2 microscopic defects may be added to the firearm. Those
3 defects are transferred onto the surface of a bullet or a
4 cartridge case that is fired in the firearm in many cases.
5 And those transferred marks, we can compare those
6 microscopically with each other and with test-fired
7 cartridge cases that we know we fired from the firearm and
8 bullets that we fired from the firearm and try to find
9 where those markings match to a sufficient degree to render
10 what we call an identification, which means that it is our
11 expert opinion that that item had been fired in that gun.

12 Sometimes that is possible; sometimes it is not
13 possible. In many cases, we don't have a firearm
14 submitted. We will compare the items with each other to
15 simply determine if they have a common origin, if they were
16 all fired in the same gun even if we don't have the gun
17 available.

18 Q. And did you do this, what you're talking about,
19 examining firearms and tool, and tool -- looking for tool
20 marks, were you doing that back in February of 2017?

21 A. Yes.

22 Q. And you said you left Richland County when? I'm
23 sorry.

24 A. Well, I left, I left the forensics laboratory in July
25 of 2018 and then transferred to the training division to be

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1 a firearms instructor and general instructor there.

2 Q. So, let's just use the year of 2017.

3 A. Yes.

4 Q. What was your job at that point?

5 A. I was a firearms and tool marks examiner in the
6 forensics laboratory at Richland County Sheriff's
7 Department.

8 Q. So, how would someone give you evidence?

9 A. Evidence would be retrieved by me from the evidence
10 room. I would go downstairs and retrieve the evidence from
11 the evidence custodian.

12 Q. And would you retrieve that, that item if it was open?
13 Would you take it?

14 A. No.

15 Q. What would you do if it were open?

16 A. I not accept it. I would, I would -- at that point in
17 time, you need to find out -- you need to establish how it
18 came to be opened and why it was not -- opened.

19 Q. And did you do any examination for this case?

20 A. Yes, I did.

21 Q. And do you remember everything you did with this case?
22 Like, every piece of information?

23 A. I have a case jacket that i use to refresh my memory.
24 I don't -- from, what, four years ago now, I don't remember
25 exactly everything ---

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1 Q. Do you have your case jacket ---

2 A. I do indeed.

3 Q. --- with you? Okay. I just was going to give you
4 your case jacket ---

5 A. Okay.

6 Q. --- if you didn't. So, I want to talk to you about
7 this particular case.

8 A. Yes.

9 Q. What did you receive?

10 A. I received a Smith and Wesson model .57 revolver,
11 chambered in .41 Remington ammunition. The serial number
12 of that firearm was N, as in November, 6335782.

13 Q. And I want to stop you with that one item. We'll
14 start -- we'll do one at a time. I'm going to show you
15 what's been marked as State's Exhibit 81 and ask if you
16 recognize it.

17 THE COURT: Mr. Collins, would you ensure that that
18 gun is secure ---

19 WITNESS: I will be happy ---

20 THE COURT: --- for me, please?

21 WITNESS: --- to, Your Honor. It is secure. It's
22 unloaded and it is secure with a zip tie.

23 THE COURT: Thank you.

24 BY MS. SAMPSON:

25 A. Yes, this is the firearm that I examined in this case.

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1 It bears markings I placed on it in the laboratory so that
2 I could identify it.

3 Q. So, has it been changed in any way since you examined
4 it?

5 A. During the course of the examination of this firearm,
6 the grips were removed and I had -- they are back in place
7 now.

8 MS. SAMPSON: At this time, Your Honor, I'd ask to
9 introduce State's Exhibit Number 81 into evidence.

10 MR. WILLIAMS: Without objection, Your Honor.

11 THE COURT: All right, without objection.

12 (.40 MILLIMETER GUN MARKED INTO EVIDENCE AS STATE'S
13 EXHIBIT NUMBER 81.)

14 BY MS. SAMPSON:

15 Q. So, this is the firearm that you examined?

16 A. It is.

17 Q. I want to put all the evidence in first, and then
18 we'll talk about the examination. Can you tell the jury
19 about the next item you received?

20 A. There were -- there was a box containing fifty unfired
21 .40 Smith and Wesson caliber cartridges.

22 Q. I'm going to show you what's been marked State's
23 Exhibit Number 83 and ask if you recognize that.

24 A. Yes, this is the ammunition that I examined.

25 Q. Has it been changed in the way?

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1 A. No, it has not.

2 Q. And how do you know that that's what you examined?

3 A. The cartridge -- cartridges and the box bear my
4 markings.

5 MS. SAMPSON: At this time ---

6 Q. Has it been changed in any way?

7 A. No.

8 MS. SAMPSON: At this time, Your Honor, I'd ask to
9 introduce State's Exhibit Number 83 into evidence.

10 MR. WILLIAMS: No objection, Your Honor.

11 THE COURT: Without objection.

12 (BOX OF CARTRIDGES MARKED INTO EVIDENCE AS STATE'S
13 EXHIBIT NUMBER 83.)

14 BY MS. SAMPSON:

15 Q. What is the next thing you received?

16 A. Twenty-five unfired .41 Remington caliber cartridges
17 which were received in a Crimson Trace site box. There was
18 instruments -- sorry, documentation and site installation
19 and adjustment tools inside the box.

20 Q. What's a site installation or adjustment tool?

21 A. There are some -- some tools or some sites but -- that
22 are designed to be installed on firearms or siting systems
23 may have required a specialized tool installation and
24 adjustment, and those were included in the box. I am under
25 the, the understanding that those tools would have been

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1 there for the site that was originally packeted in that
2 box, although the site was not in the box.

3 Q. Now I'm going to show you what's been marked as
4 State's Exhibit Number 86 and ask if you recognize that.

5 A. Yes, this box bears my markings that I placed on it so
6 that I can identify it later.

7 Q. Has it been changed in any way?

8 A. No.

9 MS. SAMPSON: At this time, Your Honor, I'd ask ---

10 Q. And how do you recognize that it's the one that you
11 had?

12 A. There are mark -- the -- on the, on the end panel
13 here, the, the case -- our case number, Richland County
14 case number, the item number that we assign it in the
15 laboratory or in evidence, and my initials were placed on
16 the box.

17 MS. SAMPSON: At this time, Your Honor, we -- state
18 would ask to introduce State's Exhibit 86 into evidence.

19 MR. WILLIAMS: Without objection, Your Honor.

20 THE COURT: Without objection.

21 (BOX OF CARTRIDGES MARKED INTO EVIDENCE AS STATE'S
22 EXHIBIT NUMBER 86.)

23 BY MS. SAMPSON:

24 Q. And then -- so, you list some items that are cartridge
25 casings.

1 A. Yes.

2 Q. Can you explain to the jury what a cartridge case is
3 versus a bullet?

4 A. A cartridge case is a fired -- in this case a fired
5 cartridge case that is the empty portion of the cartridge
6 after it had been fired as opposed to a cartridge, which
7 would be an unfired unit of ammunition. A cartridge is
8 what some people refer to as a bullet. They say they're
9 going to go to the store and buy a box up bullets for their
10 firearm when, in fact, they're going to buy a box of
11 cartridges.

12 The cartridge case is what is left after the firing
13 process. In the case of a semiautomatic firearm, it will
14 be ejected from the gun when it's fired, or in the case of
15 a revolver, it may be found inside the gun or at the scene
16 of the incident, depending on the incident.

17 Q. Okay, I'm going ---

18 A. So, a fired cartridge case is essentially a waste
19 product after fire.

20 Q. I'm going to ask you what's been marked as State's
21 Exhibit 82, 84, and 85. So, starting with 82, what is 82?

22 A. Test specimens. This is a total of twelve fired
23 cartridge cases. The container bears my initials and
24 markings that I placed on it in the laboratory so that I
25 can identify it later. I see markings on these, which if I

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1 had my magnifying glass I could probably read, but at
2 fifty-eight years old, I'm not quite what I used to be. I
3 also scribe or mark these cartridge cases with a scribe in
4 the laboratory so that I can also identify them later under
5 magnification if required.

6 Q. So ---

7 A. But these ---

8 Q. --- other than the markings you just said you put on
9 it, the scribe, anything different about those than when
10 you received them?

11 A. No. They're -- they are in the same condition I
12 received them.

13 Q. And how do you know those are what you received? I
14 think ---

15 A. I put ---

16 Q. --- you might have said this.

17 A. The -- my -- I marked the container and I list on the
18 container the item, the item numbers that we assign in the
19 -- in the department, and the case number, and my initials.

20 MS. SAMPSON: At this time, I'd ask to introduce
21 State's Exhibit -- can I take it back -- 82. Yes, 82 into
22 evidence.

23 MR. WILLIAMS: Without objection, Your Honor.

24 THE COURT: Without objection.

25 (SPENT CARTRIDGES MARKED INTO EVIDENCE AS STATE'S

1 EXHIBIT NUMBER 82.)

2 BY MS. SAMPSON:

3 Q. And I'm going to give you 84 and 85. What is 84?

4 A. 84 is a package containing three sets of fired bullets
5 and cartridge cases, and 85 is one disassembled fired
6 cartridge, fired cartridge. The purpose of these is in
7 many cases, when we need to do so, we will fire ammunition
8 that was submitted with the firearm to obtain those test
9 standards that we can use for microscopic comparison. In
10 this case, we fired three of the cartridges that were
11 initially in the Crimson Trace box, so these ---

12 Q. In State's Exhibit 86?

13 A. Yes. We also disassembled one to examine its -- or I
14 disassembled one to examine its components so that I could
15 compare its components visually with those that were found
16 at the scene. So, these items are not in the -- these
17 total of actually four cartridges are not in the initial
18 same condition that they were before.

19 Q. So, you changed them, though?

20 A. Yes, I did.

21 Q. So, before you did anything to them, they were the
22 same as what it's in ---

23 A. That is correct.

24 Q. --- 86?

25 A. That is correct.

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1 Q. And when you received them, were they in the same
2 condition before you messed with them as the rest of them?

3 A. Yes, they were.

4 Q. Did you do anything when you took them out of the box
5 prior to you doing all of this to change them in any way?

6 A. No, I did not.

7 MS. SAMPSON: At this time, Your Honor, I'd ask to
8 introduce State's Exhibit Number 84 and 85 into evidence.

9 MR. WILLIAMS: Without objection, Your Honor.

10 THE COURT: 84, 85 without objection.

11 MS. SAMPSON: Thank you, Your Honor.

12 (TEST SPECIMENS MARKED INTO EVIDENCE AS STATE'S
13 EXHIBIT NUMBER 84.)

14 (DISASSEMBLED ROUNDS MARKED INTO EVIDENCE AS STATE'S
15 EXHIBIT NUMBER 85.)

16 BY MS. SAMPSON:

17 Q. Now that we've talked about all the evidence, let's
18 start with the gun. So, State's Exhibit 81, when you
19 received this gun, what did you first do?

20 A. And first thing I do when I receive any type of
21 firearm is I take notes, do -- perform a general
22 examination, visual examination of it. I take notes as to
23 its condition, its make, its model, its caliber, serial
24 number, any damage or defects that may be noted on the
25 firearm, or any other information. I take notes as to

1 whether it's loaded, and typically just a visual
2 examination. After I perform that, then I'll move into the
3 test firing process.

4 Q. So, let's talk about this particular gun. Was there
5 any defects with the gun?

6 A. I don't have any defects were recorded in my notes
7 regarding this firearm.

8 Q. And were you able to fire it?

9 A. Yes.

10 Q. It worked properly?

11 A. Yes, it did.

12 Q. Okay. Can you talk to the jury a little bit? We've
13 heard some things about firing a gun. What happens when --
14 with -- as far as gunpowder when a gun is fired?

15 A. When you fire any type of firearm, the gunpowder
16 that's in the cartridge is consumed. It's burned, and that
17 car -- that powder converts into a gas form. Some of it is
18 unburned and still stays solid, and it is projected out
19 from the firearm.

20 In the case of a revolver, those gases mostly go out
21 of the barrel of the firearm. Some will escape from the
22 space in front of the cylinder. Between the cylinder and
23 the barrel, that's not a tight fit there, so there will be
24 some that will escape there, and there may actually be some
25 that comes out of the rear of the cylinder. Those gases

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1 will come out of the barrel of the firearm and may be
2 deposited on the shooter's hands or some area around there.

3 Q. Is it fair to say that some guns give off more
4 gunpowder when shot than others?

5 A. Yes.

6 Q. What -- how about this gun?

7 A. I would not -- that is -- I would not be able to
8 specifically articulate how much gunpowder or gunshot
9 residue this gun would deposit. The -- this is a .41
10 Magnum revolver, and so that indicates that the cartridges
11 are loaded with a fairly substantial amount of gunpowder in
12 them. So, it stands to reason that there would be a fair
13 amount of, of ejected or gunshot residue coming from the
14 gun.

15 Q. So if I'm understanding you, the size of the bullet,
16 the size of the cylinder, all that matters when it comes to
17 how much gunpowder comes out?

18 A. Well, there's a, there's a certain amount of gunpowder
19 in the cartridge when it starts. The gunpowder is the fuel
20 for the firing process, and so when that gunpowder is
21 ignited, if there's a lot of it, then there's going to be a
22 relatively -- compared to others with less gunpowder in
23 there -- there's going to be more gunshot residue coming
24 from the gun.

25 Q. So, I want to move on to the, the .40 caliber

1 cartridges. Could this gun fire .40 caliber cartridges?

2 A. No.

3 Q. Okay. So, you couldn't put the .40s that we have here
4 into this gun and fire them?

5 A. That is not the intent of those cartridges, no.

6 Q. And what about the fired .41s that you have?

7 A. Yes.

8 Q. Could they go in this gun?

9 A. They are the correct caliber for use in that firearm.

10 Q. Okay, and you did get twenty-five unfired rounds,
11 correct, the ones in State's Exhibit 86?

12 A. Yes, twenty-five initially. Now, there are twenty-one
13 in State's Exhibit...

14 Q. 86.

15 A. 86. The other four were disassembled or fired during
16 testing.

17 Q. So if I'm understanding you correctly, State's Exhibit
18 83 has a caliber of bullets that cannot be used in this
19 gun, correct?

20 A. That's correct.

21 Q. But State's Exhibit 86 has a caliber of bullets that
22 can be used in this particular gun?

23 A. That's correct. They're intended for use in that, in
24 that caliber of firearm.

25 Q. And, in fact, did you take cartridges out of State's

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1 Exhibit 86 and use them in this gun?

2 A. Three of them, yes.

3 Q. And tell the jury what you did and how know you did
4 that.

5 A. During the course of this examination, we tested the
6 firearm using those cartridges and also some cartridges
7 from the laboratory stock of ammunition, and the firearm
8 was fired into a bullet recovery tank which we have at the
9 laboratory. The purpose of that tank is for us to be able
10 to retrieve fired bullets and fired cartridge cases that we
11 can use for comparison in the microscope -- under the
12 microscope in the laboratory. The water slows the
13 projectiles down in such a way to minimize the amount of
14 damage that they may have sustained so that we can have
15 something viable to look at under the microscope.

16 And during the course of this examination, I did fire
17 a total of three from the submitted ammunition and a total
18 of three from the laboratory stockpile.

19 Q. So, the gun was able to be used?

20 A. Yes.

21 Q. And it was able to fire the bullets that you had been
22 given?

23 A. Yes. It worked. It worked as designed.

24 Q. And were you given any, any projectiles or anything to
25 look at?

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1 A. I was.

2 Q. And did I give those to you already?

3 A. No, you did not.

4 Q. Okay. Well, can you tell the jury what you received
5 while ---

6 A. I received ---

7 Q. --- I try to find it?

8 A. --- one fired bullet fragment, one fired bullet
9 jacket, and one fired bullet core fragment.

10 Q. And I'm going to show you what's been marked as
11 State's Exhibit number 68 and see if you recognize that.

12 A. May I open the package?

13 Q. Yes, sorry. If there some scissors.

14 A. Yes. These are the three projectile fragments that I
15 examined in this case. The, the packages bear my markings
16 that I placed on them so that I could identify them later.
17 They all bear the correct number.

18 Q. Have they been changed in any way since you received
19 them other than things that you have done to them?

20 A. No.

21 MS. SAMPSON: At this time, Your Honor, I'd ask to
22 introduce State's Exhibit Number 68 into evidence.

23 MR. WILLIAMS: If I could have a quick powwow with the
24 solicitor?

25 THE COURT: Yes, sir.

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1 (COUNSELORS CONFER.)

2 MR. WILLIAMS: I'm good, Your Honor. No objection.

3 THE COURT: Wonderful. Thank you. State's 68 without
4 objection.

5 (METAL FRAGMENTS MARKED INTO EVIDENCE AS STATE'S
6 EXHIBIT NUMBER 68.)

7 BY MS. SAMPSON:

8 Q. So, can you tell this jury what you did with these
9 fragments when you received them?

10 A. Again, the first thing that we do when we receive
11 evidence of any type of danger is we take a visual -- make
12 a visual examination of it, and we take notes as to its
13 condition received a separate also take any measurement as
14 that. In the case of projectiles, we will also take any
15 measurements that we can of their diameter if possible, and
16 we'll take measurements of rifling impressions that are on
17 them so that we can try to identify what type of firearm
18 may have fired them.

19 In this particular case, we were able to examine these
20 all visually and to make the -- take weights of them to see
21 how much they weighed and to make microscopic examinations.

22 Q. And so we'll start with the fired, the fired bullet
23 fragment that you have.

24 A. Yes.

25 Q. Which you have listed as item 29. Were you able to be

1 -- able to tell this jury if that bullet was fired from
2 that gun?

3 A. I was unable to do so.

4 Q. And why? Why were you unable to do so?

5 A. A lead projectile fragment, lead is a soft metal and
6 gets damaged very easily during the firing process and
7 during impact with whatever it strikes. And as a result of
8 the damage sustained by this projectile, I was unable to
9 find sufficient markings to be able to identify whether or
10 not it was fired by this particular firearm.

11 Q. Is that usual for you not to be able to do that?

12 A. Not at all.

13 Q. Were you able to determine whether it was consistent
14 with bullets found in ammunition used in a revolver?

15 A. Yes. Their markings on it are consistent with the
16 manufacturing markings and the markings left by the
17 rifling, the spiraling grooves inside the barrel. All
18 those markings were consistent with what we normally find
19 with projectiles that are made to be used in revolvers.

20 Q. So, if I'm understanding what you're say correctly,
21 you can't say that it came from that gun, but you can say
22 that it could be used with a revolver?

23 A. It could have been fired from a revolver, yes.

24 Q. What about item 30? What can you tell the jury about
25 that?

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1 A. Item 30 was a -- I examined item 30 and determined
2 that it was a silver in color bullet jacket. That is the
3 outer covering that goes over a lead core bullet. It was
4 damaged. It was distorted, but based on its color and
5 other design features, was able to determine that it is
6 consistent with a Winchester brand silver-tip, jacketed,
7 hollow-point bullet jacket. It's a fairly distinctive
8 manufacturer, and the -- based on the dimensions of the
9 rifling grooves on that barrel -- let me start -- project
10 -- impressed on that bullet, I was able to determine that
11 it was most consistent with having been fired or could have
12 been fired in a Smith and Wesson or Charter Arms brand
13 firearm, and it is -- has the same rifling characteristics
14 as those produced by the firearm submitted, but I was
15 unable to determine if it was by that gun or by a similar
16 firearm.

17 Q. So, and again so I can understand you correctly, that
18 case jacket, you can't say it come -- came from that gun,
19 but it could have been used in a gun like that?

20 A. It could have. It could have been used. It, it could
21 have been fired in this gun or another gun with similar
22 rifling characteristics. Again, it was very badly damaged,
23 and that also hindered my ability to make a positive
24 identification.

25 Q. And then lastly you have item 31, which was a core

1 fragment. What's a core fragment?

2 A. A, a -- many projectiles manufactured for modern
3 rifles and handguns consist of a lead core that is
4 contained in a harder metal jacket. For instance, a copper
5 or brass or sometimes aluminum or steel jacket. That core
6 is a part of the bullet that does not come into contact
7 with the actual rifle barrel -- the rifled barrel of a
8 firearm so that when it strikes an object and that core may
9 become separated from the jacket, it is just a piece of
10 lead that cannot -- does not have any markings on it from
11 the barrel of the firearm. It is the internal part of the
12 structure of the bullet.

13 Q. All right, and we've been talking about revolvers and
14 we've had some testimony about Glock's. Is there a
15 difference between a bullet fired from a revolver and a
16 bullet, say, fired from a shotgun?

17 A. Well, there are some differences structurally between
18 what you would find fired from a handgun versus what you
19 would find fired from most shotguns, although some shotgun
20 projectiles today do look like very large pistol
21 projectiles.

22 The bullets fired from a semiautomatic firearm or a
23 revolver will -- can structurally be very similar or
24 identical to each other, but it's only in looking
25 microscopically at the markings left by the rifling on the

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1 projectile and how they are formed that may give you an
2 indication as to what type of firearm they were fired by,
3 revolver versus ---

4 Q. You're doing it again. You're mumbling.

5 A. I'm sorry.

6 Q. That's okay.

7 A. The markings left on the firearm -- on the projectile,
8 excuse me, by the firing process, the way those are formed
9 can give us an idea as to whether or not they were fired by
10 a semiautomatic versus a revolver. When a projectile is
11 fired from a revolver, there is a -- what we call a jump or
12 distance that the bullet has to travel after it leaves the
13 cartridge case until it encounters the rifling. When it
14 does that, it actually will resist being caused to turn in
15 the barrel and leaves what we call -- basically, it looks
16 like a skid mark on the projectile, and that mark is what
17 we use to differentiate what may have been fired in a
18 semiautomatic versus a revolver.

19 Q. And can you do all that if the, if the bullet is
20 damaged or any of the things like you talked about with
21 these particular bullets?

22 A. If we have enough indications there, we can sometimes
23 make that determination. It's not always possible.

24 MS. SAMPSON: Beg the court's indulgence.

25 (A PAUSE.)

1 BY MS. SAMPSON:

2 Q. And just to be clear, the fired cartridge casings that
3 you had could have been fired from the revolver, but you
4 can't say for sure?

5 A. I'm sorry, fired cartridge casings?

6 Q. The, the .41 Remington Magnum ---

7 A. The .41 Remington ---

8 Q. --- cartridge casings?

9 A. --- cartridge cases found -- there, there were twelve
10 of them -- were fired by this gun.

11 Q. And how do you know how ---

12 A. It's the -- this ---

13 Q. How do you know that those cartridge casings were
14 fired from that gun?

15 A. The -- during the microscopic comparison of the actual
16 fired cartridge cases, the twelve brass cartridge cases, we
17 determined or I determined that there was a defect left by
18 the firing pin on the primer of the cartridge case that was
19 unique to this particular firearm. By comparing these
20 fired cartridge cases with test-fired cartridge cases that
21 I fired from the gun in the laboratory -- it's a very
22 unique defect that was actually stamped or impressed into
23 the primer.

24 Q. And is there any way for you to tell when the gun
25 fired those cartridge casings?

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1 A. No.

2 Q. Ever? Is there ever any way to tell us that?

3 A. No. There, there, there really is no way to tell at
4 what time they were fired.

5 Q. So, no matter how much testing you did, you could
6 never tell us?

7 A. No.

8 Q. But you can tell us those twelve, those cartridge
9 casings came from that gun?

10 A. Yes.

11 MS. SAMPSON: No further questions, Your Honor.

12 Thank you, Mr. Collins.

13 MR. WILLIAMS: May it please the court, and I'll be
14 short.

15 CROSS-EXAMINATION BY MR. WILLIAMS:

16 Q. Can I see your report a half a second, sir? Thank
17 you.

18 (A PAUSE.)

19 Q. I'm going to kind of dumb it down and kind of be
20 basic. From what I understand your testimony to be, the
21 twelve cartridges which were found with the revolver that
22 had been fired, you were able to, you were able to affirm
23 that those particular cartridges had been fired from the
24 revolver because there was a marking that the revolver left
25 on those cartridges?

1 A. On those cartridge cases, yes, sir.

2 Q. And from the particles that you found -- well, you
3 didn't find them, but from those items that were handed to
4 you that were from a different location where some sort of
5 item had been fired, you were not able to say that those
6 items came from the revolver which you tested?

7 A. I was unable to determine, to determine if they were
8 fired by that gun or not, no, sir.

9 Q. And the only thing that you could determine was that
10 they came from a revolver, right?

11 A. They were consistent in one case with projectiles that
12 could have been fired from a revolver. On the rest of
13 them, I was unable to actually make that determination.

14 Q. So, that actually could have come from a Glock?

15 A. Based on the rifling characteristics on the silver,
16 the silver-tip jacket that I recovered, that was not
17 consistent with -- well, excuse me. Let me back up.

18 That jacket fragment theoretically could have
19 originated from a caliber of ammunition similar to what
20 could be fired in a Glock. I was not able to determine if
21 it had markings consistent with a revolver or a
22 semiautomatic firearm.

23 Q. Okay. So, at least one of the particles that you
24 found could have been fired from a revolver and/or a Glock?

25 A. One of the -- the jacket which is my item 30.

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1 Q. Okay.

2 A. Is a silver tip -- consistent with being a silver-tip
3 firearm and -- I mean, a silver -- Winchester silver-tip,
4 jacketed, hollow-point, projectile jacket, and I was unable
5 to determine if it was fired by a revolver or a
6 semiautomatic. Semiautomatic pistols are present on my
7 list of possible firearms that could have fired it. Those
8 would have, those would have been either a -- they were
9 consistent with a Smith and Wesson or Charter Arms brand
10 firearms.

11 Q. Do you have any idea how many Charter Arms firearms or
12 Smith and Wesson firearms exist in the Columbia area?

13 A. Oh, I have no idea of determining, that, sir.

14 Q. Okay. Now, when you were describing the differences
15 between revolvers and Glocks, you said the Glock will eject
16 the, the cartridge, whereas with the revolver, it will
17 normally remain in the, in the cylinder until you do
18 something to make it leave?

19 A. That's correct. A properly functioning Glock, which
20 is a semiautomatic firearm, each time it is fired will
21 eject a fired cartridge cases at -- cartridge case at the
22 point of firing. A revolver when it is fired will retain
23 the fired cartridge cases within it until it is opened up
24 by the shooter or someone else and those are removed from
25 the firearm, and that can happen at, at the location or at

1 a different location.

2 Q. So, if someone were firing a Glock and wherever they
3 were firing the Glock, if it was at night and in a yard,
4 then the cartridges would be in the yard, would they not?

5 A. Unless they were disturbed or otherwise picked up
6 prior, yes.

7 Q. And in terms of a revolver, they would remain with the
8 revolver until whoever would -- had, had control of that
9 revolver did something with those cartridges?

10 A. That is correct.

11 Q. And again, you can't say that those twelve spent
12 cartridges were used on any violation that we're trying
13 today other than the fact that they have been -- this is
14 not a violation. That they were actually fired from that
15 revolver?

16 A. That is, that is all that I can do is say they were
17 fired in that gun.

18 Q. And you can't say when they were fired from that gun?

19 A. No, I cannot.

20 Q. You can't even give a range on how long it was?

21 A. No, I cannot.

22 Q. One other thing. There is an examination that was
23 done aside from your firearms examination where residue may
24 have been tested. That is a different area of your
25 expertise. Is that correct?

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1 A. It's not really my expertise, sir. That would be a
2 trace chemist or trace analyst from SLED that would handle
3 that kind of evidence.

4 Q. They deal with much smaller things?

5 A. Yes, the stuff that's microscopic.

6 Q. You have no idea -- well, you don't have any idea
7 because you're not qualified, I guess, to know what all is
8 inside the cartridge in terms of elements?

9 A. I have an idea from my training and experience, but I
10 am not a -- I'm not going to be able to testify to that.

11 MR. WILLIAMS: Thank you, sir.

12 WITNESS: Yes, sir.

13 MS. SAMPSON: No redirect, Your Honor.

14 THE COURT: Have a good day.

15 WITNESS: Yes, sir.

16 (THE WITNESS EXITS THE STAND.)

17 THE COURT: Call your next witness.

18 MR. GIPSON: State calls Nicole Hardin.

19 NICOLE HARDIN, BEING DULY SWORN,

20 TESTIFIES AS FOLLOWS:

21 CLERK: Please have a seat in the witness stand and
22 state your full name for the record.

23 WITNESS: Nicole Hardin, H-a-r-d-i-n.

24 MR. GIPSON: Thank you, Your Honor.

25 VOIR DIRE EXAMINATION BY MR. GIPSON:

1 Q. It's still morning. Good morning, Ms. Hardin.

2 A. Good morning.

3 Q. Who are you employed by?

4 A. The South Carolina Law Enforcement Division.

5 Q. And how long have you been with SLED?

6 A. I have been there three years.

7 Q. And can you us tell just a little bit -- well, what's
8 your title with them right now?

9 A. I am a forensic scientist in the Trace Evidence
10 Department.

11 Q. And can you just a little -- tell us what that is, and
12 then I'll have a few more questions for you.

13 A. Trace evidence is evidence that is very hard to see or
14 unable to be seen with the naked eye. At SLED, that
15 includes things such as fire debris, arson, paint, glass,
16 MAAQ, which is bank dye, as well as gunshot residue.

17 Q. Now, tell us a little bit about your education.

18 A. I have a bachelor of science degree in chemistry with
19 a concentration in forensic science from Methodist
20 University, and then upon beginning at SLED, I began a year
21 and a half long training program that consisted of written,
22 practical, and oral examinations, all of which I had to
23 pass. Those covered all aspects of my duties, such as
24 inventorying GSR kits, preparing them for analysis, using
25 the scanning electron microscope, and issuing reports of my

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1 findings. I also had a competency exam where I had to
2 collect -- correctly report my findings, and then I also
3 had a mock court.

4 Q. And have you been qualified before as an expert in
5 trace evidence?

6 A. I have.

7 MR. GIPSON: And I'd like to offer Ms. Hardin as an
8 expert in trace evidence.

9 MR. WILLIAMS: Without objection, Your Honor.

10 THE COURT: All right, ladies and gentlemen, as I've
11 told you before, normally a person can't give their
12 opinion. An exception under the rule is when they're
13 qualified by education or experience, and I qualify -- and
14 I find and qualify them in that way. So, Ms. Hardin will
15 be qualified as an expert in the area of trace evidence.

16 Is that correct?

17 WITNESS: More specifically gunshot residue.

18 THE COURT: Gunshot residue, okay. She'll be
19 qualified as an expert in the area of gunshot residue.
20 She'll be allowed to give opinion testimony in that area.
21 That does not mean that you have to accept her opinion, but
22 it's evidence for you to use in any way that you see fit.
23 You give it the weight and credibility that you believe is
24 appropriate, as you are required to do with each and every
25 witness that appears before you.

1 MR. GIPSON: Thank you, Your Honor.

2 THE COURT: Thank you.

3 DIRECT EXAMINATION BY MR. GIPSON:

4 Q. So, Ms. Hardin, if you'll explain to the jury what
5 gunshot residue is, please?

6 A. Gunshot residue is the mixture of chemicals that comes
7 out of a gun when it is discharged. This mixture comes
8 from the hammer, the propellant, and the projectile. What
9 we're specifically looking for are -- comes from the primer
10 portion and are microscopic, molten particles containing
11 the elements lead, barium, and antimony.

12 Q. And you used a couple of terms of art. So, could you
13 tell us or explain to us what primer is first?

14 A. Yes. In a cartridge case -- so, ammunition -- at the
15 very bottom, there is a primer cap, and inside are shock
16 sensitive chemicals. In this case lead, barium, and
17 antimony.

18 Q. Okay, and you mentioned another term, propellant.
19 What is a propellant?

20 A. Propellant is also in the cartridge case and is the
21 gunpowder.

22 Q. And lastly projectile. Could you explain to the jury
23 what a projectile is?

24 A. Yes, sir. That is the bullet, the part that is
25 discharged towards the target.

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1 Q. All right. Now, you mentioned these three chemicals.
2 I think you said lead, barium, and antimony?

3 A. Yes, sir.

4 Q. And those are required for something to be called
5 gunshot residue?

6 A. Yes, sir.

7 Q. All right.

8 A. All three of those elements.

9 Q. All right three, and so if all three of those elements
10 are not included, then it is not gunshot residue?

11 A. Correct.

12 Q. All right. So, for instance, if there are two of the
13 three of those components -- let's say it's lead and
14 antimony that are found -- is that gunshot residue?

15 A. That is not.

16 Q. Do you have a term that you use to explain that if
17 there are two of the three elements that are found?

18 A. We call that consistent.

19 Q. Okay.

20 A. A consistent particle.

21 Q. And if one of those three is found, then what would
22 you call that?

23 A. An associated particle.

24 Q. All right. So, gunshot residue requires the three
25 particles -- excuse me, the three elements that we talked

1 about, lead, antimony, and barium?

2 A. Yes, sir.

3 Q. Okay. Then if, if you don't have all three, then the
4 lesser ways of looking at it are consistent with and
5 associated with?

6 A. Yes, sir.

7 Q. Am I saying that correctly? All right. Now, how is
8 it, just based on your expertise, that a person would come
9 in contact with gunshot residue?

10 A. You can have gunshot residue on you from three things:
11 either discharging a firearm; being in the vicinity to the
12 discharge of a firearm; or coming into contact with a
13 surface that has gunshot residue on it.

14 Q. And if you wanted to determine if a person had come
15 into contact with gunshot residue, how would you do that?

16 A. We would use -- excuse me -- a GSR kit would be
17 collected off of that person's hands.

18 Q. And can you tell us how a GSR kit works generally?
19 We've talked a little bit about this with other witness,
20 but just tell us generally how that works.

21 A. Yes, sir. There is a GSR kit that the officer or
22 investigator or crime scene personnel, whoever is at the
23 scene, will have on them, and it is an envelope that has
24 particle lifts, sometimes called stubs, inside of them.
25 And in this case, there was four: right palm, right back,

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1 left palm, and left back, all referring to different areas
2 of your hand. When the officer goes to collect the GSR kit
3 off of the subject's hands, they will put on the gloves
4 that are in the kit as well, fill out an information sheet:
5 the time of the incident, the time that they are collecting
6 this, their name, who they are collecting from. And they
7 will take the particle lifts and dab them repeatedly on
8 that -- the specific labeled area of the person's hand.
9 After that, they will cap it and put it back in the GSR
10 kit, and then seal it, and eventually bring it to SLED.

11 Q. And, and when it's eventually brought to SLED, there's
12 a method that you talk about. Would that be considered
13 change of custody, just how they seal it and pass it on and
14 bring it to SLED?

15 A. Yes, sir.

16 Q. Okay. How many GSR kits have you processed roughly?

17 A. Within my training, I -- around 400 particle lifts or
18 samples I have analyzed, and then outside of training on my
19 own, in my own casework around 1000.

20 Q. And then how many cases have you worked on that
21 included gunshot residue?

22 A. Around two, 300.

23 Q. All right. So, if we were to look specifically at
24 this case that we are here on today, I'm going to hand you
25 something that's been marked as State's Exhibits -- well,

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1 I'll start with State's Exhibit Number 79, put that in your
2 hands. Can you take a look at that and tell us if you know
3 what that is?

4 A. This is our item number 2. How I know that is this.
5 Every piece of evidence that is brought in to SLED gets
6 assigned a unique identifying number, and that is the lab
7 number, what this yellow sticker number is. And then the
8 number next to that is the item number. So, this is my
9 case SLED lab number L2001833, item number 2, and then I
10 also see my initials on here from when I handled it, the
11 test that I am performing, and then the date.

12 Q. And you -- can you tell who you received it from?

13 A. I received it from -- I'm referring to my chain of
14 custody. I retrieved it from 338 file 1, drawer 2, which
15 is a secure location that's located in the Trace Evidence
16 Department at SLED.

17 MR. GIPSON: Your Honor, at this point I'd would like
18 to introduce State's Exhibit Number 79 into evidence.

19 MR. WILLIAMS: Without objection, Your Honor.

20 THE COURT: State's 79 admitted without objection.

21 (GSR KIT - FORTSON MARKED INTO EVIDENCE AS STATE'S
22 EXHIBIT NUMBER 79.)

23 BY MR. GIPSON:

24 Q. Now I'm going to hand you a pair of scissors. I'll
25 just place them here ---

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1 A. Thank you.

2 Q. --- when you're ready, and when you're ready, will you
3 open State's 79 tell and us what you see?

4 A. Yes, sir. Inside is the GSR kit from Mandy Fortson,
5 item number 2, SLED lab number L2001833.

6 Q. Okay. All right, and I'm going to -- since you
7 already have that out, let's talk about that for a minute.
8 Did you have an occasion to examine the kit that's in front
9 of you right now, State's Exhibit Number 79 that belonged
10 to Mandy Fortson?

11 A. I did.

12 Q. All right. Can you tell us what it is that you
13 analyzed and what your, and what your findings were?

14 A. Yes, sir. I analyzed this, the particle lifts in this
15 GSR kit, using the scanning electron microscope paired with
16 an x-ray detector. The scanning electron microscope is a
17 very high-powered microscope that instead of a beam of
18 light, it uses an electron beam to allow us to see very
19 tiny things unable to be seen with the naked eye such as
20 gunshot residue. And that is paired with an x-ray detector
21 which allows me to see the elemental composition, to see
22 the elements that are present in the particles. In this
23 case lead, barium, and antimony.

24 And my result for item 2, one GSR kit from Mandy M.
25 Fortson, was one particle characteristic of gunshot primer

1 residue was found. In general, particles characteristic of
2 gunshot primer residue are microscopic, molten particles
3 that contain the elements lead, barium, and antimony.
4 Gunshot primer residue can come from discharging a firearm,
5 being in the vicinity to the discharge of a firearm, or
6 coming into contact with a surface that has gunshot primer
7 residue on it.

8 Q. And so to summarize that, you found a particle of
9 gunshot residue on Mandy -- from Mandy Fortson's lifts?

10 A. Yes, sir.

11 Q. Okay. Where was that particle found?

12 A. It was found on the right back particle lift. So,
13 that would be the right back of her hand.

14 Q. All right. So, you found gunpowder on her hand is
15 basically what we're saying?

16 A. Gunshot residue.

17 Q. Gunshot residue.

18 A. Yes, sir.

19 Q. Thank you. All right, and again, that can come from
20 firing a gun, correct?

21 A. That is one of the possibilities.

22 Q. All right. Now, let's move on. I'm going to hand to
23 you, if I could, State's Exhibit Number 80. In a similar
24 process, can you take a look at that and tell us what it
25 is?

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1 A. Yes, sir. This is again SLED number L2001833. This
2 one is item number 1, and it also has the analysis that I
3 performed, the date, and my initials.

4 Q. And do you recognize that as -- and who did you
5 receive it from? I apologize.

6 A. I received it from 338, file 1, drawer 2.

7 Q. Okay.

8 MR. GIPSON: And at this point, like to introduce
9 State's Number 80.

10 MR. WILLIAMS: No objection, Your Honor.

11 THE COURT: Without objection.

12 (GSR KIT - JONES MARKED INTO EVIDENCE AS STATE'S
13 EXHIBIT NUMBER 80.)

14 BY MR. GIPSON:

15 Q. All right, will you open that one, too, please?

16 A. Yes, sir.

17 Q. And tell us what's inside.

18 A. Inside is the GSR kit, item number 1, and it is
19 collected from Antonio Jones.

20 Q. And did you analysis that as well?

21 A. I did.

22 Q. Tell us about that, please.

23 A. I analyzed it the same way that I analyzed the other
24 one, using the scanning electron microscope paired with the
25 x-ray detector.

1 Q. And did you have a result that you found?

2 A. Yes, sir. My result for item number 1, GSR kit from
3 Antonio Jones, was one particle characteristic of gunshot
4 primer residue was found. In general, particles
5 characteristic of gunshot primer residue are microscopic,
6 molten particles that contain the elements lead, barium,
7 and antimony. Gunshot primer residue can come from being
8 in the vicinity to the discharge of a firearm, to include
9 sustaining a gunshot wound, discharging a firearm, or
10 coming into contact with a surface that has gunshot primer
11 residue on it.

12 It should be noted that the presence or absence of
13 gunshot primer residue on the victim of a gunshot wound
14 cannot determine whether the shooting was the result of a
15 homicide/assault, accident, suicide, or self-defense.

16 Q. And based on your information, how -- what is your
17 opinion as to how Mr. Jones got gunshot residue on him?

18 A. Mr. Jones would have gotten the gunshot residue on him
19 one of these ways: by discharging a firearm, being in the
20 vicinity to the discharge of a firearm, or coming into
21 contact with something that had gunshot residue on it.
22 However, he is a victim, so he had a gunshot wound. And I
23 would expect there to be gunshot residue on someone who has
24 a gunshot wound because they were the target of the bullet,
25 and GSR follows the path of the bullet.

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1 Q. Thank you. Now, once gunshot residue is deposited on
2 somebody's hands, however, however it gets there, how long
3 do you expect to stay on?

4 A. I would expect it to remain there no longer than
5 around four to six hours. Gunshot residue is very fragile.
6 Anything that you do with your hands can remove it. So,
7 things like washing your hands, shaking someone else's
8 hand, running your hands through your hair, if you're
9 sweating, putting your hands in and out of your pockets,
10 all of that can remove -- remove it. At SLED, we have a
11 six hour limit from the incident time to the collection
12 time, the reason being we don't expect there to be -- to
13 find GSR after the six hours.

14 Q. So, if someone washes their hands, is it more likely
15 than not that they will remove all the residue from their
16 hand?

17 A. That is a possibility.

18 Q. In this case, you still found a particle of gunshot
19 residue on Mandy Fortson's hands. Is that correct?

20 A. I found one particle, yes.

21 Q. Now, when it comes to inanimate objects or clothing,
22 things of that nature, explain to us how gunshot residue
23 works on there and how long you'd expect for it to stick
24 around.

25 A. On an inanimate object, gunshot residue will remain

1 there until it is removed.

2 Q. So, if some -- and hypothetically speaking, if
3 somebody were to fire a gun and then go and change clothes,
4 put on a new batch of clothes, would you expect to find
5 gunshot residue on the new batch of clothes?

6 A. There is a possibility that they could have
7 transferred gunshot residue onto the new items of clothing,
8 but I can't say that was a specific thing that happened.

9 Q. Okay.

10 MR. GIPSON: Court's indulgence for a moment, please?

11 THE COURT: Yes, sir.

12 (A PAUSE.)

13 MR. GIPSON: Ms. Hardin, that's all the questions I
14 have for the moment. Please answer any questions that Mr.
15 Williams has. Thank you.

16 MR. WILLIAMS: May it please the court?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION BY MR. WILLIAMS:

19 Q. I'm going to take you in reverse. That's, that's the
20 way cross-examining normally works is whatever we last hear
21 is what we tend to bring back up.

22 The question you were asked by the solicitor dealing
23 with things that are not alive, which is clothing, pens,
24 desk, whatever, that comes into contact with gunshot
25 residue, did I understand you to say that it will remain

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1 there until it is removed?

2 A. Yes, sir.

3 Q. So, gunshot residue can remain on the surface for that
4 *ad nauseam*, until we're all gone, until something is done
5 to it? It doesn't automatically leave because it's not a
6 -- it's not made up of living particles, is it?

7 A. Correct.

8 Q. So, you could conceivably go into somebody's house and
9 there was gunshot residue on a desk, and no one had lived
10 in that house for five years, but it might still be there?

11 A. That's a possibility.

12 Q. Now, let me take you back to what you specifically
13 did. When you examine gunshot residue, you actually tested
14 Ms. Fortson's right palm, right back, left palm, and left
15 back. You remember that on your, on your testing?

16 A. Yes, sir.

17 Q. What were the results of your testing the right palm?

18 A. Of Ms. Fortson?

19 Q. Yes. I'm sorry. Bad question. Ms. Fortson.

20 A. The right palm, I did not find any gunshot residue
21 particles.

22 Q. Her left palm?

23 A. Her left palm, I did not find any gunshot residue
24 particles.

25 Q. Her left back?

1 A. Her left back, I did not find any gunshot particles.

2 Q. Underneath the column where you talk about her right
3 back, you, you put you found one particle gunshot residue.
4 Is that correct?

5 A. Yes, sir.

6 Q. Now, I want to make sure I understand what this one
7 particle stuff means. As I recall you talking about that
8 before you could make a determination that it was called
9 gunshot residue, it had to consist of three elements.

10 A. That is correct

11 Q. And those three elements are what?

12 A. Lead, barium, and antimony.

13 Q. So when you say one particle, are you saying that
14 there was one element?

15 A. No, sir. When I find a particle of GSR, of gunshot
16 primer residue, I cannot call it gunshot residue unless it
17 specifically contains lead, barium, and antimony. So, the
18 one particle that I found on the right back contains lead,
19 barium, and antimony.

20 Q. And what is the writing that you have underneath that:
21 Found. What? On that -- on your particular determination,
22 on the -- I guess it's the right back. You, you wrote: One
23 PGSR. And then you wrote something in parentheses under
24 that. You remember that?

25 A. Can I see what you are ---

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1 Q. Sure.

2 A. --- referring to?

3 Q. Sure.

4 MR. WILLIAMS: May I approach, Your Honor?

5 THE COURT: Of course.

6 BY MR. WILLIAMS:

7 A. Found inconsistent.

8 Q. Found inconsistent?

9 A. Yes, sir.

10 Q. What does that mean?

11 A. So, whenever I load the SEM to perform my analysis, I
12 load all of the particle lifts on to the stage in the
13 scanning electron microscope. I give each of them a unique
14 identifier number and a unique location, and then I set up
15 the instrument to a series of conditions. When I -- I then
16 allow the scanning electronic microscope to perform an
17 automated analysis. This means the instrument will scan
18 the particle lifts, searching for features of interest.
19 When it finds a feature of interest, it will stop scanning.
20 It will take a quick photograph of the particle that it
21 finds. So, what it looks like, it takes a photograph, and
22 then it also takes a quick elemental spectrum to show what
23 elements are present. And then I will manually relocate to
24 the particles of interest that the instrument finds after
25 the automated analysis has been finished.

1 Now, the software that we use to, to do this automated
2 analysis, it will classify particles as it thinks that,
3 that it finds it based on that quick elemental spectrum.
4 So, in the quick elemental spectrum, what you were
5 referencing was my stage layout. I found the particle of
6 gunshot residue in the consistent -- I'm trying to figure
7 out a way to explain it. I'm sorry. For the software, if
8 it only find -- if it only thinks that it sees two
9 elements, it will classify it as consistent. If it only
10 finds one element of interest, it will classify it as
11 associated. If it thinks it finds all three elements, it
12 will classify it as characteristic. That's during the
13 auditing analysis.

14 Now, when I go back and relocate to all of these
15 particles of interest, I relocate it to the consistent
16 particle classified by the software as consistent. I
17 relocated to it because in that elemental spectrum that
18 instrument does, I thought I might have seen the third
19 element. So, I relocated to that feature. I took a better
20 image. I took a longer elemental spectrum, so I just
21 collected on it more with the x-ray detector, and what I
22 found was that that particle met the criteria to be gunshot
23 residue so that it did, in fact, have lead, barium, and
24 antimony even though the automated analysis had classified
25 it as consistent.

N. HARDIN - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. So, it was inconsistent with the first finding that
2 the automated condition found?

3 A. Will you repeat your question for me, please?

4 Q. So, it is inconsistent to what the automated finding
5 was because you wrote down here finding inconsistent,
6 correct?

7 A. I located it in the consistent set of features that
8 that data found.

9 Q. Let's, let's pick up with the examination of Antonio
10 Jones. You have -- do you have that in front of you?

11 A. Yes, sir.

12 Q. And on the right back -- I assume that the right back
13 of his hand -- it says what? What was the finding on that?

14 A. On the right back of Antonio Jones's hand, I have zero
15 particles.

16 Q. It was negative?

17 A. Characteristic.

18 Q. You wrote negative as your finding, though, didn't
19 you?

20 A. Yes.

21 Q. Then on Antonio's left palm where you found gunshot
22 residue, what did you write?

23 A. I have on the left palm, I have one particle of
24 gunshot residue.

25 Q. But you didn't say anything about finding it

1 inconsistent with anything. So, you, you just found that?

2 A. To clarify, since the automated analysis classifies
3 all of the features into either characteristic, consistent,
4 or associated -- that one was found in characteristic, so I
5 did not clarify.

6 Q. And again, to follow up on the left back, you found it
7 negative, meaning no gunshot residue on Antonio Jones's
8 left back of his hand?

9 A. On the left back, I did not find any.

10 Q. And on his left palm?

11 A. The right palm lift was not analyzed.

12 Q. So, you didn't analyze that at all?

13 A. The right palm, I did not.

14 Q. So, you do a little bit more than just do that. You
15 actually do an elemental breakdown of what you find, don't
16 you, meaning you break it down, or at least your machine
17 does, the Annie Oakley. That's the name of the machine is
18 the Annie Oakley machine. Is that right?

19 A. Let's see which one was used. Yes, this was on the
20 scanning electronic microscope that we have named Annie
21 Oakley.

22 Q. Now, was it given the Annie Oakley name because the
23 manufacturer gave it that, or is this a local thing that
24 SLED might have done?

25 A. It was the name when I arrived at SLED.

N. HARDIN - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. I gotcha, and when you ran the elemental test on your
2 findings once you determined something to check into,
3 you'll, you'll actually run a printout? I mean, your
4 machine will run a printout showing all the elements,
5 correct, that it, that it's found? In this trace
6 elemental, this gunshot residue, however you want to call
7 it, it breaks it down into the elements that it finds?

8 A. It breaks it down into the classes that it finds.

9 Q. Classes? Meaning what?

10 A. Classes meaning characteristic, consistent,
11 associated.

12 Q. What -- well, you give it brass, salt, zercom, zinc,
13 sulfate, you break all that down, don't you? Those are all
14 minerals and what -- not minerals, I guess.

15 A. Elements.

16 Q. Those are elements, right?

17 A. Yes, sir.

18 Q. So, just like on the periodic tables, if we were in
19 chemistry, you would be looking at all these different
20 elements that your machine will break down that it will
21 show in whatever you're analyzing, wouldn't it?

22 A. It will show an elemental spectrum.

23 Q. Now, if you will, would you look at your elemental
24 spectrum for the alleged defendant's right back and the
25 victim's left palm because those are the two items of, of

1 interest, correct?

2 A. Those are the areas of interest.

3 Q. Do you have those, or do you want me to hand you more?
4 You got, you got them pulled out?

5 A. I believe I'm looking at the same thing.

6 Q. Good deal, and when you look at those two different
7 comparisons -- or two comparisons. I shouldn't say
8 different yet because we don't know yet. When you look at
9 them, they contain different elements that your microscope,
10 your microscope pulled out to the other. They're not the
11 same, are they?

12 A. Can I see what you're referencing, please?

13 Q. Sure.

14 A. Just to make sure I'm looking at the right thing.

15 Q. Okay.

16 MR. WILLIAMS: May I approach, Your Honor?

17 THE COURT: Yes, sir.

18 BY MR. WILLIAMS:

19 Q. All right, like, see right here? You have a list of
20 the elements, and you, you break them down by percentages,
21 I assume?

22 A. Okay, these are the classes.

23 Q. Okay.

24 A. Yes, and the elements.

25 Q. And you break them down to -- is that percentages of

N. HARDIN - CROSS-EXAMINATION BY MR. WILLIAMS

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1 the amount of the element that you find, or is that the
2 weight of the element that you find?

3 A. This is just the features.

4 Q. Okay.

5 A. That the automated analysis ---

6 Q. Okay.

7 A. --- finds.

8 Q. The machine does it?

9 A. Yes.

10 Q. Those two, those two examples that you are examining
11 with the machine are not the same in terms of the elements
12 or in terms of percentages or weights, are they?

13 A. So, they are two different particle lifts. Whenever
14 the particle lift is taken off of a hand, there can be
15 other things on the hand, other elements. So, these
16 elements are the features that the instrument finds, and
17 then I manually go back and relocate to the features.

18 Q. And, and the -- and they're different? The two, the
19 two lists of elements that you find in these two, these two
20 samples are different when it comes to the elements that
21 are found, aren't they?

22 A. So, the -- okay, I have Fortson, right back.

23 Q. Right.

24 A. And then Jones, left palm.

25 Q. Correct.

1 A. Correct, and ---

2 Q. To give you an example, like the barium and aluminum
3 is .02 on her and it's zero in the left palm on the alleged
4 victim, right?

5 A. Are you ---

6 Q. Yeah.

7 A. Will you show me where you are referring to on here?

8 Q. All I did was take those elements, go straight down
9 each one, determine what the weight -- which elements were
10 reported and what their weights were.

11 A. So, on this sheet we have the defined classes that
12 lists all of the elements, and then the next column is the
13 rank. So, the -- what it classified it as. Then we have
14 the features. So, how many features of this specific
15 element it found, and then the percentage of total
16 features. So, percentage taken into account, the total
17 amount, and then the featured area in square micrometers.
18 So, that's the side -- area of the particle lift, and then
19 percent of total area.

20 Q. So, they're different. The two lifts are different in
21 the terms of elements found in your two samples, are they
22 not?

23 A. I would not imagine them to be the exact same because
24 they were two different lifts.

25 Q. Let me have my little sheet back.

N. HARDIN - REDIRECT EXAMINATION BY MR. GIPSON

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1 MR. WILLIAMS: That's all I have, Your Honor.

2 MR. GIPSON: Thank you.

3 REDIRECT EXAMINATION BY MR. GIPSON:

4 Q. Antonio Jones was the victim in this case, correct?

5 A. Yes, sir.

6 MR. WILLIAMS: Objection to that question, Your Honor.

7 THE COURT: Sustained.

8 MR. GIPSON: Your Honor, may I briefly come forward?

9 THE COURT: Sure.

10 (OFF-THE-RECORD BENCH CONFERENCE.)

11 MR. GIPSON: Thank you.

12 BY MR. GIPSON:

13 Q. Antonio Jones was shot in this case. Is that correct?

14 A. Yes, he did sustain a gunshot wound.

15 Q. And you would expect, based on the testimony that you
16 gave, you would expect to find gunshot residue on somebody
17 who was shot?

18 A. I do.

19 Q. Why is that again?

20 A. Because when GSR is expelled out of the gun when it is
21 discharged, it follows the path of the bullet. And since
22 Mr. Jones sustained a gunshot wound, then the bullet struck
23 him. So, I would, I would expect it since it follows the
24 path of that bullet.

25 Q. Now, you mentioned also that gunshot residue, that can

1 be easily removed?

2 A. Yes, sir.

3 Q. Okay, and so washing one's hands could remove gunshot
4 residue, correct?

5 A. That is a possibility.

6 Q. So, in spite of -- or, excuse me. In this case, in
7 spite of hands being washed, you still found gunshot
8 residue on Mandy Fortson?

9 MR. WILLIAMS: Objection, Your Honor. There's been no
10 testimony to that effect.

11 THE COURT: Sustained.

12 BY MR. GIPSON:

13 Q. You found gunshot residue on Mandy Fortson?

14 A. I found one particle, yes.

15 Q. And in your expert opinion, was there gunshot residue
16 on Mandy Fortson?

17 A. There was one particle of gunshot residue on Mandy
18 Fortson.

19 Q. And it was gunshot residue because it, because it --
20 because the three elements that you mentioned were present?

21 A. Yes, sir. Lead, barium, and antimony were present in
22 the particle that I found on Mandy Fortson.

23 Q. And you were -- you would not characterize it as
24 gunshot residue if it didn't have those three particles,
25 correct?

1 A. Very correct.

2 MR. GIPSON: Thank you. That's all I have.

3 MR. WILLIAMS: No questions, Your Honor

4 THE COURT: Thank you, Ms. Hardin. Have a nice day.

5 WITNESS: Thank you.

6 (THE WITNESS EXITS THE STAND.)

7 THE COURT: All right, ladies and gentlemen, we're
8 going to go ahead and stop there. It's about 12:35, so
9 it's a good time to do lunch.

10 I want to remind you at this point in time that you're
11 not allowed to discuss this case with anybody in any way,
12 shape, or form. You're to keep an open mind about the
13 case. We'll start back at 2 o'clock, at 2 o'clock. So, be
14 back in your jury rooms and ready to go at 2. We'll see
15 you then. Thank you very much.

16 (THE JURY EXITS AT 12:35 P.M.)

17 THE COURT: All right, anything from the state before
18 we break?

19 MR. GIPSON: Nothing from the state, Your Honor.

20 MR. WILLIAMS: Nothing from the defense, Your Honor.

21 THE COURT: All right, Ms. Fortson, I'm going to need
22 you to stay awake, okay? If you're having difficulty
23 staying awake, I need you to drink a Coke or drink a Red
24 Bull or whatever it is you need to stay awake. But, you
25 know, I'm not going to tolerate you sleeping throughout

1 this trial and you come back years from now and you say I
2 slept through it. I didn't really get to confront.

3 We're not, we're not playing that game, so I need you
4 stay awake. If you need some help staying awake, I'll just
5 take you into custody and we'll deal with it that way. Do
6 you understand me?

7 DEFENDANT: (NO VERBAL RESPONSE.)

8 THE COURT: Okay. All right, thank you very much.
9 2 o'clock.

10 (OFF THE RECORD.)

11 THE COURT: Anything we need to take up before we go?

12 MS. SAMPSON: I just want to put on the record, Your
13 Honor, I emailed you guys. You asked about the aggravating
14 circumstance. I did email that to you, and I gave a copy
15 to Mr. Williams so that we were all working from the same
16 page.

17 THE COURT: Okay.

18 MS. SAMPSON: So, that's been done. We can talk about
19 that later.

20 THE COURT: Great.

21 Anything before we bring them in, Mr. Williams?

22 MR. WILLIAMS: Nothing from the defendant, Your Honor.

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

24 (THE JURY ENTERS AT 2:16 P.M.)

25 THE COURT: All right, the state may call their next

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1 witness.

2 MR. GIPSON: Thank you, Your Honor. State calls Roman
3 Cruz.

4 THE COURT: All right.

5 ROMAN CRUZ, BEING DULY SWORN,
6 TESTIFIES AS FOLLOWS:

7 CLERK: Please have a seat in the stand, and state
8 your full name for the record. State your full name.

9 WITNESS: Roman Cruz. My name is Roman Cruz.

10 MR. GIPSON: Thank you, Your Honor.

11 DIRECT EXAMINATION BY MR. GIPSON:

12 Q. Good afternoon, Mr. Cruz. How old are you, sir?

13 A. Thirty-three years old.

14 Q. All right, I need you to scoot into the mic just a
15 little bit more.

16 A. Okay.

17 Q. And speak up.

18 A. Yeah.

19 Q. How old again?

20 A. I'm thirty-three years old.

21 Q. Okay. All right, and where were you living back in
22 2017?

23 A. [REDACTED] Barwick Street.

24 Q. All right, and did you at some point in time change
25 your residence and move to a home?

1 A. Yeah.

2 Q. To another home?

3 A. Uh-huh.

4 Q. Where did you move?

5 A. [REDACTED] Thornwell Court.

6 Q. All right, and is that in very close proximity?

7 A. Yes.

8 Q. Is it close by the place that you used to live?

9 A. Yes. It's the, the other street behind where I used
10 to live.

11 Q. Okay. I'm going to show you what's been marked
12 already as State's 73. Take a look at that would if you
13 would, sir. Does that look familiar to you?

14 A. Yes. Yes.

15 Q. Can you tell us what that is?

16 A. Yeah. Well, right here I can see the little green
17 arrow and, and where I used to live.

18 Q. Well, tell us, tell us generally what it is first.
19 Then we'll focus in on particulars, but tell us generally
20 what that is. You, you can tell us what it is, so tell us
21 what it is. I'm sorry. I interrupted you.

22 A. Okay. Well, from this picture, you know, I can see
23 where I used to live and, and now where, where I live at
24 this moment.

25 Q. Okay.

R. CRUZ - DIRECT EXAMINATION BY MR. GIPSON

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1 A. Yeah.

2 Q. All right.

3 MR. GIPSON: So, I'm going to -- I think it's already
4 in.

5 THE COURT: It's already in, yeah.

6 MR. GIPSON: Yes, sir.

7 THE COURT: Yeah.

8 MR. GIPSON: It is.

9 BY MR. WILLIAMS:

10 Q. All right, and could you come down for me, please?

11 THE COURT: You move wherever you need to, Theo, if
12 you want to come over here.

13 MR. WILLIAMS: Yes, sir.

14 THE COURT: You can do that. That's perfectly fine.
15 Okay, take your mask off. There you go.

16 BY MR. GIPSON:

17 Q. And make sure you speak loud enough for the court
18 reporter to hear you.

19 A. Okay.

20 Q. As a matter of fact, if you'll turn this way so you
21 can talk to the jury, and I'll turn here.

22 All right. So, show us where you lived.

23 A. Right now?

24 Q. Yes. Show us where you lived before you moved to [REDACTED]
25 Thornwell Court.

R. CRUZ - DIRECT EXAMINATION BY MR. GIPSON

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1 A. Like, somewhere right here on the, on the green house.

2 Q. Okay. All right, and your present address is what?

3 A. Like, somewhere right here.

4 Q. Okay.

5 A. That's the corner of my house and the house is right
6 there.

7 Q. Okay. All right. You can have a seat if you would,
8 please.

9 A. Okay.

10 Q. Thank you.

11 Now when you moved to [REDACTED] Thornwell Court, were you
12 living alone?

13 A. No. I got a family.

14 Q. Okay. Tell us about your family.

15 A. Yeah. I got a wife. Well, at the moment I had a wife
16 and, and two kids.

17 Q. Okay.

18 A. And now I got two kids and, and twins. So, six
19 altogether right now.

20 Q. Okay. So, you have two more kids?

21 A. Two more kids.

22 Q. That you've had since 2017?

23 A. Yeah. They were born 2018.

24 Q. Okay.

25 A. My new ones.

R. CRUZ - DIRECT EXAMINATION BY MR. GIPSON

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1 Q. All right. Now, let's focus -- well, where do you
2 work?

3 A. Construction. Construction.

4 Q. Construction work?

5 A. Yeah.

6 Q. Yes, sir. Now, let's focus on February 22, 2017, the
7 day, the day of this incident. Did you work that
8 particular day?

9 A. I believe so.

10 Q. All right. Tell us what you remember when you came
11 home.

12 A. Yeah. Well, you know, was like a normal day, you
13 know. Like, you know, we got a routine in the night, you
14 know. Like, you know, we all get together and, you know,
15 you know, we has dinner and we watch TV, but ---

16 Q. Okay, so -- and I'm going to break it into little
17 pieces.

18 A. Uh-huh.

19 Q. So, your routine is that you get together?

20 A. Uh-huh.

21 Q. You sat down and ate dinner?

22 A. Right.

23 Q. And that, that would be who? Who were you sitting
24 down to have dinner with?

25 A. My wife, Maria, and my two kids.

1 Q. Okay. How old were they at that point?

2 A. I think my daughter, probably about ten, and my son I
3 think, like, eight.

4 Q. Okay. All right. So, you guys are sitting down and
5 having dinner?

6 A. Yeah.

7 Q. Was there anything that happened that was out of the
8 ordinary at that point?

9 A. No.

10 Q. Okay. What, what happened next after you guys were
11 having dinner?

12 A. Yeah. Well, you know, we was in the middle. First I
13 hear, like, a gunshot, you know, somewhere around the
14 house. And then I looked through the window and, and, and
15 I saw -- I heard this -- and I, and I only see -- I heard
16 this woman talking with someone I think next door on the
17 apartments.

18 Q. So, so, let's, let's stop there for a minute. Do you
19 hear gunshot? Do you hear a gunshot?

20 A. Yeah.

21 Q. All right. So, once you heard that gunshot, tell us,
22 tell us specifically what you did.

23 A. Yeah. Well, then I heard this guy screaming, like, he
24 wasn't paying or something like that, and then I, I heard
25 this woman talking, you know. She said she's going to kill

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1 Mexican and the blacks and, and the dog. At that point, I
2 had a German Shepherd dog, you know, next to the
3 apartments, so.

4 Q. All right, and so what did -- what, if anything, did
5 you do when you heard this yelling? So, let's just go
6 piece by piece very slowly.

7 A. Uh-huh. Right.

8 Q. So, you, you first heard this yelling. You hear these
9 gunshots?

10 A. Uh-huh.

11 Q. And so you said you looked out of the window?

12 A. Right.

13 Q. All right. Tell us exactly what you saw when you
14 first looked out of ---

15 A. Okay. so.

16 Q. --- that window?

17 A. And then when I, like I said, first, you know, I heard
18 this gunshot, like one bullet, and then I started hear
19 some, some more. And then the next thing I hear is just
20 one of the bullets, you know, hit my house. Like, I hear
21 where, where the bullet came through the window and break
22 the glass.

23 Q. Okay.

24 A. I believe that's ---

25 Q. So, so, what did you do when you hear the bullet break

1 the glass?

2 A. Yeah. Well, my wife, Maria, called 911, and then she
3 was on the phone, you know, try to get somebody, you know,
4 talk to her. And then I, I saw my neighbor by, by the
5 fence line with a gun in her hand and, and, like, trying to
6 shoot in, like, two different places.

7 Q. Okay. So, so, let me stop you there for just a
8 moment. So, you said your wife calls 911 or was trying to
9 call 911, and so did you go outside at that point?

10 A. No, no, no, sir.

11 Q. Why? Why didn't you go outside?

12 A. Well, I was, you know, real afraid to, you know, go
13 outside, you know. I, I don't have a gun, so, you know,
14 I can't go outside and play with somebody, you know, de-
15 escalate that, no.

16 Q. Okay.

17 A. You know.

18 Q. Now, did you say that you saw your neighbor?

19 A. Yeah.

20 Q. Okay. Tell us what you mean when you say you saw your
21 neighbor with the gun shooting around.

22 A. Well, I saw the lady right there on, on the, on the,
23 on the fence line with a gun in her hand and, and shooting,
24 like, through my house and, and, and the neighbor apartment
25 complex.

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1 Q. Okay. Now the person that was shooting, you could
2 recognize her?

3 A. Yes, sir.

4 Q. You said she was a neighbor?

5 A. Yeah.

6 Q. Tell me what you mean by she was a neighbor.

7 A. Well, like I said, you know, I used to live across the
8 street from her, and for, like, four or three years I lived
9 in that little house.

10 Q. You said four to three years?

11 A. Yeah.

12 Q. Three to four years?

13 A. Uh-huh.

14 Q. Okay. You lived in a little house?

15 A. Yeah.

16 Q. And that's the house you pointed out here on this?

17 A. On, on Barwick Street, yes, sir.

18 Q. Okay. Do you see the person who was your neighbor who
19 was firing that gun in this courtroom?

20 A. Yes, sir.

21 Q. All right. Can you tell us who that person is?

22 A. She is right there.

23 Q. Okay. So, tell us specifically what she's wearing to
24 the best of your ability from where you're sitting.

25 A. Yeah. Long hair and a white woman, female.

1 Q. Okay. Does she have a mask around her chin or mask
2 up, mask down?

3 A. Yeah.

4 Q. Okay.

5 MR. GIPSON: I'd like the record to reflect Mr. Cruz
6 has pointed out the defendant, Ms. Fortson.

7 THE COURT: All right. So reflected.

8 BY MR. GIPSON:

9 Q. All right, and again, you said she was a neighbor for
10 three to four years when you lived on Barwick Street?

11 A. Yes, sir.

12 Q. All right. So, when you moved to Thornwell, could you
13 still see her property?

14 A. Yeah.

15 Q. Okay. Explain to the jury how you could see her
16 property.

17 A. Well, my property line, you know, meet her property on
18 the back. So, my backyard with her yard is just -- you
19 know, we meet together on, on, on the property, yes, sir.

20 Q. Okay. So, we can circle back and talk about you said
21 you saw her shooting. How are you sure that you saw her
22 shooting?

23 A. How I'm sure?

24 Q. Yes, sir.

25 A. Well, like I say, you know, from my house, you know,

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1 like my house is one-story house, but from the back, you
2 can see it's, like, like two-story home. So, it's higher
3 on the back.

4 Q. Okay.

5 A. So, when I saw her through the window on the back, you
6 know, I can -- I got a good view. If you stand, you know,
7 you can see lot. So, that's why I, you know, I recognize
8 that's who, who, who did the shooting.

9 Q. Okay.

10 A. And I even, like I say, I saw her with a gun, with the
11 gun in her hand and, you know, fire the gun.

12 Q. Okay.

13 A. You know, multiple times.

14 Q. Okay. Did -- was there a point in time when the
15 yelling stopped for a minute?

16 A. Yes, sir.

17 Q. Okay. Tell us what happened then.

18 A. Well, when, when, when, you know, she, she was talking
19 with, like, someone and, and, and, like, real mean and
20 angry -- like, you know, I never saw her like that or
21 anybody, anybody, like, real angry with somebody, you know.
22 And I never got nothing to do with her, you know. I, I met
23 her before, but I, you know, I never give her trouble. I
24 ain't even talked to her ever in my life.

25 Q. So, you said she was angry. Was there anything about

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1 what she said that made you believe she was angry?

2 A. Well, yeah. You know, like, she tried jump the fence,
3 yeah, with the gun in the hands.

4 Q. Okay, and did, did she say anything to you or ---

5 A. No.

6 Q. Specifically, did you hear her say anything?

7 A. No. Only, only heard say she's going to kill all the
8 blacks and, and, and Mexicans.

9 Q. Is that exactly what she said?

10 A. Yeah.

11 Q. Okay.

12 A. And, and the dog. She want to kill my dog, too.

13 Q. All right. What was she wearing, if you, if you know?

14 A. She was wearing, like, blue jeans and, like, a white
15 T-shirt.

16 Q. Okay. All right. So, you said the shooting stopped
17 for a minute. It got quiet. What, if anything, did you
18 observe her do?

19 A. Well, and then she got back in the house.

20 Q. Okay.

21 A. Yeah. She, she went back to the house and, and reload
22 the gun, and then the second time she came back more angry.

23 Q. Okay.

24 A. So, like, like, I don't know.

25 Q. What did you -- what did you observe her do the second

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1 time?

2 A. Well, you know, the, the second time, you know, we, we
3 got real -- you know, my family and I, we got real scared
4 because, you know, we, we believed, you know, she's going
5 to be -- jump the fence and, and come over to our house
6 and, and, and, and, and, and, you know, shoot everybody.

7 Q. Now I'm going to show you in a moment a series of
8 pictures.

9 MR. GIPSON: And, Your Honor, these are State's --
10 excuse me one moment, Your Honor -- 12 through 27 for, at
11 this point, just for ID purposes.

12 BY MR. GIPSON:

13 Q. So, just take look at these and tell me if you
14 recognize them. Don't comment on them yet. Just take a
15 look at each picture.

16 A. Right.

17 Q. And let me know if you -- if that looks familiar to
18 you.

19 (A PAUSE.)

20 Q. Do those pictures look familiar to you?

21 A. Yeah.

22 Q. Okay. Let me have those back a minute, please. Thank
23 you.

24 MR. WILLIAMS: No objection if he wants to introduce
25 them.

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1 MR. GIPSON: I'd like to introduce each one of these,
2 Your Honor, State's Exhibits, as I said, 12 through 27, I
3 believe. Let me make sure I have my number right. I
4 apologize.

5 (A PAUSE.)

6 MR. GIPSON: Yes, 12 through 27, Your Honor.

7 THE COURT: 12 through 27 without objection.

8 MR. GIPSON: Thank you, Your Honor.

9 THE COURT: Thank you.

10 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
11 STATE'S EXHIBIT NUMBERS 12 THROUGH 27.)

12 BY MR. GIPSON:

13 Q. All right. So, Mr. Cruz, we took the liberty, we've
14 blown these pictures up so they'll be easier for the jury
15 to view. So, I'd like you to come down and let's talk
16 about these pictures. So, come down if you would, please.

17 THE COURT: Mr. Cruz, I'm going to need you to speak
18 up, okay?

19 WITNESS: Okay.

20 THE COURT: Don't talk real fast, okay?

21 WITNESS: Okay.

22 THE COURT: I can understand you and I think most
23 people in the room can, but I need to you to speak up and
24 make sure you don't go too fast, okay?

25 WITNESS: Okay.

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1 THE COURT: Thank you very much.

2 And, Mr. Williams, you're welcome to move wherever you
3 need to, okay?

4 MR. WILLIAMS: Yes, sir.

5 (A PAUSE.)

6 BY MR. GIPSON:

7 Q. All right, sir, I'm going to show you first what's
8 been marked as State's Exhibit 12, which is on this board.
9 Can you tell us what we're looking at?

10 A. Yeah. That's the front side of my house. Like, like
11 I said before, looks like one-story home, you know, from,
12 from, from the front of the street.

13 Q. Okay, but it's actually two levels?

14 A. Yeah. Well, it got a basement.

15 Q. Okay. Yes, sir. All right, and so as we move on, I'm
16 going to move to State's Exhibit number 13. Can you tell
17 us what we're looking at here?

18 A. Yeah. Right there, that's, that's my driveway and,
19 and, and right here, that's where, where my dining table
20 is.

21 Q. Okay.

22 A. So, at, at that moment, like I say, when, when we hear
23 the multiple shotguns, you know, I was right there again at
24 that time.

25 Q. Now, you said shotguns. You mean multiple shotguns or

1 multiple shots? What do you...

2 A. Like, like...

3 Q. Multiple?

4 A. Multiple shots.

5 Q. Okay. All right. Now, specifically what is this that
6 we're looking at right here?

7 A. Well, that's my, my, my work truck that's right there.

8 Q. Okay.

9 A. And that's the bullet right there.

10 Q. Now, was that hole in your truck when you got home
11 before all of this shooting took place?

12 A. No, sir.

13 Q. Show you another picture. This is State's Exhibit
14 Number 14. Can you tell me what we're looking at?

15 A. Yeah. I believe that's my laundry room.

16 Q. Can you tell us what we're looking at in State's
17 Exhibit Number 15?

18 A. Right here, that's what -- that's where she, she hit,
19 go out, and then the laundry room window right there.

20 COURT REPORTER: Excuse me. Could he repeat that,
21 please?

22 Q. Speak up a little bit more, if you would?

23 A. Yes. Yeah. Right here ---

24 Q. Hold on. Let's do this. Hold on. Let's do this.

25 There's a microphone right here, so you can speak into that

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1 microphone.

2 A. My laundry room window on the, on the back of the
3 house, and the basement right here on, on -- same thing on
4 the back of the house, yeah.

5 Q. Now, I'm showing you now State's Exhibit -- let me
6 move forward a little bit -- State's Exhibit Number 18.
7 Can you explain to us what we're looking at there?

8 A. Yeah, that's the laundry room back window.

9 Q. Okay, the back window of the laundry room?

10 A. Yes.

11 Q. And were you ever at this window when Ms. Fortson was
12 shooting?

13 A. Yeah, the, the, the first time. I looking through
14 that window, you know, because from that window, you know,
15 I can see my whole backyard.

16 Q. Okay.

17 A. And, and, and, you know, and I didn't know until, you
18 know, later. I was right here, you know, that moment when,
19 when she was shooting, and, and, and I, I didn't, I didn't
20 know that, you know. And, you know, made me scared every
21 time I look at that picture, you know. I could be dead by
22 now and, you know.

23 Q. Now, can you tell us what this represents as we start
24 to look at this next set ---

25 A. Yeah.

1 Q. --- of pictures? This is going to be State's Exhibit
2 ---

3 A. Yeah.

4 Q. --- Number 20.

5 A. So, that, that's the same one. That's the laundry
6 room back window and, and right here, that's where the,
7 where the bullet came through and hit the dryer. So -- and
8 the police said since the bullet ---

9 Q. No, don't ---

10 MR. WILLIAMS: Objection to hearsay.

11 Q. Don't tell us.

12 A. All right.

13 Q. Don't tell us what ---

14 A. Yeah.

15 Q. --- the police said. You can just tell us what you
16 know to be true from, from these pictures and from your
17 perspective, not anyone else's.

18 A. Okay.

19 Q. All right. Thank you.

20 A. So, so, the bullet came through the window and broke
21 in two pieces, hit the walls, and then hit the windows -- I
22 mean, ceiling.

23 Q. All right, is that a better picture of what you were
24 just describing with the dryer and ---

25 A. Yeah.

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1 Q. --- the window?

2 A. Uh-huh.

3 Q. Okay, when I say that, I'm referring to State's 21.
4 Now, you talked about pieces, something breaking into
5 pieces?

6 A. Yes.

7 Q. Tell us what you're looking at in State's 22.

8 A. Like, here -- here's the bullet came through this
9 window. So, when, when the bullet hit the dryer, broke
10 into pieces, and, and that's where you see on this picture
11 right here.

12 Q. I'm going to move us forward a little bit. What area
13 of the house is this for you that we're looking at right
14 now in State's Exhibit Number ---

15 A. Yeah.

16 Q. --- 25?

17 A. Right here, that's, that's -- on the back on this
18 wall, that's my daughter's bedroom.

19 Q. So, on the other side of the -- of this wall is your
20 daughter's bedroom?

21 A. Yes, sir.

22 Q. So, is that the one with the yellow wall would be her
23 bedroom?

24 A. Right.

25 Q. Okay. Now, did this wall look like this prior to Ms.

1 Fortson shooting into your house?

2 A. No.

3 Q. All right. So, all right, if you'll take your seat if
4 you would, please.

5 All right. So, this damage was done when you first
6 heard that first round of shots?

7 A. It's just -- it's hard for me to tell, you know, when
8 that really happened. Like I said, you know, I heard
9 multiple, multiple shots.

10 Q. Okay.

11 A. And, and I think one -- the, you know, big noises,
12 that's when the bullet hit the, the dryer, yeah. And that,
13 you know, panic everybody in the house.

14 Q. What did the -- what did you -- what, if anything, did
15 your family do when they heard that big noise in the house?

16 A. Well, you know, I tell my wife, you know, you know,
17 get down on the ground and, and stay there. And, you know,
18 my kids, they were, you know, crying and, you know,
19 screaming because, you know, they, they were afraid of what
20 happened.

21 Q. Okay. All right. Then it got quiet, right?

22 A. Right, for, like, ten to fifteen minutes.

23 Q. All right. So when it got quiet, when was the next
24 time that you heard or observed anything in particular
25 about, about -- just anything out of the ordinary?

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1 A. Yeah. Well, that's when, when, when she went inside
2 the house, then come back with a gun again.

3 Q. Okay. Now, where were you when she came back with
4 that gun the second time?

5 A. On the back, on the back of my house, right there next
6 to, to the kitchen.

7 Q. Okay.

8 A. I got a window next to the kitchen.

9 Q. Okay. Was that window shown in any of the pictures
10 that I was -- that I just showed you?

11 A. No.

12 Q. Okay. All right, and you could see her at that point
13 in time looking through that -- as you were looking through
14 the window, you could see her?

15 A. Yeah.

16 Q. What did you see her do?

17 A. Well, like I said, the second time she come back, you
18 know, more angry. Like she really want to, want to try to
19 jump the fence with the gun in her hands, but I guess that
20 the fence is, like, 6 foot higher, so she can't jump.

21 Q. Okay, and what did you see her do at that point?

22 A. Well, and then she, she start shooting again.

23 Q. Okay. Where was she shooting?

24 A. To my house and, I guess, the apartments, too.

25 Q. Okay. Did you hear anything as she was shooting at

1 your house the second time and the apartments?

2 A. No.

3 Q. Okay.

4 A. Everybody got quiet.

5 Q. Okay. Did you -- you said you saw her shooting into
6 the apartment area?

7 A. Yeah.

8 Q. Okay. Tell us what happened then.

9 A. Well, you know, my neighbor, you know, he, he got
10 shot, you know. He, he lived right next to me, and he got
11 a porch in the back, like, screen door and, and, and then,
12 you know -- because, you know, he lived in the back and,
13 and, and he don't, he don't have no, no brick wall or
14 anything. Just glass. That -- that's how I think he, he
15 got shot.

16 Q. Did you hear anything?

17 A. No. I only hear the guy screaming.

18 Q. Okay.

19 A. Yeah, like...

20 Q. And when you heard him screaming, that's when you
21 believe he was shot?

22 A. Yeah.

23 Q. Did you hear her say anything at that point in time?

24 A. No, no, no. Just, like I said, she -- you know, real
25 angry and, and, and, and she, you know, she keep saying,

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1 oh, she want to kill Mexican and the blacks and, and, you
2 know.

3 Q. Did she say the blacks?

4 A. Yeah.

5 Q. Okay. So, she used the word I want to kill Mexicans
6 and ---

7 A. Yeah.

8 Q. --- the blacks?

9 MR. WILLIAMS: Objection to leading, Your Honor.

10 A. Uh-huh.

11 THE COURT: Sustained.

12 BY MR. GIPSON:

13 Q. But that's exactly what she said?

14 A. Yeah. That's exactly what she said.

15 Q. All right. Now ---

16 A. And ---

17 Q. --- at some point that evening, did you ever have a
18 chance to speak with anybody from law enforcement?

19 A. That evening?

20 Q. Yes, sir.

21 A. Yes, sir.

22 Q. All right. Tell us about that.

23 A. Yeah. Well, like I said, my wife called 911 and, and
24 -- but since my neighbor got shot, you know, they went to
25 see him first. And then they come back and talk to me and,

1 and, and, and, you know, I told them I saw this woman with
2 the gun, you know, shoot into my house.

3 Q. Did you give a statement of any sort at some point in
4 time?

5 A. Yeah.

6 Q. Okay. Now, were you asked by law enforcement to do
7 anything in particular that night when they did come to
8 speak with you?

9 A. No, no.

10 Q. Did you ever have an opportunity to, to go with law
11 enforcement anywhere that night?

12 A. Yes.

13 Q. Let's speak about that. Tell us what happened.

14 A. Yeah. Well, like I said, when, when the police came
15 to my house, and I said the lady live over there. That's
16 the one. She did the shooting. And, and then say, well,
17 can you recognize the person, the person that shot your
18 house? I said yes. I know her and, you know, I even -- I
19 know her. I, I know her voice, and, and, and...

20 Q. How was it that you knew her voice?

21 A. Well, she, well, she have, like, a strong voice.

22 Q. Okay.

23 A. Because I heard her before, you know, cussing with the
24 animals that come in to her yard.

25 Q. All right, and so you -- the police asked you if you

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1 could identify her?

2 A. Right.

3 Q. And you said that you could?

4 A. Yeah.

5 Q. What did you do next?

6 A. Well, they said you need to come with us. So, you
7 need to pick out the woman, you know, who did the shooting.

8 Q. Okay. Is that what you did?

9 A. Yeah.

10 Q. All right. So, tell us what happened when you, when
11 you went with them. What happened?

12 A. Yeah. Well, she was in the front of her house, and
13 then the police car, they ride by her house and, and they
14 said you know or, or the person that's -- is there the one
15 you saw shooting? Yeah, I see. That's, that's the woman
16 right here.

17 Q. Is there any doubt in your mind that you picked the
18 person who was shooting?

19 A. No, sir.

20 Q. All right.

21 A. She is the only, the only, like, female around her age
22 live on my neighborhood.

23 Q. Now, what was she wearing when you saw her?

24 A. She had a white T-shirt, but she, she changed clothes.

25 Q. Okay. Tell me what you mean when you say she changed

1 clothes. When, when, when she was shooting, how was she
2 dressed?

3 A. Blue jeans and, and white T-shirt.

4 Q. Okay. Now, when you saw her with the -- when you
5 identified her and told the police that was the person.

6 A. Yeah.

7 Q. What was she wearing then?

8 A. Well, she was wearing, like, short shorts and a white
9 shirt but different clothes from, from when, when she did
10 the shooting.

11 MR. GIPSON: Court's indulgence, Your Honor?

12 (A PAUSE.)

13 MR. GIPSON: That's all my questions at this time, Mr.
14 Cruz. Please answer any questions that Mr. Williams has
15 for you.

16 WITNESS: Okay.

17 MR. WILLIAMS: May it please the court?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION BY MR. WILLIAMS:

20 Q. Mr. Cruz.

21 MR. GIPSON: You need this?

22 MR. WILLIAMS: No, no.

23 (A PAUSE.)

24 BY MR. WILLIAMS:

25 Q. We'll go backwards first. When you, when you saw the

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1 woman that you said was shooting, you described the
2 clothing that she had on as what?

3 A. Blue jeans and, and white shirt, T-shirt.

4 Q. All right, and then when you saw her again, what did
5 she have on?

6 A. Like, same white T-shirt but with, like, shorts.

7 Q. So, she had on the same white T-shirt but had on
8 instead of blue jeans, she had on shorts?

9 A. Right.

10 Q. So, she changed her pants from long jeans into shorts?

11 A. Yes, sir.

12 Q. Now, let me, let me take you back a little bit. When
13 you were describing what was going on that night, let's
14 start from what time -- you were working that day, and you
15 do construction work. What time did you go home from doing
16 work?

17 A. Around 6 or 7.

18 Q. All right, and what time did you eat?

19 A. Well, normally, you know, between 8 to 10 o'clock at
20 night, yeah.

21 Q. So, 9 o'clock you were eating?

22 A. Yeah.

23 Q. All right. Well, when did you finish eating?

24 A. Well, it only take us, like, you know, like, with
25 family, we not just go and eat. We spent time, you know,

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1 talking, whatever we did in the day, things like that. So,
2 normally take us, like, twenty minutes, forty-five minutes,
3 you know.

4 Q. So, maybe you got through eating a little bit before
5 10?

6 A. Huh?

7 Q. A little bit before 10 you got through eating?

8 A. Little bit over 10?

9 Q. Little bit before 10. Did you get through eating
10 before 10 that night?

11 A. Well, not that night, no, sir.

12 Q. Okay.

13 A. Like I said, normal nights but night, night -- that
14 night was not normal.

15 Q. Well, take me back to that night. That's what I'm
16 concerned about. What time did you start to eat that
17 night?

18 A. Well, has been four years ago, sir, and since -- I
19 could say I start eating 8 o'clock.

20 Q. Okay.

21 A. Might be 8:15 or 8:20 but that's...

22 Q. Okay. So, you think it's around 8:15, 8:20, something
23 like that?

24 A. Or maybe a little late, you know. Maybe 9, something
25 like that.

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1 Q. Maybe 9?

2 A. Yeah.

3 Q. Was it light or dark?

4 A. Light, yeah. We still had some, some daylight.

5 Q. So, it was light around 9 o'clock?

6 A. So, like, maybe it was early, yeah, early than 9
7 o'clock because February, you know, it's just we don't
8 have, you know -- the, the days, they not long compared
9 right now in the summer.

10 Q. If, if sunset was 6:15 on February the 22 of 2017, it
11 was before sunset. Is that right?

12 A. Yeah. About around that time, yeah.

13 Q. Okay, and so you would have been eating that morning
14 -- that afternoon or that night, I should say, a little bit
15 earlier than normal, wouldn't you?

16 A. Uh-huh.

17 Q. That would have been 6:30?

18 A. Well, it's just, like, I said, when I get home, you
19 know, that's -- my, my kids get early because they go to
20 school but when I, you know, get a little late, you know,
21 that's when -- sometimes I get in until 7 or 8 o'clock, so.

22 Q. But on this particular ---

23 A. That's the first ---

24 Q. But on this particular night, since sunset was 6:15,
25 then maybe it was earlier than normal, right?

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1 A. Not sure if I could -- I could say around 8 for sure.

2 Q. Okay. So, when you, when you were sitting down to
3 eat, everybody was sitting down to eat?

4 A. Yeah.

5 Q. And that's your wife and your two kids? One's eight,
6 one's ten?

7 A. Uh-huh.

8 Q. Y'all eat in the dining room area there?

9 A. Yes, sir.

10 Q. You sit at the head of the table, your wife's at the
11 other end, you got two kids on each side?

12 A. Right.

13 Q. And so you're eating. When you get through eating is
14 when you hear the noise, correct?

15 A. Yeah, pretty much. Yeah.

16 Q. And where were you when you start hearing the noise?

17 A. We're still on the table.

18 Q. Okay, and I believe you said that you heard multiple
19 gunshots, but you didn't know where they were coming from.
20 Is that correct?

21 A. Well, on the, on -- yeah, the first couple times until
22 I looked through the window.

23 Q. And, and that is the time when there was the yelling
24 going on, that I'm going to kill blacks, Mexicans, and
25 dogs?

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1 A. Right.

2 Q. Okay, and then there was a time period where nothing
3 was going on. Is that correct?

4 A. That's correct.

5 Q. And how long a time period was that?

6 A. Like I said, like, I think ten to fifteen minutes
7 for ---

8 Q. Ten ---

9 A. --- sure.

10 Q. Ten to fifteen minutes?

11 A. Uh-huh.

12 Q. And then do you hear something first, or do you see
13 something first?

14 A. What you mean?

15 Q. Are you inside your house and you hear something, and
16 then you go pay attention to the backyard?

17 A. Right. Yeah. When I heard the, the gunshots, you
18 know, that's when I looked to the window.

19 Q. All right, but the gunshots have already happened.

20 A. Right.

21 Q. So, she goes -- if you're referring to Ms. Fortson.

22 A. Uh-huh.

23 Q. She goes inside the house and she comes back. Do you
24 stand there staring at the backyard?

25 A. No, no, not the backyard. I, I never get out of the

1 house.

2 Q. What are you looking at?

3 A. Through the window.

4 Q. At what?

5 A. My house.

6 Q. Okay, you not looking towards wherever she lives?

7 A. Right. Yeah, I was looking, yeah. That's the point,
8 that's the point I was looking through the window where
9 she, she, she was ---

10 Q. And she's climbing a 6 foot fence?

11 A. She trying to -- no, she never climbed she fence. She
12 tried to jump the fence.

13 Q. It's 6 foot tall.

14 A. Right.

15 Q. How tall are you?

16 A. Maybe 5-5.

17 Q. So, she's climbing a fence which is actually taller
18 than you, correct?

19 A. Right.

20 Q. And where is, where is she trying to climb the fence
21 at?

22 A. Where?

23 Q. Yeah. Where? It's -- how far does the fence go? Is
24 the fence along your property? Is it along her property?

25 A. Well, it's just, it's just along my whole backyard.

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1 Q. Your whole backyard?

2 A. Yeah.

3 Q. So, she's actually climbing your fence into your
4 backyard. Is that right?

5 A. Right.

6 Q. Now, where does your neighbor live?

7 A. Huh?

8 Q. Where does your neighbor live that got shot?

9 A. Next door.

10 Q. Well, if my hands are a V.

11 A. Uh-huh.

12 Q. He would live over here and you would live over here,
13 wouldn't you? Am I doing that the wrong way? You live
14 along the road, Thornwell Road, right?

15 A. Well.

16 Q. And he lives in an apartment complex over here?

17 A. Yeah. Close. I live -- my house is more close to the
18 apartment complex.

19 Q. Okay.

20 A. You know.

21 Q. Okay, but you live right on the road, and he lives in
22 an apartment complex not even on the road but further back
23 into the apartment complex ---

24 A. Yeah.

25 Q. --- doesn't he?

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1 A. From my house, from dining room table, I see my
2 neighbor screen porch.

3 Q. Okay.

4 A. So, you know, it's, it's nothing -- you know, he live
5 on the other side apartment, and I live close to the road.
6 Like, like I said, you know, the only thing is in between
7 my house and the neighbor's is my driveway, and my driveway
8 is only, like, 8 feet wide, and I could said...

9 Q. Let me ask you this. Looking at State's Exhibit
10 Number 12, is that your house?

11 A. Yes, sir.

12 Q. Just kind of, kind of show it to the jury a little
13 bit. That's your, that's your house?

14 A. Yeah.

15 Q. State's Exhibit Number 12?

16 A. Right here, that, that's my living room window.
17 That's the driveway and right here, that's the apartment
18 complex.

19 Q. On the other side?

20 A. No, no. On this side.

21 Q. Okay. Do you know what the name of the apartment
22 complex is that he lives -- that your neighbor lives in?

23 A. No, not sure. They change number -- names over time.

24 Q. Let me ask you to look at this picture right here.

25 Tell me if you recognize this picture, if you can tell what

R. CRUZ - CROSS-EXAMINATION BY MR. WILLIAMS

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1 that picture is a picture of.

2 A. Yes.

3 Q. What is that a picture of?

4 A. Okay, right here, that's my house and, and that's the,
5 the neighbor, the neighbor's apartment. So, my house and
6 the neighbor is very close. Nothing like...

7 Q. But it's not the first apartment building as you go
8 into the apartment complex, is it? 103 is the first one
9 that you see, right, or do you know?

10 A. Well, I don't know the numbers. I don't live there,
11 sir.

12 Q. But it's not that first building, though?

13 A. Not the first. It's the, it's the building on the
14 back, yeah, next to my fence.

15 Q. All right. So regardless, as you were talking about,
16 you heard the noise and you heard the lady say something
17 about shooting blacks, shooting Mexicans, and shooting a
18 dog?

19 A. Right.

20 Q. You never heard her say anything else after that,
21 after the second time, did you?

22 A. After the second time?

23 Q. Yes.

24 A. What do you mean the second time?

25 Q. Well, you said that there was a shoot -- there was

1 this shooting going on.

2 A. Yeah. Well ---

3 Q. And ---

4 A. Yeah. She, she, was, like, you know, say, you know,
5 bad words and things like that, you know. I'm not going to
6 be -- repeat whatever she said right now.

7 Q. Okay.

8 A. Yeah. You know. It's just, you know, filthy mouth
9 for sure.

10 Q. But she's climbing over your fence, coming to your
11 house, not, not going after somebody else's house, right?

12 A. No.

13 Q. Okay. You know Ms. Fortson, don't you?

14 A. Huh?

15 Q. You know, Ms. Fortson, don't you? You know this lady
16 right here, don't you?

17 A. Yeah.

18 Q. How do you know her?

19 A. How do I know her? Well, like I said, I never got
20 nothing to do with her, you know, in the past.

21 Q. I'm sorry?

22 A. I said I never got nothing to do with her in the past.
23 You know, I was her neighbor for, for three to four years.

24 I ---

25 Q. And when, and when you were her neighbor, did you have

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1 any problems in terms of with her having water coming on to
2 your property or anything like that?

3 A. Oh, no, no. The water problem is right now, yeah.
4 That's why she changed clothes because she -- her, her
5 backyard is, is nothing like, like swamp, yeah.

6 Q. And, and you had some problems with her about her
7 having -- the water was coming over on your property,
8 right?

9 A. She got the problems. I don't got problems.

10 Q. Did she say anything to you ---

11 A. I don't say ---

12 Q. --- about it?

13 A. --- nothing to her.

14 Q. Did you ever have any problem with her reporting your
15 animals for any reason?

16 A. No. Never.

17 Q. So, when you saw what was going on, I think you said
18 that she didn't yell anything out after the first time,
19 right?

20 A. Well, the, the first time she, you know, she -- I
21 mean, it -- she, she just yelled the whole time, you know.
22 Not just one time. I mean, the whole time she was in the
23 back of my yard yelling and cursing and said, you know,
24 ugly words and things like -- yeah. You know, like ---

25 Q. Did ---

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1 A. --- angry person do.

2 Q. Did you tell law enforcement any of this?

3 A. Yeah.

4 Q. Did you tell law enforcement that she made some
5 comments about Mexicans?

6 A. Yes, sir.

7 (COUNSELORS CONFER.)

8 Q. You don't read English, do you?

9 A. I do.

10 Q. You do?

11 A. Yeah.

12 Q. Let me ask you to look at this.

13 A. But I might want to look at the Spanish one, too.

14 Q. Okay.

15 A. Yeah.

16 Q. So, me ask you to look at this, and this is your
17 Spanish statement that you, that you gave, correct?

18 (A PAUSE.)

19 A. Yeah.

20 Q. All right. If you read English, can I ask you to look
21 at this and tell me if that's an accurate reflection of
22 what you wrote in your Spanish statement?

23 (A PAUSE.)

24 A. No, it's not.

25 Q. How is it incorrect?

R. CRUZ - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. It's just they, they don't say what, what, what, what
2 she said that night that -- but, but ---

3 Q. Did you put it in your Spanish statement?

4 A. Yeah. Here it is. She's going to kill niggers and
5 Mexicans and the dog, and she was on the back of my house.
6 Yeah, it's right here.

7 Q. All right, let me see that a second. So, you gave
8 that to which officer? Which officer did you give the
9 statement to?

10 A. On the next day, some police came to my house and
11 asked the questions, and I believe I give it to one of
12 them.

13 Q. You don't know who you gave it to?

14 A. No, sir. I don't know. That was the police.

15 Q. Did your wife give a statement to him at the same
16 time?

17 A. No. Well, they, they, they do ask her questions and
18 things like that, but I don't think they, they give her --
19 they ask her for a statement.

20 Q. So, they asked her for a statement, too?

21 A. I don't know.

22 Q. Were you with her?

23 A. I was with her but I -- you know, they tried -- they
24 don't want two people that talk at the same time. They,
25 they said, well, you come with me and you stay there. So.

1 Q. Right. Right.

2 A. I guess.

3 Q. Okay. Well, let me, let me, let me take you back to
4 that night again. After you saw whatever you saw.

5 A. Uh-huh.

6 Q. Your wife made a phone call to 911, right?

7 A. Right.

8 Q. And did law enforcement come to your house, or did you
9 go over where the apartment complex was?

10 A. No. They come to my house.

11 Q. All right, and how did they know to go to your house?

12 A. I, I gave the address, number and, and the house. I
13 said it's a brick house and, you know, I tell the, you
14 know, details of my -- about my house.

15 Q. Who did you tell that to?

16 A. When I talked to 911.

17 Q. So, you made a 911 call?

18 A. My wife did and, and, you know, she, she don't speak
19 English, you know. I, I, I spoke with somebody at 911.

20 Q. So, you made the call? Your wife did not make the
21 call?

22 A. She made the call on her phone.

23 Q. Okay. I guess I'm trying to figure out. How did you
24 have a conversation with 911 if she's the one who made the
25 call? Did she talk to them, or did you talk to them?

R. CRUZ - CROSS-EXAMINATION BY MR. WILLIAMS

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1 A. But I, I don't see no point ---

2 MR. GIPSON: Your Honor.

3 A. --- of these questions.

4 MR. GIPSON: That's been asked and answered.

5 THE COURT: I don't think it is.

6 Go ahead.

7 BY MR. WILLIAMS:

8 Q. How, how did you have a conversation if she's the one
9 who actually called?

10 A. Well, she hand the cell phone to me.

11 Q. And then you, then you had a conversation?

12 A. Right.

13 Q. With 911?

14 A. They -- and, and they asked me to stay on the line.

15 She said don't hang up, and they asked me where is the

16 woman, how she dressed and, and, you know, other questions.

17 They said -- the whole time, you know, I was on, on the
18 line with somebody.

19 Q. And talking to them?

20 A. Yeah, and ---

21 Q. Talking to the 911 person?

22 A. Yeah.

23 Q. And telling the 911 person exactly what you were
24 seeing?

25 A. Right, and, and she never -- she saying never hang --

R. CRUZ - CROSS-EXAMINATION BY MR. WILLIAMS

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1 you know, you stay on the line. Yeah, somebody's going to
2 be with you. So, you know, I was, I was on the phone.

3 Q. Okay, and you were making this phone call after the
4 first shots were fired or after the second shots that were
5 fired?

6 A. On the, on the second time, yeah, when she, when she
7 come back the second time.

8 Q. So, you didn't talk to somebody right after the shots
9 were fired? You didn't call 911?

10 A. That's what I say. After the second time when, when
11 she came over. That's when, when my wife, she had somebody
12 on the line. So, that's when she passed the phone,
13 telephone to me, and I talk to someone.

14 Q. Did you call 911 after the first number of shots that
15 were fired?

16 A. She did.

17 Q. She did?

18 A. Uh-huh.

19 Q. Did you talk to them at that time?

20 A. I believe it's when she -- on second time.

21 Q. Did she call again?

22 A. No. Only, only one call.

23 Q. So, she called immediately after the first set of
24 shots, right?

25 A. Uh-huh.

R. CRUZ - CROSS-EXAMINATION BY MR. WILLIAMS

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1 Q. And the two of y'all were sitting there on the 911
2 call, right?

3 A. Right.

4 Q. And she stayed on that call until 911 got there?

5 A. Right.

6 Q. And where is the phone located?

7 A. Phone?

8 Q. Yeah. Where's your phone? Is it a cell phone or is
9 it ---

10 A. Cell, cell phone.

11 Q. And where were you located when you were on the phone?

12 A. Where located the phone?

13 Q. Yeah, in the house. Where were you in the house?

14 A. Next -- well, I was the whole time, I think, in the
15 living, living room or -- yeah, the living room because I
16 got a brick wall right there. So -- and, and then at the
17 same time I was looking through all my, my, back windows.

18 Q. Looking through all your what?

19 A. Back windows.

20 Q. Back windows?

21 A. Uh-huh.

22 Q. So, you were on the call watching everything and on
23 the phone at the same time?

24 A. Right.

25 Q. So, whatever time period that you were on the phone

R. CRUZ - CROSS-EXAMINATION BY MR. WILLIAMS

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1 with 911 would encompass the time in which all this
2 happened. Is that correct?

3 A. Uh-huh.

4 THE COURT: Is that a yes?

5 WITNESS: Yes.

6 BY MR. WILLIAMS:

7 Q. So, the 911 operator should have been able to hear, or
8 at least we ought to hear on the 911 shots being fired.

9 MR. GIPSON: Object to what you can hear at that point
10 in time.

11 THE COURT: Overruled. He can answer the question to
12 the best of his knowledge.

13 BY MR. WILLIAMS:

14 Q. Correct me if I'm wrong.

15 A. Uh-huh.

16 Q. You have some shots. Your wife gets on the phone.
17 She makes a 911 call. You help her out because she doesn't
18 speak English. You're sitting there on the phone. You're
19 telling the 911 person what's going on.

20 A. Right.

21 Q. You stay on the phone until law enforcement gets
22 there.

23 MR. GIPSON: Judge, can he ask a question? That's a
24 multitiered question.

25 THE COURT: Yeah. I think it's fair at this point.

R. CRUZ - CROSS-EXAMINATION / REDIRECT EXAMINATION

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1 Go ahead.

2 BY MR. WILLIAMS:

3 Q. True?

4 A. Yeah. True.

5 Q. And then the next thing you know, law enforcement is
6 there.

7 A. Right.

8 Q. How long was that phone call? A while?

9 A. I don't know. Yeah. More than one minute for sure.

10 Q. For sure?

11 A. Yeah.

12 Q. Because?

13 MR. WILLIAMS: That's all I have, Your Honor.

14 THE COURT: Redirect?

15 MR. GIPSON: Yes, sir.

16 REDIRECT EXAMINATION BY MR. GIPSON:

17 Q. Now, Mr. Cruz, you had an opportunity after Attorney
18 William showed you the statement that you wrote in Spanish.

19 A. Uh-huh.

20 Q. To speak a little bit more about what you called bad
21 words and ugly words that Ms. Fortson said, right?

22 A. Yeah.

23 Q. Tell us what those bad words and ugly words were that
24 she said.

25 A. I, I don't think my book is enough for, you know.

1 Q. I'm sorry?

2 A. I said I, I don't, I don't, I don't, I don't talk bad
3 words, you know.

4 Q. All right.

5 A. It's just, you know.

6 Q. In, in your statement, what does *los negros* mean?

7 A. Black people.

8 Q. Is that what it means? Is that specifically what it
9 means?

10 A. Yeah.

11 Q. Did you testify in your cross that it meant niggers?

12 A. Yeah.

13 Q. Did she ever say, Ms. Fortson, that she was going to
14 kill the Mexicans and niggers?

15 A. Yeah.

16 Q. Okay. Did she say other words like that?

17 A. Like?

18 Q. Other words like -- that make you ---

19 A. Yeah, uh-huh.

20 Q. --- uncomfortable, like niggers?

21 A. Yes, sir, yeah. More like, you know, this day and
22 time, racist people, you know, they don't like blacks and
23 they don't like Mexicans. They only like themselves.

24 Q. All right, and that's in the statement that you gave
25 to law enforcement when they came to your house, correct?

R. CRUZ - REDIRECT EXAMINATION BY MR. GIPSON

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1 A. Yes, sir.

2 Q. And that's the statement that Mr. Williams asked you
3 about that's written in Spanish, correct?

4 A. Right, and, and that part is not on, on the -- on, on
5 whatever he showed me.

6 Q. Okay. Now, who was doing all that shouting?

7 A. Huh?

8 Q. The shouting and the using those bad words and saying
9 things like killing Mexicans and niggers, who was saying
10 that?

11 A. That woman over there.

12 Q. And that woman, meaning Mandy Fortson?

13 A. Yes, sir.

14 Q. All right. Who was shooting into your house while
15 they were saying those words like killing Mexicans and
16 niggers?

17 A. Her.

18 Q. That woman right there?

19 A. Yeah.

20 Q. Mandy Fortson?

21 A. Yes, sir.

22 Q. And you know that to be Mandy Fortson because y'all
23 were neighbors?

24 A. Mm.

25 Q. And so regardless of how long or what time you ate

1 dinner.

2 A. Uh-huh.

3 Q. Did that change the fact that Mandy Fortson said she
4 was going to kill Mexicans and niggers?

5 A. No.

6 Q. And shot into your house?

7 A. No.

8 MR. WILLIAMS: Your Honor, objection to that.

9 THE COURT: What's the objection?

10 MR. WILLIAMS: The, the objection is just the
11 repetition of the name calling. It doesn't add anything to
12 the, to the flow of the conversation or the statement of
13 facts.

14 MR. GIPSON: Well, he's testifying to what he saw and
15 what he knew of what happened.

16 THE COURT: I understand. Overruled.

17 BY MR. GIPSON:

18 Q. So, the person who kept saying they were going to kill
19 Mexicans and niggers, Ms. Fortson, is right there?

20 A. (NO VERBAL RESPONSE.)

21 Q. All right, and the fact that y'all ate whatever time
22 you ate dinner ---

23 A. Right.

24 Q. --- did it change the fact that Ms. Fortson ---

25 A. No, sir.

R. CRUZ - REDIRECT EXAMINATION BY MR. GIPSON

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1 Q. --- was in the back of that house ---

2 A. Yeah.

3 Q. --- and in her yard?

4 A. No. It's, it's like, like I say, you know, sometimes
5 I get home late. Sometimes I get home, you know, like not,
6 not too early. So, my wife always wait on me. You know,
7 we eat dinner together. So, that's, that's why, you know,
8 I can't remember. It has been four years ago since that
9 happened.

10 Q. But what you do remember is what you encountered that
11 night from Ms. Fortson?

12 A. Oh, yeah.

13 Q. Okay. Is there any question in your mind that that's
14 the person who shot up your house?

15 A. No. No question about it. The only question I got is
16 why she did it.

17 Q. Is, is what?

18 A. I said why she did that.

19 Q. Is why she did it?

20 A. Yeah.

21 Q. All right.

22 A. Like I said, I, I never got -- you know, you know,
23 even, you know, I got problem -- her got problems in her
24 backyard, you know. It's like a swamp, a lot of mosquitoes
25 and things like that. Never called the police or, you

R. CRUZ - REDIRECT EXAMINATION BY MR. GIPSON

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1 know, I never, you know, went to her house and say, oh, you
2 need fix your problem or like that. I never say anything.

3 Q. Okay.

4 A. You know, hoping she will fix her problem one day and
5 -- but I ---

6 THE COURT: Okay, okay. You're not answering the
7 question anymore.

8 BY MR. GIPSON:

9 Q. Let me ask you this question. Any question that you
10 saw this woman, Ms. Fortson, shooting into the neighbor's
11 house?

12 A. No, no question about it, no.

13 Q. And that was Ms. Fortson as well?

14 A. That's the only person.

15 MR. GIPSON: Thank you. That's all my questions.

16 MR. WILLIAMS: No questions on redirect.

17 THE COURT: All right, you may step down. Thank you.

18 (THE WITNESS EXITS THE STAND.)

19 THE COURT: All right. Now, ladies and gentlemen, one
20 of my duties and responsibilities as chief judge of the
21 circuit is I'm in charge of an entity known as the
22 statewide grand jury. They have now been waiting on me for
23 about a little over an hour to come do a hearing for them.
24 So, we're going to take our afternoon break. I'm going to
25 jump on a video hearing and knock out that hearing and when

1 I finish, we'll come back in, and we'll continue with the
2 next witness, okay?

3 So, do not discuss the case. Keep an open mind. Grab
4 you a Coke or something to drink or water or whatever else
5 you need.

6 Everyone else stay seated, and we'll be back in about
7 ten or fifteen minutes.

8 (THE JURY EXITS AT 3:10 P.M.)

9 (OFF THE RECORD.)

10 THE COURT: All right, we good to go? We good to go?

11 MS. SAMPSON: Yes, sir.

12 MR. WILLIAMS: We're ready.

13 THE COURT: Okay. Bring them in, Mr. Bowen.

14 (THE JURY ENTERS AT 3:28 P.M.)

15 THE COURT: All right, welcome back, ladies and
16 gentlemen. We are good to go. I have concluded my
17 business with the state grand jury.

18 And the state may call their next witness.

19 MS. SAMPSON: Thank you, Your Honor. May it please
20 the court? State calls Investigator Joseph Clarke.

21 THE COURT: Come on up, Investigator Clarke.

22 JOSEPH CLARKE, BEING DULY SWORN,
23 TESTIFIES AS FOLLOWS:

24 CLERK: Please have a seat in the witness stand, and
25 state your full name for the record.

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 WITNESS: Joseph Clarke.

2 DIRECT EXAMINATION BY MS. SAMPSON:

3 Q. Good afternoon.

4 A. How are you?

5 Q. Good. How are you doing?

6 A. Good.

7 Q. All right, Investigator Clarke, where are you
8 employed?

9 A. Richland County Sheriff's Department.

10 Q. And how long have you been employed there?

11 A. Seventeen years.

12 Q. Okay, you're going to have to talk into the
13 microphone.

14 A. Really? Me? Okay. Usually I'm told I'm too loud,
15 so.

16 Q. Right. Good. So, you've been there seventeen years?

17 A. Seventeen years in the sheriff's department.

18 Q. And how -- can you tell the jury how you rose through
19 the ranks?

20 A. I got hired on. I came from the University of South
21 Carolina Police Department. That's who sent me through the
22 academy back in 2000. Worked there for three years. Came
23 over to county. I was patrol there at USCPD, and then I
24 came over to Richland County and I was patrol there.
25 Worked my way up to corporal, which is basically a road

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 supervisor. Tested for investigator. Came on
2 investigations and since then have worked burglaries,
3 property crimes, went undercover narcotics for two years.
4 Did the vice work for a while. Got into SVU and liked it,
5 and that was rare for people to -- not like it but, I mean,
6 I didn't mind doing it. And I got promoted to sergeant and
7 when I got promoted to sergeant, I got -- came -- brought
8 over to be the supervisor for the SVU unit at Richland
9 County.

10 Q. And you said SVU. Is that exactly what we think it
11 means, Special Victims Unit?

12 A. Well, yeah. Not like the TV show, but it's Special
13 Victims Unit, right. So.

14 Q. So, it's not like the TV show?

15 A. No, ma'am, it's not.

16 Q. Okay. All right. So, can you tell the jury, how do
17 you get involved in a case?

18 A. So, all the investigators, there's a limited number of
19 us. We have primary homicides guys that are trained or
20 investigators that are trained to work homicides and major
21 crimes, and that really is kind of a learn-as-you-go type
22 thing. There are some certifications, whatnot, some
23 testing, some classes and whatnot, but as you do it, you
24 get better at or you get more proficient, rather, on what
25 the -- what's important, what's not important. You get put

1 on a squad at night for a set of weeks. So, like, right
2 now every -- starting next Thursday night, I will go on
3 nights and I will catch everything that happens throughout
4 the evening for the next seven days. So, any major ---

5 Q. When you say nights, just to break that up, what time
6 does it start? What time does it end?

7 A. Routinely now as a supervisor, I've got five
8 investigators working underneath me. So, I'll come in
9 around 6 o'clock in the evening, and I pretty much --
10 guarantee I'm going to work until to 2, 3, in the morning,
11 and that's if nothing bad happens. If something bad
12 happens, we might go twenty-four, thirty-six hours
13 depending on the homicide or something like that. So, you
14 just never know what you're going to get. Sometimes it's
15 light. Sometimes it's not, you know. So.

16 Q. Okay. So, when you're an investigator -- like, we've
17 heard from some road deputies who get a call from 911 and
18 show up. Is that how you get a case?

19 A. No, ma'am. What normally happens is, you know, an
20 event takes place and patrol units, as I used to do,
21 respond to that location and determine whatever it is. You
22 know, a bank robbery, a homicide, a natural death, child
23 abuse, whatever, something that may require an investigator
24 to get involved. Certainly a shooting would be something
25 that would require an investigator to get involved. So,

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 when that happens, the patrol officer would make a phone
2 call to our desk sergeant, who would reach out to me. I'm
3 on a list for that night, and when they reach out to me, I
4 would respond to this critical incident to investigate
5 further.

6 Q. All right. So, is that what happened in this case?

7 A. Yes, ma'am.

8 Q. So, can you tell us what happened to get you involved
9 in this case?

10 A. Yes. I would have been at the Pine View office. So,
11 this is not the office on Two Notch. This is where our
12 Special Victims Unit and our Victim Services Unit is, and I
13 got a phone call stating we had a shooting. A person had
14 been hit. At that point I knew it was a male. We didn't
15 know his condition. That's not uncommon, and my job was
16 then to proceed to that location, and I would have been
17 what they considered at that point the lead investigator,
18 so I would respond to the location. In this case, it was
19 going to be 107 Thornwell, apartment C, because that's
20 where allegedly the victim had been struck by gunfire.

21 Q. And did you go to the apartment?

22 A. I did.

23 Q. So, what did you do when you got there?

24 A. So when this happens, unlike television, it's like a
25 ripple in a pond. Soon as the, the rock hits the pond,

1 the, the rings start moving away from the pond. My job is
2 basically is like the ringleader: to figure out what we've
3 got, how bad is it, who all's involved. I'm basically
4 doing triage, for lack of a better word, as soon as humanly
5 possible to figure what's going on.

6 And so my job then, usually I meet with whoever the
7 patrol officer was that was there first. If the patrol
8 supervisor's there, I'll go over to them and say what you
9 got. And usually in situations where there's a shooting
10 involved, by the time I get there, unless I'm right on top
11 of it, which is not often, crime scene tape's up. Crime
12 scene log's already in play. Many times if it's a shooting
13 victim and they're not deceased, it wasn't fatal at that
14 moment, they've already been transported to the hospital.
15 That's very common for me to get there and the victim,
16 victims are not there anymore. They're already being
17 transported because we need to get them to the hospital.
18 So, then I try to figure out what scene do I have, how many
19 scenes do I have, and what exactly took place.

20 Q. Okay. So, I want to break down this particular
21 incident. When you get to the apartment, do you go inside?

22 A. It depends. Usually if there's a decedent in the
23 house and then the scene's going to be contained, I will go
24 ahead and go in. If CSI is there beforehand, I usually
25 walk over to them and go where do you not want me to go,

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 that kind of thing. I just try to ascertain what's
2 important for me to look at right then. In this particular
3 case, I did go in because the victim had already been
4 transported.

5 Q. Okay, and that was my next question. Was either the
6 victim, Ms. Mills, or Jakari Adams there when you got
7 there?

8 A. No. That's when I learned that there was a male
9 victim shot who had been shot. We were hearing multiple
10 times, and there was a ten-year-old boy and a -- an adult
11 woman in there with him when this happened. So, there was
12 three people in the house when it happened.

13 Q. And did you notice any blood in the area?

14 A. I did.

15 Q. Okay. What did you observe?

16 A. There was blood in the breezeway just outside the
17 apartment door, and I couldn't tell if it was castoff or if
18 it was arterial. I couldn't tell if this was somebody who
19 had been hit and started bleeding, but I could definitely
20 see and it was a significant amount of blood. It was in
21 the -- on the breezeway, kind of in the door area, and
22 inside the apartment as well.

23 Q. And you just used two terms we might not be familiar
24 with. What is castoff?

25 A. Castoff is if you cut yourself and you go darn and

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 sling your hand, you just casted off blood, okay, and that
2 can be important. Like when -- direction of travel or was
3 the victim still standing when they got hit or, you know,
4 where were the injuries. And what was the other one I
5 used?

6 Q. You used arterial.

7 A. Arterial, yes. Arterial is when you get hit in an
8 artery and it exposes itself to the skin, as your blood
9 pumps, it's going to spray and depending on PSI of that, it
10 can spray quite a significant amount. Sometimes you walk
11 in and you can see blood on the ceiling; sometimes you can
12 see it across the room and the victim's over here. So, you
13 just kind of want to see what you got.

14 This looked like a somewhat contained scene. This
15 looked like someone had been injured, started bleeding, and
16 from -- quickly I could tell that what -- what was being
17 told was the gentleman got hit, he went inside, they tried
18 to put pressure on this, they needed to get him to the
19 hospital.

20 Q. And did you see signs that confirmed that for you?

21 A. Yes.

22 Q. Now, did -- because the victim wasn't there, what did
23 you do?

24 A. Okay, at that point we go ahead and get another
25 investigator down to the hospital. Usually there's a

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 patrol unit down there. You know, best practice if we can
2 do that. We'll get another investigator down there to
3 check on that person. Sometimes they're getting prepped
4 for surgery. Sometimes they're fine; sometimes it's not as
5 bad as we thought. So, we want to get their story. We
6 want to get as much information as we can from them, if
7 they can give us that information, and then I work on CSI.
8 And then I start hearing what the officers in the area are
9 telling me: hey, this may be going on, or we heard this, or
10 we're getting some 911 calls, that kind of thing.

11 Q. So in this case, who did you send to the hospital?

12 A. That would have been Richard Carter, Sergeant Carter.

13 Q. And did he relay any information back to you so that
14 you could go in the apartment?

15 A. He did.

16 Q. What was that?

17 A. Basically he said he'd -- the gentleman had been shot.
18 There was damage inside the apartment where a projectile
19 had entered the house. I believe it was glass window to
20 the rear, patio. And then, and then I asked does he know,
21 does he know who did this? You know, was this a thing, and
22 he replied he says the white lady did it.

23 Q. All right, and did you have to have Mr. Jones's
24 consent to go in his apartment?

25 A. Yes.

1 Q. Did he give it to you?

2 A. Yes.

3 Q. Okay, and so I think you said that it was told to you
4 that Mr. Jones said a white female did it?

5 A. Correct.

6 Q. Was -- we've heard from them, but was CSI called by
7 you, or how did they get notified?

8 A. I don't remember that sequence. Usually they're --
9 all monitor the same frequ we are, and so sometimes if
10 they're in the area, they're going -- they know they're
11 going to get called. They might have come on over, but I
12 don't specifically remember making that phone call.

13 Q. Is it out of the ordinary for you to do it or someone
14 else to do it, to call ---

15 A. Not unnecessarily.

16 Q. --- CSI?

17 A. No.

18 Q. There's no protocol that says it must be you, is
19 there?

20 A. If I respond to the scene and no one has said
21 anything, it would be my protocol at that point to call
22 CSI, correct.

23 Q. But in this case, you just don't remember?

24 A. No, ma'am.

25 Q. All right. Would that be something you'd note

J. CLARKE - DIRECT EXAMINATION BY MS. SAMPSON

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1 anywhere, like who called CSI? Is it that important?

2 A. Not necessarily, no.

3 Q. Okay. So, were you ever informed if there were any
4 witnesses to this event?

5 A. Yes. While I was there getting, getting Mr. Jones's
6 status, Sergeant Beck came to me and said, hey, we may have
7 an eyewitness to this thing, and I said -- you know, of
8 course I was curious about that. And he said it's going to
9 be a neighbor directly -- the, the property lines lined up
10 next to each other. And I said okay, we'll address that
11 here in a minute. And so I would then move over to [REDACTED]
12 Thornwell Court and make contact for the first with Mr.
13 Roman Cruz.

14 Q. So, I want to ask you about that. You said you left
15 the apartment. Is it just open?

16 A. No.

17 Q. How was it left?

18 A. Well, at that point CSI is working that. We've got
19 patrol units standing by. They kind of -- you know, eyes
20 and ears for CSI. We want those guys, our CSI folks, to be
21 able to be taking pictures and not be molested, accosted by
22 anybody from the public. So, we always have a patrol unit
23 or somebody there. At that point, I remember there were
24 several there. So, CSI was there, so it was free for me
25 then to walk away from this scene and go to allegedly this,

1 this witness that we had.

2 Q. And did you go speak with Mr. Cruz?

3 A. I did.

4 Q. And did you note anything interesting about his yard
5 or his apartment?

6 A. Yeah. The proximity to ---

7 Q. I'm sorry. I said apartment. His house.

8 A. Correct, his house. He has a house and it's like a --
9 slices of pie and they're all just kind of laying -- coming
10 to a point at that point. And I noticed that it's
11 literally the next property around the corner from the
12 building. So, basically they almost -- short of a fence,
13 they almost share the same yard, backyard.

14 Q. All right, and could you tell, if you were standing in
15 Mr. Cruz's yard, could you see anything?

16 A. I could.

17 Q. What could you see?

18 A. I could see the breezeway backlit, illuminated from a
19 light in that breezeway area, and it was shedding some
20 light off that into the darkness towards what later would
21 become the potential incident location and the corner of
22 Mr. Cruz's property.

23 Q. All right, and you did speak with Mr. Cruz?

24 A. I did.

25 Q. Did he give you any information as to who the shooter

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1 was?

2 A. Yes.

3 Q. What information did he give you?

4 A. He, without any hesitation, said it's the lady behind
5 me; it's the lady right behind us. She's the one that did
6 it, that kind of thing.

7 Q. Did he give you a physical description?

8 A. He did. It was a white female. He said, you know,
9 fortyish. Lives -- longer hair, I think. I don't, I don't
10 want to reach on that, but, I mean, he was say -- he knew,
11 he knew -- he visually had seen her ---

12 Q. Did ---

13 A. --- do this.

14 Q. Did he tell you that he saw the gun ---

15 MR. WILLIAMS: Objection to leading.

16 THE COURT: Sustained.

17 BY MS. SAMPSON:

18 Q. What did he tell you about seeing ---

19 MR. WILLIAMS: Objection to hearsay.

20 THE COURT: Sustained.

21 MS. SAMPSON: To say what did he tell you?

22 THE COURT: What did who tell him? Mr. Cruz?

23 MS. SAMPSON: Mr. Cruz has already testified.

24 THE COURT: Yeah.

25 MS. SAMPSON: I'm just confirming that he did tell

1 him.

2 THE COURT: That's hearsay. Sustained.

3 BY MS. SAMPSON:

4 Q. Was he able to provide you with any information about
5 a shooting?

6 A. Yes.

7 Q. And what was that information?

8 A. That he watched the lady behind his property do some
9 shouting and fire a gun at a man standing in the breezeway.

10 Q. Thank you. Did you do anything else as far as being
11 able to talk to Mr. Cruz?

12 A. I just took the added step -- I think, you know, his
13 wife was very rattled and ---

14 Q. She was what?

15 A. Rattled. She was very upset. I mean, she was in
16 panic. She had children in the house, whatnot. She seemed
17 reluctant and to, to come forward and say anything. And I
18 don't know if it was an English-Spanish barrier or whatnot.

19 Mr., Mr. Cruz could understand me and I could
20 understand him. I felt like in his native lounge he may
21 feel more comfortable giving us more details. So, I made
22 the added step of calling a Spanish online investigator to
23 come out and speak with him, to take a statement in
24 Spanish.

25 Q. And who was that ---

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1 A. We always knew -- sorry.

2 Q. Sorry. Who was that officer?

3 A. That would be -- oh, man. You would ask me that. It
4 was our narcotics guy. I just drew a blank.

5 Q. Would seeing the copy of the statement ---

6 A. Yes.

7 Q. --- refresh your memory?

8 A. Yes. I apologize. We have 790 people who work for
9 us, so.

10 Q. I'm going to show you -- see if this helps refresh
11 your memory.

12 A. Ramos.

13 Q. Who?

14 A. Ramos.

15 Q. And who is Ramos?

16 A. Ramos, he's one of our narcotics guys.

17 Q. And that's who took the statement?

18 A. That is who took the statement.

19 Q. And did he ever translate it into English for you?

20 A. Later.

21 Q. Later. Were you are able to determine anything about
22 the victim's injuries at that time?

23 A. We were learning -- I was getting told fairly quickly
24 that it was going to be non life-threatening but it was
25 serious. He has gotten one in the wrist. We weren't sure

1 if he had a through and through or he had a double where
2 maybe it had gone through the wrist and actually penetrated
3 his body. That does happen, but we were hearing at least
4 two locations he had been hit. One was in the wrist and
5 one was in the pelvis I think is what they told me at the
6 time.

7 Q. And as you're getting this information, is it coming
8 from one person, or how are you getting this information?

9 A. I'm getting multiple forms of information. Between
10 emails -- well, mostly text messages, the radio, telephone
11 calls, superiors that are just curious as to what's going
12 on. I mean, the phone just rings off the hook for a while.

13 Q. Okay, and so would it be fair to say you're not
14 getting this from one particular source but multiple
15 sources?

16 A. Yes.

17 Q. All right. So, were you ever given any information
18 about 911 calls?

19 A. I was.

20 Q. And what information were you provided?

21 A. We were reviewing -- I remember hearing that where
22 this area is near Rosewood is where jurisdictional lines
23 come into play. If you're out in Blythewood, you are in
24 Richland County. If you're in the city of Forest Acres,
25 you could be in Forest Acres; you could be in Richland

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1 County. This was one of those situations where CPD, city's
2 jurisdiction, kind of puzzle pieced into us. So, CPD had,
3 had sent some of their guys out because we were getting
4 multiple calls of gunfire in the area. So, I remember
5 hearing that, and then I remember there were several people
6 that -- particularly on Barwick who had called stating that
7 they had heard gunfire and some shouting, particularly a
8 woman's voice shouting. So, that's what we had at that
9 point.

10 Q. And you uses CPD. Who is CPD?

11 A. City of Columbia Police Department, yeah.

12 Q. Were, were you provided with any information as to who
13 the shooter may be?

14 A. Yes.

15 Q. What was that information?

16 A. So, at that point Sergeant-- you know, when Sergeant
17 Beck told me that and I spoke to, to, to Mr. Cruz, white
18 female to the rear of his property in that house. We were
19 hearing 911 calls that people believed it's the lady down
20 the street ---

21 MR. WILLIAMS: Objection, Your Honor. That's hearsay.

22 THE COURT: Sustained.

23 BY MS. SAMPSON:

24 Q. The information you were provided, did it lead you to
25 Barwick Circle?

1 A. It ---

2 Q. To [REDACTED] Barwick Street?

3 A. It did.

4 Q. And based on being given that information, what did
5 you do?

6 A. At that point, I thought it would be to our advantage
7 to make contact with whoever was at the house.

8 Q. And would you have gone over there had you not gotten
9 information that a shooter was at 30 -- might be at [REDACTED]
10 Barwick Street?

11 A. I'd have no reason to go to that house.

12 Q. All right. So, what did you do when you went to that
13 address?

14 A. Sergeant Beck came by and told me. Said, hey, this
15 lady's -- there's a Marine Corps flag out front, and
16 they've got one of those signs on the door that says -- I
17 can't remember what. It's like a revolver pointed at you,
18 something. And I think, well, all right. We've got
19 multiple shots, multiple 911 calls. We may have a
20 barricaded subject. We may have, you know, a dead ender on
21 this thing. I don't know what's going on. So, I said
22 let's pull back a minute. I got my binoculars out. Looked
23 from there. Confirmed it was light out front.

24 Q. When you say it was light out front, this is dark ---

25 A. It's dark. There was a, there was a porch light out

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1 there, and confirmed what Sergeant Beck had told me.

2 Wasn't a really good spot tactically ---

3 MR. WILLIAMS: Objection to hearsay again, Judge.

4 MS. SAMPSON: He didn't say what he said. He just
5 confirmed what he told him.

6 THE COURT: Well, he's already said it, and it's
7 hearsay.

8 BY MS. SAMPSON:

9 Q. What are you looking for at this point?

10 A. I'm looking to make sure we're all safe. So, at that
11 point I did not believe it was a good tactical position.
12 So, I told everybody hang on a second so we could all put
13 our tac vests on, all the investigators. Patrol officers
14 are kind -- are now wearing, and I think maybe you've seen
15 it. They're wearing outward vests now. They wear a vest
16 underneath like I was on patrol. Investigators have the
17 same thing. It's more like a tac vest. It has pockets and
18 compartments we can carry magazines and whatnot.

19 I told everybody let's put all that on, and let's go
20 do a knock and talk. And basically that's just go over and
21 knock on the door and see what happens. I positioned
22 everybody's car a certain way that if we have to beat it
23 out of there quick, we had some cover. Fortunately, that
24 wasn't necessary.

25 Q. Okay. So, when you go to walk up, can you observe

1 anything?

2 A. Yes.

3 Q. What did you observe?

4 A. The door was closed. There was a window to the right
5 that looked open. I believe I could see a silhouette in
6 there of somebody sitting inside. And there was the Marine
7 Corps flag that I had been told, and the porch was
8 illuminated. You could -- you would be able to see me if
9 you looked out the window.

10 Q. And based on that, what did you do?

11 A. We knocked on the door, asked for Mandy to come, come
12 outside and talk to us.

13 Q. And did you know her name at that point?

14 A. I think I did at that point, but I don't remember how
15 I knew that.

16 Q. Okay, and does she come to the door?

17 A. She did.

18 Q. And what happens when she comes to the door?

19 A. Made contact with her. Obviously introduced who I
20 was. She could tell with, you know, how we were dressed
21 who we were with, Sergeant Beck and I. I asked verbal --
22 if I could enter the home. She said okay. I stepped in
23 and then I went through the perfunctory thing: how many
24 people are here, is anybody here with you, that kind of
25 thing. I'm ---

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1 Q. So, I'm going to break this down. You said you talk.
2 You walk in. Did you ask her can you come in?

3 A. Sure.

4 Q. And does she let you in?

5 A. She does.

6 Q. All right, and you said you asked her -- perfunctory I
7 think was the word you used. You asked was anyone else in
8 the house?

9 A. I did.

10 Q. What was her response?

11 A. There was none.

12 Q. She did respond, or she said there's nobody ---

13 A. There was nobody else in the house.

14 Q. What else did you ask?

15 A. Do you have any firearms, that kind of thing. I don't
16 remember exactly what she said, and I can't remember that.
17 I know when I walked in, I walked -- the house is not that
18 large. I walked in and I could look into a bedroom without
19 going into the bedroom. And from me to you, Counselor, I
20 could see spent shell casings sitting on a bedside table.

21 Q. And before we get to that, can tell the jury about Ms.
22 Fortson's appearance?

23 A. She had what appeared to be gray powder on her
24 forehead, and her hands had gray powder on her fingertips.

25 Q. And did you have body cam at that time?

1 A. I did not.

2 Q. Why not?

3 A. We just didn't have it issued. It wasn't -- we didn't
4 have it.

5 Q. So, you saw what? What did you believe the gray
6 powder was?

7 A. I believed, in my experience, it could be gunpowder
8 residue.

9 Q. Have you seen gunpowder residue?

10 A. Plenty of it.

11 Q. And so you see this, I believe, on her fingertips and
12 forehead? I interrupted you.

13 A. That's all right. Her forehead and on her fingertips.

14 Q. All right. So, what did you do at this point?

15 A. Like, I move -- moved into the house a little bit
16 further. You know, we're kind of, just kind -- little,
17 little give back and forth, and that's -- I just kind of
18 peaked around and when I did, I could see the shell casings
19 sitting on a bedside table.

20 Q. And so what did you do at that point?

21 A. At that point, I realized this was somebody I really
22 need to talk to further at the time.

23 Q. And so what did you do when you talked to her?

24 A. Well, I, you know, I asked her. I said, you know, do
25 you have any idea why we're here, that kind of thing, and

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1 she had been -- she had had a little alcohol. She was
2 drinking. I asked ---

3 Q. I'm going to stop.

4 A. Okay.

5 Q. She had a little alcohol. How do you know that?

6 A. Well, there was a drink on there, and she told me she
7 was drinking Hennessy.

8 Q. And was she drinking that while you were there?

9 A. Yes. There was a fresh drink there with ice in it.

10 Q. And so what, if anything, did you tell her in terms of
11 her rights?

12 A. I advised her of her rights.

13 Q. And what are those?

14 A. You have the right to remain silent. Anything you say
15 can and will be used in a court of law. You have the right
16 to an attorney. You have the right to answer questions
17 with an attorney present or without an attorney present.
18 You have the right to stop answering questions at any time.
19 Do you understand these those rights.

20 Q. And did you ask her if she understood them?

21 A. She did.

22 Q. And did she indicate to you that she did or didn't?

23 A. She didn't. She didn't indicate to the contrary.

24 Q. So, what did you do? Let me ask you this. Did she
25 appear to you to be drunk or, or too inebriated to speak to

1 you?

2 A. No, no. She was steady on her feet, quite talkative,
3 but I could detect the smell of alcohol on her person but
4 not, not, not drunk.

5 Q. Okay, and I, I keep stopping you, so I'm sorry about
6 that. You said walked and you could see in the bedroom
7 some shell casings?

8 MR. WILLIAMS: Objection to leading.

9 THE COURT: Sustained.

10 BY MS. SAMPSON:

11 Q. I was trying to just get back to what you had said
12 because I interrupted you. What did you see in her
13 bedroom?

14 A. Shell casings, spent shell casings on her bedside
15 table.

16 Q. So, what did you do at that point?

17 A. At that point, I believe I had the suspect, and at
18 that point I told her I was going to detain her in
19 investigative detention.

20 Q. And what did she do at that point?

21 A. She, she was belligerent.

22 Q. What do you mean by belligerent?

23 A. Well, I mean, it's four years ago, but I do remember
24 her not being agreeable, you know, but that happens
25 sometimes with the police. We get -- we deal with

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1 unagreeable people all the time. So, there wasn't anything
2 necessarily -- and I did say -- you know, I was saying
3 things. We're over here investigating a shooting and ---

4 Q. And when you said that, what was her response?

5 A. Well, she, she wanted, she wanted -- she asked a
6 question.

7 Q. What did she ask you?

8 A. She said -- I explained why we were over there, and
9 while standing in her home, she asked me, quote, and I
10 apologize if any of the ---

11 MR. WILLIAMS: Your Honor, I have a matter of law to
12 take up outside the presence of the jury.

13 THE COURT: All right, ladies and gentlemen, go back
14 to your jury room. Do not discuss the case. Keep an open
15 mind. We'll be back with you in a few moments, in a few
16 moments.

17 (THE JURY EXITS AT 3:52 P.M.)

18 THE COURT: All right.

19 MR. WILLIAMS: Your Honor, we would move to suppress
20 any statements from this officer if he says the following,
21 and I'll read from the report:

22 While standing inside her home, she asked me if
23 any of the porch monkeys had been hit. I
24 explained a man had been hit by gunfire. I
25 explained this man was at the hospital for

1 surgery. She replied good. I hope he dies even
2 though I had nothing to do with it.

3 Your Honor, the repetition of porch monkey, the
4 repetition of bringing race into this trial is slowly but
5 surely preventing my client from receiving a fair and
6 impartial trial. The repetition of nigger and stuff like
7 that, it's inappropriate. It's not important to this
8 particular case that those words be used. That is -- it --
9 it's, it's changing the dynamics of where she's not just
10 fighting innocence or guilt. She's fighting whether or not
11 race is involved, and I think that's inappropriate.

12 I don't think she's going to get a fair trial if, if,
13 if it -- she -- if the state is continuing to get to bring
14 this verbiage out. It doesn't indicate -- it's not, it's
15 not, it's not relevant. It's not relevant.

16 MS. SAMPSON: First of all, Your Honor, it's highly
17 relevant. It's the first thing she said when he mentions
18 the shooting, and she says something about a black man who
19 also was shot without anybody having told her a black man
20 was shot.

21 Secondly if, if -- it's assuming that's what porch
22 monkey means to her. I don't know what that means to her,
23 but as far using it, it's the words that came out of her
24 mouth. If he wants to contest what he heard, if he wants
25 to contest that that's what was said, he can do that.

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1 That's what cross-examination is for, but it is relevant to
2 this case. It's what she said. Nobody has ever to this
3 moment said she said the word porch monkey. This is the
4 first time that's being said.

5 MR. WILLIAMS: I'm just reading from the report, Your
6 Honor.

7 MS. SAMPSON: Correct.

8 MR. WILLIAMS: I know what's going to be said.

9 THE COURT: I understand.

10 MS. SAMPSON: So, I do think it's relevant. It's
11 admissible. There's nothing that's a party-opponent
12 admission. There's nothing about it not being admissible
13 based on that. He's just saying that -- I guess he's
14 saying it prejudices his client, but the whole point of the
15 case, everything I put up to be relevant is going to
16 prejudice his client.

17 MR. WILLIAMS: Your Honor, it wouldn't mean so much at
18 this point except when the head solicitor repeated the
19 words Mexicans and niggers about five times when he was
20 cross-examining or leading direct examination. It was
21 overkill. It's not appropriate really. You only have to
22 say it one time, you know, if you're identifying who it
23 might -- the purpose behind it or who the, the purpose of
24 the shot is to. So, it's, it's -- after a while, it
25 becomes almost, almost unconstitutional, almost denying a

1 fair trial because you don't have to keep repeating the
2 words. The words in themselves can become so inflammatory
3 that the defendant is not being allowed a fair trial if
4 that, if that is continued.

5 Now, I realize it doesn't seem that much, this one
6 isolated, particular statement that she may or may not have
7 made to him, but it comes on the heels of what, what the
8 solicitor has already brought out.

9 THE COURT: Well, it is important to note that each of
10 the solicitor's questions when using the verbiage that Mr.
11 Cruz says that he heard, they were all contained inside the
12 middle of a question. It's not like he just got up there
13 and said it just to say it. So, I think at this point in
14 time, it's completely relevant to the issue.

15 It's relevant to the fact that she had some knowledge
16 of -- I don't know, I don't know what porch monkey means to
17 her either. That's not a term that I'm familiar with, but
18 it's relevant in the sense that she knows somebody was
19 potentially shot, and whatever that word means to her,
20 that's who she thinks could have been shot and, and she
21 knows that, you know. So, it's directly relevant to, to
22 the issues at play. I think it also goes directly to
23 intent, for that matter, when you, when you, when you put
24 it that way. But, you know, we don't need to repeat it
25 fifteen times to make the point.

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1 But while we're on this topic, not to switch topics,
2 all right, I'm going to say this as politely as humanly
3 possible. This, this Fifth Circuit Solicitor's Office, not
4 the current solicitor but the previous solicitor and his
5 staff have been chastised by every appellate court in South
6 Carolina about putting on the lead investigator and
7 rehashing the entire case through hearsay by multiple
8 appellate courts, okay? Luck Campbell created the system.
9 It was against the rules of evidence when she created it,
10 and for whatever reason, for fifteen years no defense
11 attorney in the county called her on it. But the Supreme
12 Court and the Court of Appeals have both said that this --
13 put the lead investigator on the witness stand and rehash
14 the entire case when 95 percent of the information he's
15 testifying to is hearsay is not appropriate. So, that --
16 that's why those objections are getting sustained in the
17 middle of his interactions with her and what she says to
18 him and that kind of stuff. But 95 percent of the stuff
19 he's testifying to is hearsay, and so that's why those
20 objections are being sustained. I just want to make sure
21 everybody understands that, okay?

22 MS. SAMPSON: And if I may just for the record, Your
23 Honor, the only reason I'm asking him this is to ask why he
24 went and talked to Mandy Fortson. I was not trying to get
25 into things that had not already been mentioned, but just

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1 so that he knew them so that he could then go talk to her.

2 THE COURT: Yeah, but ---

3 MS. SAMPSON: Otherwise, he's just showing up at
4 somebody's house.

5 THE COURT: The problem with that is this ain't his
6 first rodeo, okay? More than likely, he was trained by
7 Luck Campbell, too. So, all these people at the sheriff's
8 department have been trained that we're going to get up on
9 the witness stand as the last witness, and we're going to
10 tie up every single loose end that we screwed up during the
11 trial with the lead investigator. And for fifteen-plus
12 years when she was in charge of all those cases, only one
13 set of defense attorneys ever called her on it, and it came
14 out with a major chastisement that there is no exception to
15 the hearsay rule that the lead investigator can regurgitate
16 the entire case.

17 So, if you want to ask him a question, you could say
18 based upon the information that you received from your
19 fellow officers, did you go to Ms. Fortson's house? Yes.
20 He can say that all day long, but he's smart enough to know
21 to get all that kind of stuff out in his answer.

22 And I'm not faulting Investigator Clarke. I've seen
23 Investigator Clarke testify multiple times, but a lot of
24 those guys were trained that way, and those of us in the
25 room that have been around the Fifth Circuit long enough

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1 know that -- who trained them that way. And it was nobody
2 in the room, and it wasn't the current solicitor, and I
3 understand that, and I'm not -- so, I'm not picking on
4 anybody, but it's a bad habit that we need to, we need to
5 move away from.

6 There's a purpose in the lead investigator. The
7 defendant made a statement to him. He came in contact with
8 her that night. He got to see what she was like. He got
9 to see how she was reacting. He got to see what was in the
10 house. He collected -- and all that's, all that's
11 perfectly legit and all that's perfectly admissible, but
12 that's why those objections were getting sustained earlier
13 on, okay?

14 MS. SAMPSON: Thank you, Your Honor.

15 THE COURT: All right, bring them back in.

16 Your objection is noted for the record as to the, the
17 racial insinuations. I don't know, I don't know how else
18 to refer it other than that, and it's overruled for the
19 time being.

20 MR. WILLIAMS: Thank you, Your Honor.

21 (THE JURY ENTERS AT 4:01 P.M.)

22 THE COURT: All right, welcome back, ladies and
23 gentlemen. I told you at some point during the trial that
24 would happen, all right, and so, and so it did. So, it
25 happens in every single case. It doesn't matter if it's a

1 two-witness car wreck case or a seventy-witness medical
2 malpractice case or a three-week long death penalty trial.
3 That happens in every single case. So, that's perfectly
4 normal. It happens all the time, and I appreciate your
5 patience with us while I resolved that issue.

6 And, Madame Solicitor, you may continue.

7 MS. SAMPSON: Thank you, Your Honor.

8 BY MS. SAMPSON:

9 Q. So, we stopped with what you said to Ms. Fortson. So,
10 can you tell the jury what you said to her?

11 A. I will and I quote. She asked, quote, if any of the
12 porch monkeys had been hit, unquote.

13 Q. What did you take that to mean?

14 A. I took it as a racial slur.

15 Q. So, then what did, what did you tell her?

16 A. I explained a man had been hit by gunfire. I
17 explained this man was at the hospital for surgery. She
18 replied, quote, good, I hope he dies even though I had
19 nothing to do with it, unquote.

20 Q. So, is that -- were y'all having a conversation? Did
21 you have other statements from her, or was that it?

22 A. No, there was other things being said back and forth.

23 Q. So, I'm going to move to what did you do based on what
24 you were seeing here?

25 A. At that point, you know, I said we need -- we're

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1 probably going to need -- we need to get a search warrant
2 for this house. She was becoming belligerent and
3 uncooperative at that particular point.

4 Q. And I want to stop. How do you get a search warrant?

5 A. We then reach out to a judge, in this case a
6 magistrate judge who was on call. We give them the
7 location and then we give -- we write an affidavit as to
8 why we believe we need to search this home further for
9 evidentiary reasons.

10 Q. And did you have to leave the house to do that?

11 A. No.

12 Q. How did that get done?

13 A. I'm able to talk to another investigator. In this
14 case, it would have been my supervisor, Sergeant Faust.
15 And I would have reached out to him, and I had to give him
16 the basic stuff: the house looks like this, it's at such
17 and such a street, the mailbox numbers are clearly posted.
18 You know, things like that. And then I would explain where
19 we are up to at this point and why we believe we need a
20 search warrant.

21 Q. And is that the normal procedure for someone else to
22 go get the search warrant?

23 A. It's not abnormal. I mean, we, we -- but it's -- we
24 do it, yeah.

25 Q. All right. Were you able to get -- or was he able to

1 get a search warrant?

2 A. He was.

3 Q. And so based on that, having a search warrant, what
4 did you do?

5 A. At that point, went ahead and executed a search
6 warrant. We were looking for -- we wanted to be able to
7 get on the property, go inside all areas of the room. We
8 were looking for things connected to a shooting, so that
9 would be things involving obviously a firearm, ammunition,
10 et cetera, and then of course anything like any blood
11 evidence or anything like that perhaps in the house,
12 anything connected to a shooting.

13 Q. And what did you find?

14 A. Okay, once we got into the house and were able to
15 really search, I did confirm those were six spent shell
16 casings on the bedside table. I found unfired cartridges
17 strewn about the room. There was a box of ammo set up on
18 top of a pile of clothes in the, in the bedroom, and then I
19 realized we were missing a -- we went out on the back -- I
20 remember we went out in the backyard first because I didn't
21 know if we had a semiauto in play, a wheel gun, a revolver.

22 Q. A wheel gun is a what?

23 A. I, I explain it to people, it's like a cowboy gun. I
24 have to -- some people don't know firearms, and so I'll say
25 -- you know, point to mine and say this is a semiauto, and

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1 then I'll say did it look like a cowboy gun? Did it have,
2 like, a hammer, you know, that. And they go oh yeah. And
3 I say, okay, my granddad used to call it a wheel gun. So,
4 that was how I could explain the difference to people
5 between a revolver and a semiautomatic.

6 Reason why that was important is when I went out in
7 the back, backyard area, two things happened. One, I could
8 see where my victim had been standing in relation to the
9 back of her property and realized him back lit in that
10 breezeway, it's an easy shot. I mean, anybody can make the
11 shot.

12 Second, the second reason was if a semiauto was in
13 play, it's ejecting rounds off to the right or ejecting
14 shell casings. So, every time you fire it, bullet goes
15 out. Shell casing goes off to the right. Usually that's
16 how they're manufactured. There would be a pile of shell
17 casings there unless somebody maybe picked them up, but
18 there were no shell casings.

19 I also knew at that point, we had heard reports of
20 there was gunfire, and then a break in gunfire, and then
21 gunfire resumed. And so my experience said, well, it's
22 probably going to be a revolver in play. Somebody needed
23 to reload that thing, and that would explain the empty
24 shell casings on the bedside table and may explain why
25 somehow in haste there were unfired cartridges on the floor

1 and a bag -- a box of ammo over here.

2 So, it started -- the pieces started to come together.
3 It started making sense why there had been a report of
4 gunfire, a break in gunfire, and the resumption, resumption
5 of gunfire.

6 So, we then went back into the bedroom, and I pulled
7 the mattress up from the boxsprings, and there was the .41
8 caliber Smith and Wesson.

9 Q. And some of this has been -- all of it has been
10 admitted into evidence, but I want you to take a look at
11 State's Exhibit 81. Is that the same gun that you're
12 talking about?

13 A. It is. Want me to take it out?

14 Q. Take it out. Don't point it at ---

15 A. I won't.

16 Q. --- anyone. Is that the gun that you found between
17 her mattress and her boxspring, I think you just said?

18 A. It is.

19 Q. Okay, and was it open like that?

20 A. No. It was closed. The cylinder was closed. I then
21 rendered the gun safe, and when I did and opened the
22 cylinder, I found six more spent shell casings.

23 Q. So ---

24 A. Thus ---

25 Q. --- how many spent shell casings did you find in

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1 total?

2 A. Twelve.

3 Q. And so based on that -- or what was your next step
4 after that?

5 A. Well, obviously that's evidence. That's going. That
6 then, in my mind, confirmed what I'd seen on her forehead
7 and on her fingers because I know particularly with a
8 revolver, as David Collins said, you're going to have more
9 unspent, burnt powder. You're going to get more -- if --
10 you've got more things emitting powder. There's the
11 microscopic stuff that the expert talked about, and then
12 there's just -- when you see gunfire in the movies, you see
13 smoke. Well, that smoke is residual; it's going somewhere.
14 It was on her hands and perhaps she had done this or
15 something like that. I knew then that that is exactly what
16 I saw when I came in the house.

17 Q. So, was anything else done with Ms. Fortson?

18 A. At that point, she was told she was under arrest. I
19 don't know if I told her exactly the charge, but I told her
20 it was for -- in connection to the shooting. We were going
21 to handle that in a few minutes, and then, then we had some
22 difficulty with her.

23 Q. All right. So, before we get to the difficulty with
24 her, did anything else happen with either her or with Mr.
25 Cruz?

1 A. Yes, and so after Mr. Cruz told me it was that lady

2 ---

3 MR. WILLIAMS: Objection to hearsay ---

4 A. --- over there ---

5 MR. WILLIAMS: --- Your Honor.

6 Q. Don't say what Mr. Cruz ---

7 A. Very good.

8 THE COURT: Agreed.

9 A. Yes. We did a showup lineup.

10 Q. And what is a showup lineup?

11 A. If you have an incident that just took place and it's
12 within a reasonable amount of time -- people can argue
13 that, but this was a reasonable time. If you have what you
14 believe to be the suspect and you have what you believe to
15 be a witness, it doesn't hurt to have that witness say
16 that's the person.

17 And so in this case, we had Mr. Cruz agree. We told
18 him, you know, what we'd like to do. He said okay, and he
19 got into a police vehicle, came around the corner, very
20 short distance, and we had Ms. Fortson stand up near us. I
21 would be in civilian clothes. I think Mike Winsel,
22 Investigator Winsel was there at the time. So, me and him
23 would both be in civilian clothes. Quickly over the radio
24 I said just give a yes or no, and somebody said that's her.
25 And then we knew he had made positive ID on her by seeing

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1 her.

2 Q. Okay, and at that point, what did you do?

3 A. Then she un -- she was then going to be placed under
4 arrest. I mean, she was going to be transported to
5 headquarters.

6 Q. And what happened when you tried to arrest Ms.
7 Fortson?

8 A. We were being accommodating with her. I mean, there
9 was, you know, issues with her pets, something about a cell
10 phone, house keys. She wanted to contact her mother.
11 There were some other things going on. It was getting late
12 at that point, and then we just said look. Okay. So, I
13 did that. We got the cell phone in the house. We got the
14 house keys secured. We made sure her pets were going to be
15 okay because she was going to be charged with a crime, you
16 know.

17 Q. And before you go any further than that, what, if
18 anything, did you allow her to do before she left the
19 house?

20 A. She needed to go to the bathroom.

21 Q. And ---

22 A. She went to the bathroom and we, we had no female
23 officer there. So for officer safety, we kept the door
24 just cracked -- I could kind of see her feet -- and let her
25 go to the bathroom, and then she stood up and washed her

1 hands.

2 Q. And was that before or after CSI came to collect ---

3 A. That was before.

4 Q. So, I stopped you. When you went to arrest her and
5 take her to the car, what happened?

6 A. At that point, and this happens sometimes. One more
7 thing. I want to do this, and I said no, Mandy. We're,
8 we're going now. It's, it's done. We're at that point
9 now, and then she went -- she kind of got physical and
10 wanted to -- she's handcuffed to the ---

11 MR. WILLIAMS: Objection to relevance, Your Honor.

12 MS. SAMPSON: Do you want me to approach?

13 THE COURT: Yeah, if y'all will approach.

14 (OFF-THE-RECORD BENCH CONFERENCE.)

15 THE COURT: All right, objection overruled.

16 MS. SAMPSON: Thank you, Your Honor.

17 BY MS. SAMPSON:

18 Q. Please continue.

19 A. Okay, and then it became kind of it -- she, she wasn't
20 going to go quietly, if you will. So, we had to guide her
21 towards the patrol car, you know. There's some screaming
22 and hollering. I told her, hey, you're going to wake your
23 neighbors up, things I say sometimes to calm people down.
24 Try to use a regular tone of voice. Not working. At that
25 ---

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1 Q. You said she's screaming. Is it loud?

2 A. She's screaming. She's screaming and, and saying all
3 kinds of stuff.

4 Q. What was she saying?

5 A. Don't remember specifically, but just -- it wasn't, it
6 wasn't pretty but it wasn't anything I've not heard before.
7 And at that point, we had to, for lack of a better word,
8 put her in the car. So, I went around the other side, and
9 we do what's called, like, a wheelbarrow. We go around the
10 back side, and I would grab her by the shoulders, sliding
11 her into the car, that side of the car while another
12 officer -- in this case it was Sergeant Beck -- would grab
13 her ankles. And she's kicking, kicked him in the groin.
14 We got her in the car, closed the door, thought that was
15 it. We then ---

16 Q. What else happened?

17 A. Well, within a minute she starts trying to kick the
18 windows out.

19 Q. Is she still screaming, or what's going on?

20 A. She's screaming. Car was shaking like that, and two
21 or three times you'd go over and say Mandy, you know, calm
22 down, relax, that kind of thing.

23 She finally calmed down to a point, and at that point
24 I just made the command decision. I said, well, get her
25 out of here. Take her to headquarters, and we'll deal with

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1 that in a minute. So, she was then driven away.

2 Q. And is that the end of your investigation?

3 A. No.

4 Q. What happened at that point?

5 A. Well, at that point, you know, I've got a man that's
6 been hit by gunfire. He's got to recover. I've got a
7 ten-year-old boy and, and his mother who were in the
8 apartment. Mr. Cruz, we need to follow up with him if
9 possible. Photographs need to be taken. Daylight is going
10 to be very helpful in this case the next day. We need to
11 complete the search warrant, categorize, you know, things,
12 put them in the appropriate piles and make sure they get
13 processed correctly. So, there's a lot of little fires, if
14 you will, that need to be put out for that night, and so
15 that's what that was. And then the investigation continued
16 the next day.

17 Q. And were you contacted or was anyone contacted by Mr.
18 Cruz the next day?

19 A. Yes, I was.

20 Q. And what did you do based on being contacted by Mr.
21 Cruz?

22 A. I had given Mr. Cruz my business card, and he reached
23 out to me and stated that he had ---

24 MR. WILLIAMS: Objection.

25 Q. Don't tell me what he said. Based on him reaching

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1 out.

2 A. I went to the house, called CSI, had them process the
3 back of his property.

4 Q. Is that -- what do you mean by process?

5 A. There was impact points from gunfire.

6 Q. And is that when those photographs were taken?

7 A. Yes.

8 (COUNSELORS CONFER.)

9 Q. I'm going to show you what's been marked for
10 identification. I'll going to show them to you, all, but
11 let me go through the numbers first.

12 A. Sure.

13 Q. For exhibit 1, 2, 3, 4 -- excuse me, not 4. Oh,
14 taking it back. 4, 5, 6, 7, 8, 35, 36, 40, 39, sorry, 38,
15 37, 41, 42, and 78 and ask if you are familiar with all of
16 these.

17 A. Yes.

18 Q. And do these -- the first -- all of them, with the
19 exception of the last one, accurately depict the scene as
20 you observed it and the items that were collected on
21 February 22?

22 A. Yes, ma'am.

23 Q. And the last one, 78, does it fairly and accurately
24 depict what Ms. Fortson looked like the night of February
25 22 ---

1 A. Yes, ma'am.

2 Q. --- 2017? Any of them been altered or changed in any
3 way?

4 A. No.

5 MS. SAMPSON: At this time, Your Honor, I'd ask to
6 introduce -- and I'll do the numbers again if you need to,
7 but all the numbers that I said into evidence.

8 MR. WILLIAMS: Your Honor, I don't think she's laid
9 the proper foundation for all of them, Your Honor. I don't
10 think she's established the date and time when everything
11 was taken.

12 MS. SAMPSON: I can do it for every single one if
13 you'd like me to.

14 MR. WILLIAMS: I just want evidence to be presented
15 the correct way, Your Honor.

16 THE COURT: All right.

17 BY MS. SAMPSON:

18 Q. Okay. So, we'll go through each one. State's Exhibit
19 Number 1, do you recognize that?

20 A. I do.

21 Q. What is that?

22 A. That is the front door of Ms. Fortson's home.

23 Q. And does it fairly and accurately depict it the way
24 you saw it the night of February, 2017?

25 A. Yes.