

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
J. C. Nicholson, Jr., Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSEPH LAMAR BROWN, JR.

APPELLANT

APPELLATE CASE NO. 2019-000781

AMENDED RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT #38 (PHOTO); STATE’S EXHIBIT #39 (PHOTO); STATE’S EXHIBIT #40 (PHOTO); STATE’S EXHIBIT #41 (PHOTO); STATE’S EXHIBIT #42 (PHOTO); STATE’S EXHIBIT #48 (PHOTO); STATE’S EXHIBIT #49 (PHOTO); STATE’S EXHIBIT #50 (PHOTO); STATE’S EXHIBIT #51 (PHOTO); STATE’S EXHIBIT #78 (DVD – 911 CALL); DEFENDANT’S EXHIBIT #2 (PHOTO); DEFENDANT’S EXHIBIT #3 (PHOTO); DEFENDANT’S EXHIBIT #4 (PHOTO); COURT’S EXHIBIT #5 (PHOTO); COURT’S EXHIBIT #6 (PHOTO); COURT’S EXHIBIT #7 (PHOTO); COURT’S EXHIBIT #8 (PHOTO); COURT’S EXHIBIT #9 (PHOTO); COURT’S EXHIBIT #11 (VIDEO); COURT’S EXHIBIT #13 (PHOTO); COURT’S EXHIBIT #14 (PHOTO).

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Closing Arguments-Remarks by Ms. Norris
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1 circumstantial evidence case on shifting sands. The law
2 requires proof beyond a reasonable doubt that this man
3 did it.

4 There's no question Mr. Pritchard was murdered.
5 There's no question that there was a burglary. There's a
6 huge question of whether there was an armed robbery or
7 attempted robbery. But the question is, is that the guy.
8 It's a who-done-it, not a what-happened. Is that the
9 guy?

10 Has the State proved it beyond a reasonable doubt?
11 And the Judge will tell you about this. A reasonable
12 doubt is a doubt that would cause a reasonable person to
13 hesitate to act. If you have any hesitation or question
14 or nagging feeling that it's not him, then you can't
15 convict.

16 Now, the one thing that Mr. Hugh Potter Pritchard
17 was certain about when he talked to officers out there --
18 and he didn't disagree on the witness stand. He said to
19 officers out there the guy he saw was middle-aged, late
20 twenties or thirties, specifically, he was not a
21 teenager.

22 That young man [indicates] as he sits here today is
23 nineteen years old, or twenty. When this happened he was
24 eighteen years old. Never have had dreads; no
25 information about that at all. State's Exhibit 118, the

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1 pistol. Smith & Wesson MNP .9mm. Smith & Wesson, the
2 State's expert told you, is one of the most common
3 weapons in the United States. Many law enforcement
4 officers use it, the military uses it. Probably half of
5 Charleston County has Smith & Wessons.

6 There's nothing illegal about that. And there's
7 nothing distinctive about it. The State's expert said
8 right from this stand there could be 10,000 of that same
9 pistol, that same model, in this county. Does that mean
10 that 10,000 people are guilty of this crime because
11 they've got the murder weapon? According to the State;
12 yeah, sure.

13 These rounds found at the defendant's apartment, the
14 ones that are the Speer .9mm Luger, like the one used to
15 kill Mr. Pritchard. One of these [indicates]. There's
16 nothing distinctive about Speer. You could probably go
17 to Walmart or any gun shop today, and get that round.
18 And if you have a .9mm, it's a common round. Does that
19 mean he's the guy? No.

20 All of this the State wants you to look at and say,
21 well, we've got this cell phone, we've got all this other
22 stuff, this circumstantial evidence, he must be the guy.
23 That's for you to decide. That [indicates] young man
24 came into this courtroom presumed innocent. He sits
25 there right now with presumption of innocence. That

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1 doesn't leave him until all twelve of you, unless and
2 until all twelve of you, say that he is guilty. He
3 doesn't have to prove anything. It's their job. It's
4 their job to prove beyond a reasonable doubt all this
5 chain of evidence, circumstantial evidence, points
6 conclusively to no other resolution other than guilty.

7 At best, the State's case puts him in a neighborhood
8 a half a mile, six-tenths of a mile, from where he lived.
9 He didn't have a car. He walked through that
10 neighborhood frequently. He heard a gunshot; he took off
11 running and dropped his phone.

12 And, again, I've talked about the eyewitnesses out
13 there. None of that, no physical evidence, no nothing,
14 puts him there. He's in the neighborhood, no question
15 about that.

16 And a lot of what you heard in this case was Trey
17 did this, Trey did that. At bottom, again, Trey can't
18 tell you what happened. What Trey could tell you is that
19 that young man told him he didn't have any money to give
20 him.

21 Did Trey strike you as the kind of guy that if he
22 didn't believe that, wouldn't have done something about
23 it? Trey seemed like a pretty scary guy. He's much
24 older than Mr. Brown. He's bigger. Do you think that he
25 would have just let it go if he thought a robbery had

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1 been committed? He couldn't tell you, again, not from
2 what my client said and not from personal knowledge,
3 whether my client did it.

4 And now my -- let's talk about my client and his
5 interaction with law enforcement. Detective Goldstein
6 told you he was cooperative. They wanted a buccal swab
7 for DNA, in the event that was possible. He volunteered
8 that. He volunteered that he lost his phone.

9 Couldn't remember what he was wearing. Yes, he said
10 one thing, then he said another, then he said another.
11 Which one of us in this courtroom can say what we were
12 wearing eleven days ago? I couldn't. Back when I was a
13 captain in the U.S. Army I could, if it was a work day.
14 Same uniform. Does that mean he's guilty of these
15 crimes? No, of course not.

16 And, again, when I was trying to think of a simple
17 example of what has happened in this case, you know,
18 there are shifts in witness statements, testimony, there
19 are stretches, there are assumptions.

20 And there have been several times throughout this
21 trial, as the Solicitor has put pictures of various
22 things up on the screen, he would ask his associate to
23 double-click, zoom in. And we've all had the situation
24 where we're trying to look at something on a computer and
25 you zoom in to get a better view and, you know, you zoom

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1 in enough and it starts to get blurry. And then it's
2 unrecognizable, if you go out far enough. And that's
3 what's happened.

4 In this case it's gone from Hugh Potter Pritchard
5 saw a guy run in, shoot his cousin, run out, to now we've
6 added all these other things. And it's gotten to the
7 point where we need to go back to the very first things
8 said and the basics of the evidence in this case. And it
9 is for you to decide what any of that means.

10 And I just took an example of blowing something up
11 on a computer far enough so, you know, we've got a
12 picture that we can see an eye, probably a black person,
13 but it's unrecognizable.

14 [Whereupon, the photograph is shown]

15 MS. NORRIS: It's that picture: Ms. Whoopi
16 Goldberg. We stretched it out far enough. You keep
17 stretching it, it's unrecognizable.

18 The State is asking you build a house, to build a
19 case of proof beyond a reasonable doubt based on shifting
20 sands. And I ask you ladies and gentlemen to use your
21 common sense. That didn't leave you when you walked into
22 this courtroom. I ask you to use your common sense. You
23 were all selected by both sides because we all trusted
24 you as good, fair, honest jurors. I ask that you go back
25 into that jury room, you cast your vote from your heart

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1 from your mind, and again, nobody can take it away from
2 you, and you decide that man's [indicates] fate. And I
3 submit to you, ladies and gentlemen, that the State
4 simply has not proved beyond a reasonable doubt any of
5 these charges. Thank you.

6 THE COURT: Solicitor.

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1 CLOSING ARGUMENT REPLY

2 BY MR. DURANT:

3 I have very little else to say, Your Honor, but just
4 a couple of things.

5 Yes, this was a bad neighborhood, and it was a bad
6 neighborhood because it was frequented by people like
7 Joseph Lamar Brown and Trey Colman. And I've heard time
8 and again throughout this trial there's nothing in these
9 text messages about wanting to hurt someone. So what?
10 When you go to someone's house with a loaded gun to rob
11 them, and you kill them, I don't care if he plans to do
12 it or not to do it. The law says you're guilty of what
13 you did.

14 That has nothing to do with this. I don't care that
15 Trey Colman didn't think anybody was going to get hurt.
16 I don't care if Trey Colman didn't think that he
17 [indicates] was going to kill Johnny Pritchard. The fact
18 of the matter is he went there with a gun and he killed
19 him and that's what matters.

20 I've heard a hundred times, they didn't see this guy
21 running out in front of Celest McBride's house with a gun
22 in his hand. Well, I don't know. But if I were Johnny
23 -- Joseph Brown, I probably would have put the gun in my
24 waist, too, before I ran down the road instead of just
25 running down the road with a gun in your hand. I am

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1 guilty of being one of those people that uses their debit
2 card for five dollars and 51 cents when I've got cash in
3 my pocket, because I find it a lot easier to use than
4 cash.

5 You know, like I said, you can go either way on
6 that. Maybe he got something, maybe he didn't. If he
7 did, it was an armed robbery. If he didn't, it was
8 attempted armed robbery. It makes no difference. It's
9 one or the other. If you believe Trey Colman, he didn't
10 get anything. But I think that's more indicative of
11 Joseph Brown just screwing his buddy Trey Colman.

12 And the MNP9C -- and that 10,000 figure that she
13 pointed out, that was her figure. That wasn't Ms.
14 Eichenmiller's figure. She says 10,000 and she wants you
15 to believe that's evidence. That's not evidence. What
16 Ms. Eichenmiller says was the combination of the rifling
17 and the firing-pin impression was unique to this gun.
18 And we're not talking about all Smith & ---

19 MS. NORRIS: --- Your Honor, I'm going to object to
20 that. She said it was unique to that and any other model
21 of that weapon.

22 THE COURT: Overruled. Go ahead.

23 MR. DURANT: And as she said, and as I told you,
24 what the law requires in this case is that you be
25 convinced beyond a reasonable doubt of his guilt. The

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1 Judge will charge you as to what reasonable doubt is. It
2 does not mean certainty. There is nothing in life that
3 is certain for you to decide with certainty, as a juror,
4 unless you were sitting in that apartment -- or at the
5 house at the time it -- that it happened and watched it
6 yourself.

7 There can never be certainty in this or any other
8 criminal trial, and the law does not require certainty.
9 The law requires proof beyond a reasonable doubt, and
10 proof beyond a reasonable doubt means that you have to be
11 firmly convinced that he's guilty. That's all it means.

12 And I told you the chain of circumstances that you
13 would have to believe, in that six- or seven-minute
14 period, to find him not guilty. And that's just not
15 reasonable.

16 You know, in the example I gave you of looking out
17 the window and seeing, you know, the cloud -- the clouds
18 in the sky and the water dripping off the trees and the
19 raindrops on the window and the ground completely wet,
20 yeah, it could mean that before you opened the window,
21 one of those tanker planes that put out forest fires on
22 the west coast flew over the house and dumped the water
23 on you. But what it means is that it's rained. And what
24 the circumstances in this case mean, beyond a reasonable
25 doubt, is that he [indicates] killed Johnny Pritchard.

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Jury Charge

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JURY CHARGE

THE COURT: Mr. Foreman, ladies and gentlemen of the jury, I charge you that the fact that the Defendant elects not to testify on his own behalf cannot and must not be considered against him under any circumstances or any manner whatsoever.

The decision of any Defendant not to take the witness stand and testify on his own behalf does not create any inference against him and I tell you you must not permit that fact to weigh in even the slightest degree against the Defendant. You should not permit this act to enter into your discussions or your deliberations on the issues in this case.

I will give you a copy of these instructions in written form and during your deliberations you may refer to the instructions to guide your decision-making. You must consider the instructions as a whole and not follow some and ignore others. Please return the instructions, Mr. Foreman, to the bailiff after you have reached a verdict.

Under our Constitution and Code of Laws only you, the jury, can make findings of facts in this case. I am not permitted to indicate to you how I may feel about the testimony and evidence which has been presented.

Throughout this trial, it has been my intention to be

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1 fair and impartial towards each of the parties involved.
2 Necessarily, you must determine the credibility of the
3 witnesses who have testified in this case. Credibility
4 simply means believability. It is your duty as jurors to
5 analyze and evaluate the evidence to determine which
6 evidence convinces you of its truth.

7 You decide whether or not to believe a witness'
8 testimony about a particular matter, you may consider the
9 following: the manner and appearance of the witness
10 while on the witness stand; was he or she straightforward
11 or hesitant in answering. The testimony of the witness:
12 was it consistent or inconsistent. How did the witness
13 come to know the facts that he or she testified to: was
14 the witness present during the incident or did the
15 witness happen on the scene after the incident occurred.
16 The reason that the witness would want to give testimony
17 which would help or hurt one side or the other: has the
18 witness exhibited to you any interest, bias, prejudice,
19 or other motive in this case; thus, you may consider
20 whether a particular witness may gain some reward,
21 payment, personal advantage, or vindication through his
22 or her testimony. The strength of the witness -- the
23 testimony of the witness: was the testimony of the
24 witness strengthened or weakened by other testimony or
25 evidence. The duration and length of time between the

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1 incident and when they were reported: would the duration
2 and length of time weaken or strengthen? All prior
3 statements: were prior statements made by witnesses
4 consistent or inconsistent with the witness' testimony.

5 In determining the believability of the witnesses
6 who testified in this case, you may believe one witness
7 over several, or several over one. You may believe a
8 part of the testimony of a witness and reject the
9 remaining part of the testimony of the same witness. You
10 may believe the testimony of a witness in its entirety or
11 reject the testimony of a witness in its entirety. Of
12 course, you do not determine the truth by merely counting
13 the number of witnesses presented by each side.

14 As finders of the facts, this does not mean you are
15 at liberty to fabricate facts. You must determine facts
16 based on evidence you hear in the courtroom alone. You
17 may not draw conclusion from facts that do not exist or
18 are not supported by any evidence at all. You may,
19 however, draw reasonable conclusions from facts you find
20 are supported by evidence presented in the courtroom.

21 The same constitutional laws which designate and
22 make you the finders of the fact make me the sole
23 instructor of the law. It's my duty to charge the law
24 that's applicable to this case and it's your duty, as
25 jurors, to accept and apply the law as I now state it to

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1 you. The lawyers are not the instructors of the law.
2 You must accept the law and apply the law exactly as I
3 state to you. You must not base your decision-making on
4 your idea of what the law is or what you think the law
5 should be.

6 The Defendant -- the Defendant has pled not guilty
7 to these indictments, which places the burden on the
8 State to prove the Defendant guilty. A person charged
9 with committing a criminal offense in South Carolina is
10 never required to prove himself innocent.

11 I charge you that it is a vital, important rule of
12 law that the Defendant in a criminal trial, no matter
13 what the seriousness of the charge may be, must always be
14 presumed to be innocent until his guilt has been proven
15 beyond a reasonable doubt. This presumption of innocence
16 remains with the Defendant at all times, from the moment
17 he appears in court, throughout the trial, and until you,
18 the jury, reach a verdict of guilt beyond a reasonable
19 doubt based upon the testimony and the evidence
20 presented.

21 The presumption of innocence is a substantial right
22 to which every Defendant is entitled, unless and until
23 you reach a verdict of guilt beyond a reasonable doubt.
24 If you, the jury, do not find the Defendant guilty beyond
25 a reasonable doubt, it is your duty to acquit the

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1 Defendant. Reasonable doubt. What is reasonable doubt
2 in the law? A reasonable doubt is the kind of doubt that
3 would cause a reasonable person to hesitate to act. The
4 State has the burden of proving the Defendant guilty
5 beyond a reasonable doubt.

6 Some of you may have served as jurors in civil cases
7 where you were told it's only necessary to prove a fact
8 is more likely true than not true, such as the greater
9 weight or preponderance of the evidence. In criminal
10 cases, the State's proof must be more powerful than that.
11 It must be beyond a reasonable doubt.

12 Proof beyond a reasonable doubt is proof that leaves
13 you firmly convinced of the Defendant's guilt. There are
14 very few things in this world that we know with absolute
15 certainty, and in criminal cases the law does not require
16 proof that overcomes every possible doubt. If based on
17 your consideration of the evidence you are firmly
18 convinced the Defendant is guilty of the crime charged,
19 you must find the Defendant guilty.

20 On the other hand, if you think there's a reasonable
21 -- real possibility that the Defendant is not guilty, you
22 must give the Defendant the benefit of the doubt and find
23 the Defendant not guilty.

24 The evidence or lack of evidence from which you are
25 to decide the facts include the following: the sworn

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1 testimony of witnesses both on direct and cross-
2 examination, regardless of which side called the witness;
3 the exhibits that have been received into evidence by the
4 Court; and any facts agreed to or stipulated by the
5 lawyers.

6 The following things are not evidence. You may not
7 consider them in determining the facts. Arguments and
8 statements made by the lawyers are not evidence. The
9 lawyers are not witnesses. Their opening statements,
10 closing arguments, and other statements are intended to
11 help you interpret the evidence but are not evidence. If
12 the facts as you remember them differ from the lawyers'
13 statements, your memory controls.

14 Questions and objections by the lawyers are not
15 evidence. Lawyers have a duty to their clients to make
16 objections when they believe a question is improper under
17 the rules of evidence. You should not allow any
18 objections or the Court's ruling on the objection to
19 influence you.

20 Testimony that's been stricken or you've been
21 instructed to disregard is not evidence and must not be
22 considered. Anything you may have seen on television,
23 read in the newspaper, on the Internet, or heard from
24 others while court is not in session is not evidence.
25 You should base your decision solely on the sworn

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1 testimony of the witnesses, exhibits received into
2 evidence by the Court, and any facts agreed to or
3 stipulated by the parties.

4 The fact that the Defendant was arrested, charged
5 and indicted in this case are not evidence and cannot be
6 considered as evidence of guilt, nor does it create any
7 presumption or inference of guilt. The indictment is
8 simply the formal written instrument which contains the
9 charge made against the Defendant.

10 There are two types of evidence which are generally
11 presented during trial: direct evidence and
12 circumstantial evidence. Direct evidence directly proves
13 the existence of a fact and does not require deduction.
14 Circumstantial evidence is proof of a chain of facts and
15 circumstances indicating the existence of a fact.

16 Crimes may be proven by circumstantial evidence.
17 The law makes absolutely no distinction between the
18 weight or value to be given to either direct or
19 circumstantial evidence. However, to the extent the
20 State has relied on circumstantial evidence, all of the
21 circumstances must be consistent with each other and,
22 when taken together, point conclusively to the guilt of
23 the accused beyond a reasonable doubt. If the
24 circumstances merely portray the Defendant's behavior as
25 suspicious, the proof has failed. The State has the

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1 burden of proving the Defendant guilty beyond a
2 reasonable doubt. This burden rests with the State
3 regardless of whether the State relies on direct or
4 circumstantial evidence.

5 In determining the guilt or innocence of the
6 Defendant, you cannot consider any possible penalty for
7 any particular crime. The punishment for the crimes is a
8 matter for me to determine and should never be considered
9 by you in any manner whatsoever in arriving at an
10 impartial verdict as to the guilt or innocence of the
11 Defendant.

12 Murder. The Defendant is charged with murder. The
13 State must prove beyond a reasonable doubt that the
14 Defendant killed another person with malice aforethought.
15 Malice is ill-will or hostility towards another person.
16 It's the intentional doing of a wrongful act without just
17 cause or excuse and with the intent to inflict an injury
18 under circumstances that the law will infer an evil
19 intent.

20 Malice aforethought does not require that malice
21 exists for any particular time before the act is
22 committed, but malice must exist in the mind of the
23 Defendant just before and at the time of the act is
24 committed. Therefore, there must be a combination of the
25 previous evil intent and the act. Malice aforethought

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1 may be express or implied. These terms express and
2 implied do not mean different kinds of malice but merely
3 the manner in which malice may be shown to exist. That
4 is either by direct evidence or reference -- the
5 inference from facts and circumstances which are proved.

6 Express malice is shown when a person speaks words
7 which express hatred or ill-will for another or when the
8 person prepared beforehand to do an act which was later
9 accomplished. For example, lying in wait for a person or
10 any other acts or preparation going to show that the deed
11 was within the Defendant's mind would be express malice.

12 Malice may be inferred from conduct showing a total
13 disregard for human life. Malice may be inferred where
14 there is no excuse or legal provocation for the killing.
15 Malice may be inferred from the brutal conduct of -- or
16 the person committing the crime. Malice may be inferred
17 from the killing that occurs during the commission of a
18 felony.

19 The injury may also conclude -- excuse me, the jury
20 may also conclude by deductive reasoning that under
21 certain circumstances, malice arises even though there is
22 no express or direct evidence of an intent to kill. If
23 facts proved are sufficient to raise an inference of
24 malice, this inference may be simply an evidentiary fact
25 to be taken into consideration by you. The Defendant is

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1 not required to prove the absence of malice. Rather, the
2 State is required to prove the existence of malice beyond
3 a reasonable doubt.

4 First degree burglary. The Defendant is charged
5 with first degree burglary. The State must first prove
6 beyond a reasonable doubt that the Defendant entered a
7 dwelling without consent. A dwelling is any building or
8 portion of a building in which a person ordinarily
9 sleeps. A building constructed as a dwelling that has
10 never been occupied cannot be considered a dwelling for
11 purposes of burglary.

12 But a building is a dwelling, even if the residents
13 are temporarily absent from the building. In order to
14 prove that the Defendant entered the dwelling, the State
15 does not have to show that the Defendant's entire body
16 entered the dwelling. The smallest entry is sufficient.
17 It may part -- be part of the body, such as a hand or
18 foot, or even an instrument such as a hook or other
19 instruments.

20 In addition, the State does not have to prove that
21 force was used to gain entry. If a person enters a
22 building by using deception, trick, or misrepresentation
23 to get consent to enter, this is an entry without
24 consent. Next, the State must prove beyond a reasonable
25 doubt that the Defendant intended to commit a crime,

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1 either a felony or a misdemeanor, at the time of the
2 entry. The mere entry into a dwelling without consent is
3 not burglary. If the intent to commit a crime is formed
4 later, after the entry, it's not burglary. On the other
5 hand, if the Defendant intended to commit a crime at the
6 time of the entry, it is burglary even if the intent was
7 abandoned after the entry.

8 It does not matter that the intended crime was not
9 completed. Intent may be shown by acts and conducts of
10 the Defendant and other circumstances from which you may
11 naturally and reasonably infer intent. When entering in
12 the dwelling, or when fleeing, the Defendant was armed
13 with a deadly weapon. A deadly weapon is any article,
14 instrument, or substance which is likely to cause death,
15 bodily harm, whether an instrument has been a deadly
16 weapon regardless of the facts and circumstances in the
17 case.

18 A pistol is an example of a deadly weapon. When
19 entering, while in the dwelling, or when fleeing, the
20 Defendant caused physical injury to anyone not
21 participating in the crime; when entering, while in the
22 dwelling, or when fleeing, the Defendant used or
23 threatened to use a dangerous object; when entering,
24 while in the dwelling, or other -- fleeing, the Defendant
25 displayed what was applied [sic] to be a knife, pistol,

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1 revolver, rifle, shotgun, machine gun, or other firearm.

2 Armed robbery. The Defendant is charged with armed
3 robbery. In order to prove this offense, the State must
4 prove beyond a reasonable doubt that the Defendant took
5 personal property from the person or presence of another
6 person.

7 Property is in the presence of a person if it is
8 within the person's reach, inspection, observation, or
9 control so that the person could, if not overcome with
10 violence or prevented by fear, to keep possession of the
11 property. The State must prove beyond a reasonable doubt
12 that the Defendant carried the property away intending to
13 permanently deprive the owner of the property and to keep
14 the property for the Defendant's own use.

15 The slightest removal of the property or the
16 complete possession of the property, even if for an
17 instant, by the Defendant, is sufficient to show a taking
18 and carrying away of the property. The taking and
19 carrying away of the property must have been done with
20 violence or by putting the owner of the property in fear
21 of violence.

22 Finally, the State must prove beyond a reasonable
23 doubt that the Defendant was armed with a deadly weapon
24 during the robbery. The State must prove that the
25 Defendant was armed with a deadly weapon or that the

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1 Defendant alleged, either by his actions or words, that
2 he was armed while using a representation of a deadly
3 weapon, any object such as a person present during the
4 commission of the robbery reasonably believed to be a
5 deadly weapon.

6 A deadly weapon is any article, instrument, or
7 substance which is likely to cause death or great bodily
8 harm. Whether an instrument has been used as a deadly
9 weapon depends on the facts and circumstances of each
10 case. The following are examples of instruments which
11 may be deadly weapons: a pistol, shotgun, rifle, dirk,
12 dagger, a knife, a slingshot, metal knuckles, razor,
13 gasoline, fire bomb, Molotov cocktail, or other lighter
14 fluid. A gun may be a deadly weapon even if it is not
15 operational.

16 Attempted armed robbery. Also included within the
17 offense of armed robbery is the lesser offense of
18 attempted armed robbery. In order to prove attempted
19 robbery, the State must prove beyond a reasonable doubt
20 that there was an attempt to commit all of the elements
21 that I have just explained.

22 An attempt is an effort to accomplish a crime which
23 does not succeed. An attempt includes a specific intent
24 to do a particular criminal act along with an act falling
25 short of the act intended. The law must show more than

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1 mere preparation and intent. There must be some overt
2 act committed in the effort to commit the crime. Intent
3 means intending the result which actually occurs; not
4 accidentally or involuntary. Intent may be shown by acts
5 and conduct of the Defendant and other circumstances from
6 which you may naturally and reasonably infer intent.

7 Possession of a firearm. A Defendant is charged
8 with possession of a weapon during the commission of, or
9 attempt to commit, a violent crime. The State must prove
10 beyond a reasonable doubt that the Defendant was in
11 possession of a firearm or visibly displayed what
12 appeared to be a firearm during the commission of a
13 violent crime.

14 A firearm means any machine gun, automatic rifle,
15 revolver, pistol, or any weapon which may be designed --
16 or may be readily converted to expel a projectile. In
17 order to find the Defendant guilty of possession of a
18 weapon during the commission of a violent crime, you must
19 first find the Defendant guilty of either committing a
20 violent crime or attempting to commit a violent crime.

21 Murder is a violent crime. The State must prove
22 beyond a reasonable doubt the weapon further, advanced,
23 or helped in the commission of a crime.

24 You've been selected as fair and impartial jurors
25 whose purpose is to impartially find and determine the

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1 facts of this case. You are to decide this case from the
2 testimony you have heard from the witness stand and
3 evidence which has been presented. I charge you as
4 jurors you must decide the issues in this proceeding
5 without bias and without prejudice to any party.

6 You cannot allow yourself to be overcome by
7 sympathy, by prejudice, by passion, by public opinion, or
8 any other arbitrary factor. Both the plaintiff and
9 Defendant have the right to expect that each of you will
10 carefully and impartially consider all the evidence in
11 the case, that you will follow the law as I explained it
12 to you.

13 If you render your decision in accordance with what
14 I have charged you, no one will have the right to
15 criticize your verdict and you will have fully discharged
16 your duties. And I would also state that murder is a
17 violent crime. So is burglary and armed robbery.

18 Mr. Foreman and members of the jury, I have prepared
19 four different verdict forms as to each indictment. And
20 it has the State of South Carolina vs. Joseph Lamar
21 Brown. And the first one says, we, the jury, by
22 unanimous consent, find the Defendant Joseph Lamar Brown,
23 as to the charge of murder, and it lists the indictment,
24 guilty or not guilty, place for the foreperson to sign
25 and date. The second verdict form, we, the jury, by

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1 unanimous consent, find the Defendant Joseph Lamar Brown,
2 as to the charge of first degree burglary, gives the
3 indictment number, guilty or not guilty, place for the
4 foreperson to sign.

5 We, the jury, by unanimous consent, find the
6 Defendant Joseph Lamar [sic] guilty as to the charge of
7 armed robbery; it gives the indictment number, guilty or
8 not guilty. And if you answer not guilty to question
9 one, then go to question two.

10 As to the lesser included offense of armed robbery,
11 guilty, not guilty, place for the foreperson to sign.

12 We, the jury, by unanimous consent, find the Defendant
13 Joseph Lamar Brown, as to possession of a weapon during
14 the commission of violent crime, guilty or not guilty, a
15 place to sign.

16 As the indictment form -- excuse me -- as the
17 verdict forms state, your verdict has to be unanimous. I
18 will tell you that it's a reasoning process, a
19 collective-reasoning process, on your part. I will ask
20 you to respect each other's opinions and view the
21 evidence, have a discussion, arrive at a true and just
22 verdict in this particular case.

23 Now, Mr. Foreman, ladies and gentlemen of the jury,
24 I'm going to ask you to go to the jury room. However,
25 I've got to take my charge up with the lawyers. I may

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1 bring you back to correct something or add something, so
2 don't begin your deliberations until the bailiff brings
3 you all the exhibits that have been introduced into
4 evidence, the charge book, and tells you to begin your
5 deliberations.

6 The two alternates -- is it Mr. Spires, Mr.
7 Flewelling, if you'll just keep your seats while the rest
8 of the twelve go to the jury, please.

9 Mr. Foreman, if you'll follow the bailiff to the
10 jury room.

11 [Whereupon, the jury exits at 3:53 p.m.]

12 THE COURT: Any exception to the charge from the
13 State?

14 MR. DURANT: No, sir.

15 THE COURT: Any from the Defendant?

16 MS. NORRIS: None, Your Honor.

17 THE COURT: Alright. Would the parties come forward
18 and make sure all the exhibits are present, put on the
19 record they're present. And make sure those that have
20 been marked for ---

21 THE COURT REPORTER: I.D. ---

22 THE COURT: --- Court's Exhibit and ---

23 THE COURT REPORTER: --- I have them all ---

24 THE COURT: --- I.D. are here and are not going
25 back.

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1 THE COURT: Let me see the lawyers up here.

2 [Whereupon, an off-the-record bench conference is
3 held]

4 [Whereupon, a note from the jury is received at 4:45
5 p.m.]

6 THE COURT: Did the Foreman give you this? Or who
7 gave it to you?

8 THE BAILIFF: The Foreman gave it to me.

9 THE COURT: The Foreman?

10 THE COURT: I'm just going to bring them back here
11 and ask the Foreperson do they want to hear the entire
12 testimony or a portion.

13 MR. DURANT: Okay.

14 THE COURT: And I'm going to tell them it's going to
15 take a while to get it, go home, come back in the
16 morning.

17 MR. DURANT: Okay.

18 THE COURT: Okay? And be done with it. Bring us
19 the jury.

20 [Whereupon, Court's Exhibit Number 15 is marked for
21 identification by the court reporter]

22 [Whereupon, the jury enters at 4:10 p.m.]

23 THE BAILIFF: Jurors are all present, Your Honor.

24 THE COURT: Alright. Mr. Foreman, according to your
25 questions that you sent out to the Court -- this is

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1 Court's Exhibit Number what?

2 THE COURT REPORTER: Its 15. 15.

3 THE COURT: 15. The police statement was not
4 admitted into evidence, so it will not come back.
5 There's no transcript, but the lady can play it back for
6 you. My question to you is real simple. Do you want to
7 hear the entire testimony or just a portion of the
8 testimony of Mr. Williams?

9 THE FOREMAN: We were looking to see -- to remember
10 what his description of seeing...

11 THE COURT: Okay. You want to hear the description
12 portion; is that correct?

13 THE FOREPERSON: I believe so.

14 THE COURT: Alright. What I'm going to do -- I know
15 it's been a long day and everybody is tired, so what
16 we're going to do is I'm going to adjourn tonight, send
17 you home. Be back in the morning at 9:30. We'll have
18 that. It's going to take her a while to find it and
19 we'll have that ready.

20 We'll play that first thing to you in the morning
21 and you can continue your deliberations. During the
22 evening, don't discuss the case with anyone; don't talk
23 to anybody about the case. Be back in the jury room at
24 9:30 in the morning. I'll see you in the morning and
25 we'll have the transcript ready to go for you in the

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1 morning. Okay?

2 [Whereupon, the jury exits at 4:50 p.m.]

3 THE COURT: Alright. The lawyers are going to have
4 to -- how many times did he give a description? Do y'all
5 know?

6 MR. DURANT: I'm sure, you know, he was asked ---

7 MS. NORRIS: --- a whole -- a whole lot, Your Honor.

8 MR. DURANT: On direct and cross-examination.

9 THE COURT: I mean, I'm sure he gave it on direct
10 and cross, didn't he?

11 MR. DURANT: Yes, he did. So I'm thinking they're
12 going to have to hear the total testimony.

13 THE COURT: I mean the testimony really wasn't that
14 long. It might be to just let them hear it all.

15 MS. NORRIS: I agree, Your Honor.

16 MR. DURANT: I agree, as well, Your Honor.

17 MS. NORRIS: It wasn't that long.

18 THE COURT: Alright. And we'll set it up where we
19 can hear it all first thing in the morning. Okay?

20 MR. DURANT: Okay.

21 THE COURT: I'll see you at 9:30. Have a good
22 evening.

23 MR. DURANT: Thank you, sir.

24 MS. SEMAN: Thank you.

25 [Whereupon, jury trial adjourns at 4:50 p.m.]

PROCEEDINGS

[Whereupon, the jury begins deliberations at 9:30 a.m.]

THE COURT: Alright. We've got all the jurors.

What I'm going to do is let the clerk and the court reporter go in the jury room and play the entire testimony of Mr. Williams because it's -- there's so much identification interspersed with the direct and the cross-examination, so I'm going to tell them to play -- I've instructed the clerk just tell them no deliberation, no question, listen to it.

Then the two of them will leave, and they'll continue their deliberations rather than bring them into the courtroom. Plus, I think the acoustics would be a little better in there. And the exhibits we've had here, I'm going to let the bailiff take those back to the jury room now.

Any questions from the State or the Defendant?

MR. DURANT: No, sir.

MS. NORRIS: [No response]

THE COURT: Alright. Y'all go be back in your offices or y'all going to ---

MR. DURANT: --- yes, sir. You still have our numbers, I presume?

THE COURT: Pardon?

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1 MR. DURANT: You still have our numbers?

2 THE COURT: I've still got your cell phone numbers.

3 MR. DURANT: Yes, sir. I'll keep it on.

4 THE COURT: Alright. We'll stand at ease or rest
5 until they have another question or we've got a verdict.
6 Okay?

7 MR. DURANT: Okay. Thank you, Your Honor.

8 THE COURT: Alright. Thank y'all.

9 [Whereupon, the testimony of Merit Williams is
10 played to the jury in the jury room]

11 [Whereupon, court is in recess from 9:31 a.m. to
12 10:01 a.m.]

13 [Whereupon, the verdict is reached at 10:02 a.m.]

14 THE COURT: Alright. Anything from the State before
15 we bring the jury?

16 MR. DURANT: No, sir.

17 THE COURT: Anything from the Defendant?

18 MS. NORRIS: No, sir.

19 THE COURT: Alright. Bring us the jury, please.

20 [Whereupon, the jury enters at 10:13 a.m.]
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State v Joseph Lamar Brown, Jr.

Verdict

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1 VERDICT

2 THE COURT: Mr. Foreman, I understand you've reached

3 a verdict. Is that correct?

4 THE FOREPERSON: Yes, sir.

5 THE COURT: Would you hand the verdict forms to the

6 bailiff, please, sir. Thank you very much.

7 [Whereupon, the Foreperson proffers documents to the

8 bailiff]

9 [Whereupon, the bailiff proffers documents to the

10 Court]

11 THE COURT: Thank you, sir.

12 [Whereupon, the Court reviews verdict forms]

13 THE COURT: Mr. Foreman, I have taken the verdict

14 form as you have signed and dated, and written those

15 guilty verdicts -- excuse me -- the verdicts on the

16 indictment sheet, and I've dated it today, 11/9. I'm

17 going to ask you to please sign it.

18 If the bailiff will give it to the Foreman. And

19 while you're doing that -- do you have a pen?

20 THE BAILIFF: I have it.

21 THE COURT: Okay. You've got a pen?

22 [Whereupon, the Foreperson signs verdict forms]

23 THE COURT: Madam Clerk, you may publish the

24 verdict. If you'll give that to the Foreman.

25 [Whereupon, the bailiff proffers documents to the

State v Joseph Lamar Brown, Jr.

Verdict

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1 Foreperson]

2 THE CLERK OF COURT: In the Court of General
3 Sessions, State of South Carolina, County of Charleston,
4 on indictment number 2017-GS-10-4077, we, the jury, by
5 unanimous consent, find the Defendant, Joseph Lamar
6 Brown, guilty as to the charge of murder.

7 In the State of South Carolina, Court of General
8 Sessions, County of Charleston, indictment number 2017-
9 GS-10-4081, we, the jury, by unanimous consent, find the
10 Defendant, Joseph Lamar Brown, as to the charge of first
11 degree burglary, on indictment 2017-GS-10-4081, guilty.

12 State of South Carolina, in the Court of General
13 Sessions, indictment number 2017-GS-10-4083, we, the
14 jury, by unanimous consent, find the Defendant, Joseph
15 Lamar Brown, as to the charge of armed robbery, not
16 guilty. As to the lesser included offense of attempted
17 armed robbery, guilty.

18 State of South Carolina, in the Court of General
19 Sessions, indictment number 2017-GS-10-4079, we, the
20 jury, by unanimous consent, find the Defendant, Joseph
21 Lamar Brown, as to the charge of possession of a weapon
22 during the commission of a violent crime, guilty.

23 Mr. Foreman and ladies and gentlemen of the jury, if
24 this is your verdict, please raise your right hand.

25 [Whereupon, all jurors raise their right hands]

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Sentencing
November 9, 2018

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SENTENCING

THE COURT: I'll be glad to hear you on the
sentencing, okay? Whoever would like to speak.

MS. NORRIS: Your Honor, you've heard the testimony
about what happened here. I think it's very clear that
Trey Colman set this up. Trey Colman is older. Trey
Colman was telling this young man what to do.

He was eighteen years old at the time. I ask Your
Honor to give the minimum sentence on the murder and cap
the others at thirty years ---

THE COURT: --- Alright. I believe the murder is
thirty to life. Correct?

MS. NORRIS: Yes, sir.

THE COURT: And possession -- the pistol is five.
Is that correct?

MS. NORRIS: Yes, sir.

THE COURT: Burglary first is what?

MR. DURANT: Fifteen to life.

THE COURT: Fifteen to life; correct?

MS. NORRIS: Fifteen to life.

THE COURT: Okay. And we're waiting on the attempt.
What's the attempted armed robbery?

MR. DURANT: Twenty.

THE COURT: Max of twenty?

MR. DURANT: Yes, sir.

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1 THE COURT: Okay. Is all -- you'll agree with
2 those?

3 MS. NORRIS: Yes, sir.

4 THE COURT: Okay.

5 MR. DURANT: Your Honor, may we be -- may we be
6 heard, please?

7 THE COURT: Yes. First of all, I'd just like to ask
8 Ms. Norris a couple of questions. Number 1, he didn't
9 testify, so I know very little about his background. I
10 would like to hear some of that before I sentence him.
11 How old -- he's how old?

12 MS. NORRIS: He is twenty now. He was eighteen and
13 about four months at the time.

14 THE COURT: Okay.

15 MS. NORRIS: He grew up here in Charleston. His
16 family is local. He does have some prior criminal record
17 that the -- the Solicitor has got it in his hand there.
18 He was on probation from Dorchester County.

19 THE COURT: What was the charge?

20 MR. DURANT: Your Honor, this is like the third time
21 he's been arrested for a similar type of conduct. He was
22 arrested in Dorchester County in February of 2015 for
23 kidnapping, armed robbery, and attempted murder. Those
24 cases were apparently ended. Like six months later he
25 was arrested for two counts of kidnapping, armed robbery,

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1 and seven counts of attempted murder. It looks like he
2 pled down on those to common law robbery and assault and
3 battery first degree, received a youthful offender
4 sentence.

5 THE COURT: Active sentence ---

6 MR. DURANT: --- youthful ---

7 THE COURT: --- or probation?

8 MR. DURANT: It looks like a youthful offender
9 probationary sentence, Your Honor, for two counts of
10 assault and battery and common law robbery. He was on
11 probation at the time he ---

12 THE COURT: --- alright. Did this -- was -- did
13 this arrest violate his probation? How did he do on
14 probation, or do you know?

15 MR. DURANT: He was on probation when he was
16 arrested for this offense so ---

17 THE COURT: --- okay. So that revoked his
18 probation.

19 MR. DURANT: It should be -- I don't know if they've
20 revoked it yet, but it should be.

21 MS. NORRIS: I don't -- I don't think it's been
22 dealt with yet, Your Honor.

23 THE COURT: Okay. Alright.

24 MR. DURANT: So ---

25 THE COURT: --- anything the State -- anything else

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1 the State would like to tell me concerning sentencing?

2 MR. DURANT: Your Honor, I think he's demonstrated,
3 during a very short time of his life, that he is not safe
4 to be out in the community with everybody else. I would
5 -- I would ask that he be given a life sentence.

6 Also, Mr. Pritchard's mother, Dorothy Weatherford,
7 is here and a friend, Tim Rhoads. At the appropriate
8 time, they would like to address the Court.

9 THE COURT: I'll be glad to hear them. If you would
10 just tell me your name and speak loudly so I can hear
11 you, please.

12 MS. WEATHERFORD: Dorothy Weatherford.

13 THE COURT: Yes, ma'am.

14 MS. WEATHERFORD: This man took a loving and giving
15 person off the earth. He don't deserve to walk along
16 among the rest of us because of what he did to my child.

17 He would have give you the shirt off his back in a
18 heartbeat. And doing -- and trying to better his self.
19 He got -- he suffered a tremendous wreck. He suffered
20 real bad through it. Trey knew this. But yet he still
21 thought he should hurt my child.

22 THE COURT: Well, Trey's already been sentenced.
23 We're here for Mr. Brown.

24 MS. WEATHERFORD: He don't -- he don't have no
25 feelings on this earth for a human being at all. He has

1 no sympathy for nobody. He just thinks the world owes
2 him a living. Nobody owes you anything, son. You need
3 to learn that.

4 THE COURT: Ma'am, speak to me; not him.

5 MS. WEATHERFORD: I just hope he gets a life
6 sentence, because he don't -- he don't deserve to walk
7 this -- walk out on the streets with the rest of us for
8 what he did to my son.

9 THE COURT: Ma'am, I'm awful sorry for your loss. I
10 want to thank you for being here. Okay? Thank you ---

11 MS. WEATHERFORD: --- thank you, sir ---

12 THE COURT: --- so very much.

13 MS. WEATHERFORD: Appreciate ---

14 THE COURT: --- anybody else you want me to hear
15 from, Solicitor?

16 MR. RHOAD: Yes, sir. Please. My name is Tim
17 Rhoad. I am her husband now. Johnny was my stepson.

18 This gentleman has ruined her Christmas for the rest
19 of her life. Before Johnny got killed on December the
20 23rd, she used to be the type person who'd decorate for
21 Christmas and really enjoy the holidays.

22 She used to fight to bring the family together to
23 have Christmas dinners and all. And now Christmas is
24 just another day to her. She has no feeling for wanting
25 to decorate or want to have the family together or

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1 nothing, because all she can think of is Johnny is gone.

2 And I feel like if he took away Johnny, why can't we
3 take him away and put him where he can't hurt nobody
4 else. He shouldn't be running ---

5 THE COURT: --- I don't mean to be --

6 MR. RHOAD: --- the streets, sir.

7 THE COURT: I don't mean to be speaking down with
8 you, but I understand her grieving process. It may be
9 that she needs some professional counseling. You may
10 ought to look into that to help her get over this.

11 MR. RHOAD: Yes, sir.

12 THE COURT: And I understand it's a tragedy. And
13 it's perfectly normal for her to have those feelings.
14 But you need to get her some help. Okay?

15 MR. RHOAD: Yes, sir. Thank you, sir.

16 THE COURT: Alright. Anything else?

17 MR. DURANT: The only other thing I want to say,
18 Your Honor, is that the murder part of this case was just
19 so unnecessary. He was armed, Johnny Pritchard was not
20 armed, he could have taken the money from Johnny
21 Pritchard and walked out of there without killing him,
22 and he chose to kill him and apparently made that
23 decision consciously after already demonstrating, at the
24 time that he's eighteen years old, that he has guns and
25 he's not afraid to use them. I just don't see very much

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1 redeeming in that.

2 THE COURT: Okay. Thank you.

3 Be glad to hear anything else you want to tell me
4 from either attorneys. I'll be glad to hear from Mr.
5 Brown, if he would like to say anything.

6 MR. BROWN: I want to say honestly ---

7 THE COURT: --- alright. Speak up so I can hear
8 you, Mr. Brown. Okay?

9 MR. BROWN: I want to say, honestly, you know, I
10 sorry for her loss. I mean, I honestly did not kill her
11 son. I mean, what was going on in this case and what I
12 saw would be just suspicion. I mean, but I understand
13 that -- I'm sorry her son gone, and I'm sorry that she
14 feel like I got something to do with her son being gone.
15 But I honestly don't.

16 I mean, yeah, I'm -- I had some prior records of,
17 you know, doing unlawful things, you see what I'm saying.
18 But, I mean, in this world you got two different type of
19 people. You got people that was raised with a silver
20 spoon and you got people in this world who was raised
21 with no spoon. You got -- you got certain people who
22 sometimes got to take a route to actually learn from it.
23 You see what I'm saying. I mean, I did not take the
24 route to kill her son. I mean ---

25 THE COURT: --- you what?

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1 MR. BROWN: I did not take a route to kill her son.
2 I did not kill her son at all.

3 I mean, I was wrong for indulging in the
4 conversation with armed robbers and I take full
5 responsibility for that. But talking about robbery or
6 something, I mean...

7 THE COURT: You take responsibility for the robbery?
8 Is that correct?

9 MR. BROWN: Yeah. Like, I mean ---

10 THE COURT: --- but you don't take ---

11 MR. BROWN: --- I take actual responsibility for
12 conspiracy, like conspiring about it, but not actually
13 going to do it.

14 THE COURT: You don't take responsibility for the
15 killing?

16 MR. BROWN: I did not -- I didn't kill him.

17 THE COURT: Okay. Alright.

18 MR. BROWN: I mean ---

19 THE COURT: Who did?

20 MR. BROWN: Sir, I couldn't tell you. I would tell
21 you, but I don't have nothing to do with that. I don't
22 know what was going on with -- as I know I explained to
23 everybody. On my way there I heard gunshots. This is a
24 common neighborhood. Gunshots are heard every day. I
25 mean, I honestly did not have nothing to do with it.

1 It's clear I did not have no dreadlocks. It's clear to
2 every witness that got on that stand.

3 THE COURT: You were in Dorchester. You got a break
4 with youthful offenders there.

5 MR. BROWN: Honestly, I got those ---

6 THE COURT: --- on some right serious charges.

7 MR. BROWN: Honestly, I got those charges because I
8 was hanging around with the wrong crowd. I did not do
9 the crime. The only reason why I pled down, because I
10 wanted to come home to my family. That's why I pled to
11 the charges. I did not do anything. I only pled so I
12 could come home to my family.

13 I didn't do it. Him saying that I would -- I would
14 had a count of attempted murders? No. The reason why it
15 got dropped to assault and battery in the first degree
16 was because I knew it would be going to YOA because I
17 never had no gun. So that's why I pled, since I can come
18 home to my family.

19 But, I mean, like I said before, I apologize to her
20 for her feeling I had something to do with her son. I
21 mean, I got a son myself coming next like December 24th.
22 I mean, I was hoping to be home to see his birth. But, I
23 mean, those twelve people, they made that impossible.
24 So, I mean, I'm not mad with them. I don't have no type
25 of malice towards them or no type of hatred towards them.

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1 I mean, I just wanted them to know like, people, I ain't
2 took a life. I mean, that's how they feel.

3 I just hope that you do give me a lesser sentence so
4 I can at least -- at least -- at least get to see my son,
5 at least get to see him. That's all I'm asking for.
6 That's all.

7 THE COURT: Ms. Seman, Ms. Norris, anything y'all
8 want to add?

9 MS. NORRIS: No, sir.

10 THE COURT: Ms. Seman, anything you would like to
11 add?

12 MS. SEMAN: No, sir.

13 THE COURT: I guess -- Solicitor, I guess while
14 we're waiting on that other form, can I get y'all to sign
15 these? Defense counsel ---

16 MR. DURANT: Here's the other one, by the way.

17 THE COURT: Pardon?

18 MR. DURANT: Here's the other one, I believe?

19 THE COURT: Has this one been signed?

20 MR. DURANT: No. I ---

21 THE COURT: Go get those signed, if you would,
22 please.

23 [Whereupon, counsel review documents]

24 THE COURT: Alright. Mr. Brown, the indictment for
25 murder, you're sentenced to life. The indictment for

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1 possession of pistol, you're sentenced to five years.
2 The indictment for armed robbery, sentenced to fifty
3 years. The indictment for the attempt, sentenced to ten
4 years. Thank you very much.

5 Mr. Foreman, ladies and gentlemen of the jury, if
6 you'll follow the bailiff to the jury room.

7 [Whereupon, the jury exits and is excused at 10:37
8 a.m.]

9 MR. DURANT: Your Honor, could I get those last two
10 sentences again? I didn't ---

11 THE COURT: --- pardon?

12 MR. DURANT: Could I just get those last two
13 sentences again? I didn't get them.

14 THE COURT: Which one?

15 MR. DURANT: The attempted armed robbery and the
16 burglary.

17 THE COURT: Burglary was fifty and the attempted was
18 ten?

19 THE COURT REPORTER: Ten.

20 THE COURT: Okay?

21 MR. DURANT: Thank you, sir.

22 THE COURT: Alright. Thank y'all. Enjoyed working
23 with you.

24 [Whereupon, the jury trial concludes at 10:45 a.m.]
25

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

2017-GS-10-04077

2017-GS-10-04079

2017-GS-10-04081

2017-GS-10-04083

STATE OF SOUTH CAROLINA)

) TRANSCRIPT OF RECORD

-vs-

)

) May 8, 2019

JOSEPH LAMAR BROWN,)

) Charleston, South Carolina

Defendant.)

B E F O R E:

The Honorable J.C. Nicholson, Jr., Judge.

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

Douglas Bruce DuRant, Assistant Solicitor
Attorney for the State

Teresa L. Norris, Esquire
Attorney for the Defendant

Reported By:

Amanda Kelly Haffenden, RPR, CRR
Circuit Court Reporter for the
Ninth Judicial Circuit

1 (May 8, 2019.)

2 THE COURT: All right. Ms. Norris, I'll be
3 glad to hear you.

4 MS. NORRIS: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MS. NORRIS: This is Joseph Brown's motion to
7 reconsider or reduce the sentence. It is based on
8 several factors: One is there is a pending motion by the
9 State to reduce the codefendant's sentence, and I also
10 asked the Court to reconsider in light of the severity of
11 the sentence and this young man's age.

12 While he does not fall under the age of 18 at
13 the time of these offenses, at arrest he was 18 years and
14 four months old, and as the U.S. Supreme Court has
15 recognized several times, youth is more than just a
16 chronological fact. Along with that goes with it all the
17 ramifications of immaturity, peer pressure, all of those
18 things that we know happen; and, in particular, in this
19 case, when we look at the factors that the State Supreme
20 Court has looked at for 18 and under -- and, again, he
21 was just above that age -- the hallmarks of youth, he was
22 barely beyond the age of 18, his brain is still
23 developing. We know that is a fact. The U.S. Supreme
24 Court has said that, and that's what medical science
25 says.

1 His family and home environment, this young
2 man himself said in sentencing before that some folks are
3 born with a silver spoon. Some are born without a spoon.
4 This young man was born to a mother who was 17 years old
5 at the time, the best I can tell from the records and the
6 history. She's never worked beyond McDonald's or Burger
7 King. He was in special education in lower grades. His
8 mother took him out of special education. She just did
9 not consent to it, and from the time he was about
10 13 years old, he was out and about, getting himself into
11 trouble. He basically was in and out of DJJ and group
12 homes. He was seen in mental health there, diagnosed
13 with anxiety disorder, attention deficit/hyperactivity
14 disorder that, in essence, he was getting no treatment
15 for.

16 He was abusing marijuana. He was diagnosed
17 with cannabis abuse, self-medicating. His father was
18 never in the picture, and that's where he was. His adult
19 arrest, while he did have some other arrests, his prior
20 record was a common law -- his conviction record was
21 common law robbery and assault and battery first degree.
22 He was given a youthful offender sentence, time served
23 probation. He was on probation at the time of these
24 offenses.

25 These offenses, of course, he was convicted

1 before Your Honor in November of the murder of Johnny
2 Pritchard, burglary first degree, attempted armed
3 robbery, possession of a weapon during a violent crime.
4 If Your Honor recalls, essentially, Trey Coleman, the
5 codefendant, was a friend of Johnny Pritchard. His next
6 door neighbor Pritchard had come into some money.
7 Mr. Coleman decided to set up his friend. He essentially
8 planned the crime. He was a friend of this young man's
9 stepfather. He convinced him to go along with it.

10 There was no plan to hurt anybody. While
11 there were text messages essentially saying there's going
12 to be a robbery, we're going to split the money, the
13 State's eyewitness testified that when the assailant came
14 in and said give me your money that Mr. Pritchard went at
15 him.

16 There was no plan --

17 THE COURT: Did he say he went after him, or
18 he said he sort of moved towards him? I mean, I question
19 that word you used, went after him. I don't think there
20 was any testimony that he went after the man with the
21 gun.

22 MS. NORRIS: Well, he moved towards him.

23 THE COURT: Well, yeah, I think there was
24 movement, but there was no testimony he went after him
25 because he had a gun pointed at him, and I think -- but

1 go ahead.

2 MS. NORRIS: My point was simply rather than
3 handing over the money, movement can startle an
4 assailant, and while this young man was convicted, I
5 recognize that, he does not admit his guilt, and --

6 THE COURT: I mean that was the second
7 question if I remember correctly he took the position he
8 didn't do it, right?

9 MS. NORRIS: That was his position, Your
10 Honor.

11 THE COURT: He never accepted any
12 responsibility for it, assuming the jury is correct in
13 their conviction.

14 MS. NORRIS: Well, that is true, Your Honor.
15 He still has appeals. He still has post conviction, but
16 acceptance of responsibility is part of why I'm asking
17 this Court to reconsider.

18 THE COURT: What about responsibility? Has
19 he accepted -- other than his legal choices that he's
20 exercising, he's entitled to do that, but we're not
21 talking about that, okay?

22 MS. NORRIS: I understand, Your Honor, but
23 with respect to his entitled rights --

24 THE COURT: He's entitled to what?

25 MS. NORRIS: He was entitled to his right to

1 trial.

2 THE COURT: That's right. I'm not
3 questioning that, okay?

4 MS. NORRIS: But his sentence, in part
5 because of his life sentence, there is no incentive, and
6 this is part of what the U.S. Supreme Court talks about
7 in discussing those juvenile under 18 sentences. If you
8 give a person of this young man's age a life sentence,
9 life without parole, it's the same as my client, who was
10 convicted in Berkeley County a few weeks back who's
11 50 years old, three murder charges, life without parole.

12 In essence, it's the same sentence, but
13 because of this young man's age, it's harsher, and
14 there's also no incentive, no hope of ever release.
15 There's no incentive for him to accept responsibility, to
16 try to better himself, to behave himself in prison, and
17 so part of why I ask this Court to reconsider is give him
18 some incentive to accept responsibility, to try to better
19 himself. Give him some hope, some measure; otherwise,
20 we're just throwing a man of 18 years old away.

21 And, yes, these are bad crimes, but his
22 codefendant, who is 24 years old, set up his friend,
23 invited him in, essentially set him up, and while he came
24 in and testified, he did say this young man was involved,
25 but he also sat on that witness stand and said this was

1 my idea. Johnny Pritchard was my friend. He set him up.

2 THE COURT: I think he even picked him up
3 down the street when he was running down the street.

4 MS. NORRIS: He did.

5 MR. DuRANT: Picked him up at a predetermined
6 location.

7 MS. NORRIS: He did, but he also told him
8 when to go in, wait until they leave my house, and he
9 told him that Johnny's cousin was in the house. I mean,
10 there's no question that he was the older person. He set
11 this up. He's the dupe.

12 THE COURT: I believe he's got 40 years,
13 right, the codefendant?

14 MS. NORRIS: The codefendant got 45 on
15 burglary.

16 THE COURT: Forty-five?

17 MR. DuRANT: Yes, sir.

18 THE COURT: Has there been a motion made
19 to -- what's the status of the codefendant, okay?

20 MR. DuRANT: He's currently serving a 45-year
21 sentence. I have filed a motion for a downward
22 departure. That has not been heard.

23 THE COURT: When is that going to be heard?

24 MR. DuRANT: I have no idea, because it was
25 filed at the end of last year, and we don't schedule

1 anymore, so I'm just waiting for the Court to schedule
2 it.

3 THE COURT: What are you going to recommend
4 on the downward departure?

5 MR. DuRANT: I don't know that I'm going to
6 recommend anything beyond a downward departure. I
7 certainly have not agreed to anything at this point.

8 MS. NORRIS: He filed a motion, Judge.
9 Clearly --

10 MR. DuRANT: I know, but, you know, y'all act
11 like I'm going to go in there and recommend a specific
12 number. I don't know if I will or not.

13 THE COURT: Well, I know. The reason I bring
14 this up is he's looking at 45 years, and I think
15 Ms. Norris is right: He did plan it. I think, if I
16 remember correct, he even texted him, said he was home
17 and he lived next door.

18 MR. DuRANT: No question about it.

19 THE COURT: And he planned it, and he got 45,
20 and now we got the triggerman here who actually did the
21 killing.

22 MR. DuRANT: Uh-huh.

23 THE COURT: And I don't think the plan was to
24 kill the man, it was to steal his money.

25 MR. DuRANT: Which does not cut to his

1 benefit, does it, because he's the one that went there
2 and he's the one that killed him.

3 THE COURT: I understand, but on her motion
4 to reconsider, the last thing I'm going to do is give him
5 less time than what the downward departure is going to
6 be. That's really the only reason I bring it up.

7 MR. DuRANT: May I be heard?

8 THE COURT: Well -- I'm sorry, Ms. Norris. I
9 didn't mean to cut you off. I'm sorry. Finish your
10 argument.

11 MS. NORRIS: I was basically finished, Your
12 Honor.

13 THE DEFENDANT: Excuse me. I got something
14 to say --

15 MS. NORRIS: The easy answer to this is to
16 say that, you know, he showed no hope, no remorse. He
17 didn't give that, but the system is better than the
18 people we judge. Give him a chance. Give him some
19 reason to accept responsibility and to behave himself and
20 to try to do better. That's all I'm asking.

21 THE COURT: Okay. I'll be glad to hear you.

22 MR. DuRANT: My only response to this is 18
23 is old enough to know better, Judge. I mean, next thing
24 they're going to say, well, it should be 21. Then it's
25 going to be 25, and then it's going to be 35. At some

1 point, you know that killing somebody is wrong, and you
2 know that killing somebody is wrong when you're 18 years
3 old.

4 Also, given the fact that --

5 THE COURT: I don't think their argument is
6 that he didn't know it was wrong. Her argument is give
7 the man some hope for the future.

8 MR. DuRANT: And I understand that, Your
9 Honor, but you're also talking about someone that had
10 already done this, had been charged with armed robbery,
11 had been charged with numerous counts of attempted
12 murder, had been charged with breaking into -- or
13 burglarizing somebody else's house, and, yes, he ends up
14 pleading to A&B second first, two counts, and strong-arm
15 robbery and gets a sweetheart deal, and he's on probation
16 for less than six months when he gets involved in this
17 and kills somebody during a home invasion.

18 They have not brought up anything today that
19 was not available to this Court at the time that you
20 sentenced him, and, quite frankly, whatever the defendant
21 got is irrelevant -- I mean, what the codefendant got is
22 irrelevant to his sentence. The codefendant got
23 45 years, and, yes, I filed a motion for a downward
24 departure, but, unlike this defendant, he did cooperate
25 with the State. He was not in there when the victim was

1 shot. He didn't intend for the victim to be shot, and he
2 showed remorse, and not only has he never shown an ounce
3 of remorse for what he did to Mr. Pritchard, he's never
4 even accepted responsibility for what he did to
5 Mr. Pritchard, and you're absolutely right about that,
6 and there's no question the jury convicted him because
7 he's guilty.

8 I also have, just for the Court's -- I've
9 already shown this. This is from the victim's sister,
10 who is obviously opposed. We also have Dorothy
11 Weatherford in the back of the court -- excuse me.
12 That's from Mr. Pritchard's daughter, and Ms. Weatherford
13 is Mr. Pritchard's mother, and if you would allow her,
14 she would address the Court, but she's obviously opposed
15 to the reduction as well.

16 THE COURT: Solicitor, Ms. Pritchard says
17 Mr. Brown murdered a helpless man. What is she referring
18 to when she says helpless, other than the fact that he
19 had a gun on him and that may make him helpless? What's
20 she referring to? I don't understand that. What he was
21 helpless about?

22 MR. DuRANT: Could you point out where that
23 is, Your Honor?

24 THE COURT: Very last sentence: Mr. Brown
25 murdered a helpless man.

1 MR. DuRANT: She's talking about Mr. Brown
2 murdered Mr. Pritchard, who was an unarmed man in his own
3 home and had no reason to die.

4 THE COURT: You're not referring to some
5 physical ailment or anything.

6 MR. DuRANT: No, no. I mean, he had physical
7 ailments, I think, because he had been in an automobile
8 accident and almost died.

9 THE COURT: That's where he got the money
10 from.

11 MR. DuRANT: That's where he got the money
12 from to buy the mobile home and stuff like that.

13 THE COURT: Bought mobile home from that.

14 MR. DuRANT: Right. He had physical issues,
15 but I don't know if you would consider him --

16 THE COURT: I just wanted to know what she
17 meant by helpless. I'll mark this as Court's Exhibit
18 No. 1.

19 You have anything else you have from the
20 State you want to look at?

21 MR. DuRANT: I don't believe so.

22 THE COURT: Anything else, Ms. Norris, you
23 would like me to look at?

24 MS. NORRIS: Nothing to look at, Your Honor,
25 just a couple things --

1 THE COURT: Let me just ask you one question:
2 You know, confinement and protection of society is one of
3 the legitimate means for punishment, okay? Based upon
4 his prior record and his conduct while he was on
5 probation, why isn't he a danger to society? I need to
6 keep him out of society, and that is a legitimate concern
7 this Court has for the protection of the community.

8 We're not talking about retribution. We're
9 not talking about rehabilitation. We're talking about
10 confinement.

11 MS. NORRIS: I understand, and I'm not asking
12 you to go below 30 years. I mean, at minimum, it's got
13 to be 30 years, and one of the things the Court is
14 looking at --

15 THE COURT: Thirty years, how old is he now?

16 MS. NORRIS: He currently is 20 years old.
17 He was born in [REDACTED].

18 THE COURT: That means he would be out of
19 jail at what, 47, 48, 30 years?

20 MS. NORRIS: One of the factors the Court
21 looks at --

22 THE COURT: My question to you is why would I
23 put him back on the streets at 48?

24 MS. NORRIS: I'm trying to answer you, Your
25 Honor. One of factors that the Court looks at is that

1 when crimes are committed by someone who is 18 years old,
2 they're still developing. They're still growing.

3 By the time he is 47, 48 years old, he's not
4 going to be the same person. I mean, that's just a fact
5 of life, whether you're in prison or whether you're
6 18 years old, growing up on the street. It's transient.
7 That's basically why we look at youthful offenders
8 differently. That's why we have a whole separate
9 sentencing for juveniles and for youthful offenders that
10 are in that youthful offender category, 18 to 25.

11 Yes, this is a murder charge, but he didn't
12 go there intending to kill anybody, and I object
13 strenuously to the State saying he hasn't accepted
14 remorse, et cetera. That's true, but by doing that, but
15 by considering that in his sentence, we're trampling all
16 over his rights.

17 THE COURT: I don't think the remorse issue
18 is -- I don't have any concern about the remorse.
19 Whether he's remorseful or not I think is immaterial.
20 That's not really a legitimate reason to punish, okay?

21 MS. NORRIS: But I agree: Protection of
22 society is a concern, but so is deterrence. So is
23 rehabilitation. We look at all those things, whether it
24 be 30 years, and, yes, the codefendant got 45 years. He
25 didn't pull the trigger. There was no plan for anybody

1 to pull the trigger.

2 He planned it. Assuming this young man was
3 the assailant -- and, again, I'm an officer of the court.
4 I don't disagree with that, but he has every right to
5 disagree with that. It wasn't planned. It was a split
6 second. You're in a bad situation. You listen to your
7 stepfather's friend who planned this robbery. Instead of
8 handing over the money, he moved, and I don't fault
9 Mr. Pritchard for that. Please don't misunderstand me.

10 THE COURT: Well, I don't think you do.

11 MS. NORRIS: There was no plan to pull the
12 trigger. It happened. Is that split second worth life
13 without parole?

14 The only other thing, Your Honor, is
15 Mr. Brown's mother would like to address the Court.

16 THE COURT: I'll be glad to hear her. What's
17 your name?

18 THE WITNESS: Crystal Palmer.

19 THE COURT: Okay. Be glad to hear you.

20 THE WITNESS: Okay. Everybody keep saying,
21 okay, that Joseph is the triggerman. Nobody knows that.
22 Nobody saw Joseph pull this trigger. Okay. He's been
23 convicted of this, yes, but nobody seen him do this.

24 My whole thing is everybody -- somebody is
25 dead. I understand that. Their child is dead. This is

1 my child. He's only here -- he's only going to get worse
2 over time. You don't know what he's going to do over
3 time because you're not there, and at the end of the day,
4 God has the last say. Joseph isn't perfect, but Joseph
5 isn't no murderer, so why would I show remorse for
6 something I know that I didn't do? That way I would be
7 showing remorse for something that maybe y'all think I
8 did something.

9 Joseph has always been a good kid. Joseph
10 has always followed the wrong crowd, but other than that,
11 my child isn't a murderer. I have sat here for two
12 trials, two trials, listening to y'all talk about my
13 child like a dog. Why, because he's black? Why, because
14 the person that got killed is white? Nobody ever has
15 stood up for my child, but I'm going to stand up for him
16 today.

17 My child did not do this, so y'all give the
18 other man 45 years because he told -- he planned the
19 whole thing. My child got 165 years. My child just had
20 a baby Christmas Day. Nobody cares about that because
21 he's black, because he's been in trouble before. He's
22 not the only black child that has been in trouble before.
23 Y'all think that just he's been in trouble, he can't turn
24 his life around. That's not true.

25 Everybody saying your sly stuff over there --

1 yeah, you -- this is my child, and I'm going to be there
2 and stand up for my child because I know that my child
3 did not do this. So I feel sorry for his parents. I do,
4 I truly do, but he has family, and he has a mother too
5 that's going to feel sorry for him. That's what I have
6 to say. I don't care who likes it. I don't care what
7 nobody says about it.

8 THE COURT: Thank you very much.

9 Yes, ma'am?

10 MS. NORRIS: I believe Mr. Brown wants to
11 address the Court as well.

12 THE COURT: Mr. Brown, I'll be glad to hear
13 you.

14 THE DEFENDANT: How you doing, Mr. Nicholson?
15 Everybody saying that I didn't show remorse, I mean, like
16 my mama said, Your Honor --

17 THE COURT: Don't worry about the remorse.
18 That's not an issue, okay?

19 THE DEFENDANT: I really did not kill this
20 man. I knew what's going on. Yeah, I know what's going
21 on, but, I mean, I did not kill this man. I guess -- I'm
22 sorry for Mr. Pritchard's family. I was wrong for trying
23 to -- well, I was wrong for conspiring with my
24 codefendant about robbing this man.

25 I did not kill this man, I honestly didn't.

1 I ask you to give me a chance to at least get to see my
2 son. Honestly, I don't know if you got kids yourself,
3 but, I mean, if you were in the same predicament I was
4 in, you would feel like how my mama would feel. You
5 would feel like I would feel.

6 I ain't saying give me 30 years. I ain't
7 saying all that. I mean, even if you give me 50 years,
8 even if you knock life down and give me 65 years, I would
9 rather have a number because I honestly didn't do it. I
10 mean, when I stood up when I was at my last trial, I
11 apologized to her for her losing her son, I mean, but I
12 didn't do it.

13 This man got on the stand. The man basically
14 lied in two trials, basically lied. I don't see how this
15 man -- and he told y'all he said that. He told y'all he
16 did whatever he did. He told you what he did. Like I
17 said, I'm guilty of conspiracy. I am guilty of that
18 because I never should have been talking about a crime,
19 period. I'm guilty of that, and I take full
20 responsibility for that, but for murder, burglary -- I
21 did not do it, sir. I honestly didn't, and then I got
22 charged with attempted armed robbery. Attempt means
23 something has to be going on beyond preparation.

24 At my trial, Your Honor, you were sitting
25 through that whole trial. You didn't hear nothing on

1 preparation because not one person said, oh, well, I was
2 there. My codefendant could have said I was there. He
3 wasn't there. The man I was in the house with, he was in
4 his late 20s, early 30s. I was 18 at the time.

5 I mean, I just hope that you do give me a
6 reduction and at least give me a chance to go to prison
7 and rehabilitate myself. I mean, I'm doing real good.
8 I'm getting my GED. I'm almost finished. I got a couple
9 more parts left and I have my GED. I'm trying to get my
10 CDL to better myself, but, to me, I feel like it would be
11 to no avail. All these things I can't use on the street.
12 Why do it if I can't use it? It's pointless.

13 I'm just asking that you do give me a
14 reduction. At least give me a chance to go home and see
15 my son. I mean, that's all I can really ask you for,
16 honestly.

17 THE COURT: Anything else?

18 THE DEFENDANT: No, sir.

19 THE COURT: All right. Thank you, Mr. Brown.

20 MR. DuRANT: Your Honor, would you hear from
21 Ms. Weatherford? Because she wanted to be heard.

22 THE COURT: I'll be glad to hear.

23 THE COURT REPORTER: May I have your name,
24 please.

25 THE WITNESS: Dorothy Weatherford.

1 Why should he go home and see his son? I
2 can't see mine. He took that away from me. He took the
3 fact that -- his first grandchild was born in December
4 that he'll never see. My family is so tore up over this.
5 There's no way that nobody else could have shot my son
6 because there was people in the house two minutes after
7 he was shot, and the police was there really quick, so I
8 will never believe no different, and I don't think he
9 should be back on the street.

10 And how many robberies and kidnaps he already
11 did before my son? He shouldn't have been on the street
12 to be able to kill my son. He should have been in jail.
13 He don't have no right on the street now. My son is
14 laying in a grave over there, along with two of my other
15 children. I'm a mother that's lost three of her five
16 kids. Illness took one, a gun took the second one, and
17 the third one, he was so distraught that he turned to
18 drugs and killed himself, pretty much, pretty much. Why
19 should he be on the street ever again?

20 I look at my son's picture every day that
21 sits next to me on the left, and I look at him and I say
22 why God? But they say God don't make mistakes, and I
23 believe that, and I'm starting to come to the fact of it.
24 I forgive this boy, but I'll never forget it because God
25 said you have to forgive, and God's the only thing that's

1 keeping me sane these days, and that's all I have to say.
2 I just beg, Your Honor, please do not let this man on the
3 street. Thank you.

4 MR. DuRANT: This is Timothy Rhodes. I
5 believe he wanted to be heard as well.

6 THE COURT: Who are you?

7 THE WITNESS: I'm Ms. Weatherford's
8 boyfriend. I've been her boyfriend for 15 years. I've
9 been around Johnny for 15 years.

10 If Mr. Brown ain't in jail -- he can have
11 visitation on weekends and all, hug his family and kiss
12 his family, and his baby can come and see him in jail if
13 the family brings him, but for us to go visit Johnny, we
14 have to go to Holy Cross cemetery. We look at a piece of
15 ground with grass on it, and we talk to the ground. We
16 don't talk to Johnny. We don't hug Johnny. We don't
17 kiss Johnny. All we see is ground.

18 Johnny will never see any of his
19 grandchildren, never see his children again, won't see
20 his brother and sister, won't see his dad or his mom ever
21 again because of one simple incident: Oh, wow, I got
22 scared and I shot. Well, guess what? Take his place and
23 let him take your place, and I'll guarantee you'll be
24 glad --

25 THE COURT: Sir, don't address him. Address

1 me, you understand?

2 THE WITNESS: I'm sorry. That's all I have
3 to say.

4 THE COURT: Don't address Mr. Brown.

5 THE WITNESS: I'm sorry, sir.

6 THE COURT: Anything else?

7 MR. DuRANT: No, sir.

8 THE COURT: All right. Thank you very much.

9 Let me give it some thought, and I'll advise
10 you as soon as I make up my mind. Thank you very much.

11 MS. NORRIS: Thank you, Your Honor.

12 - - -

13 (Whereupon, the proceedings were concluded.)

14 - - -

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2 STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
3 COUNTY OF CHARLESTON) CASE NO. 2017GS1004077,
04079, 04081, 04083

4

5 STATE OF SOUTH
CAROLINA,

6

Plaintiff,

7

vs.

8

JOSEPH LAMAR BROWN,
JR.,

9

Defendant.

10

* * * * *

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12

B E F O R E:

13

The Honorable Kristi Harrington

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* * * * *

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Denise J. Lauder, RPR

21

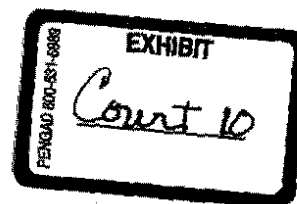
Ninth Judicial Circuit

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2

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1 (The following proceedings were had
2 June 11, 2018, State v Brown, Charleston County
3 General Sessions Court, 2:37 p.m.)

4 (STATE'S EXH. 1 - 143, Premarked for
5 identification by the Solicitor's Office.)

6 THE COURT: All right. Anything, Ms.
7 Seman?

8 MS. SEMAN: Yes, Judge, just very
9 briefly. The way I understand the state of South
10 Carolina law, at this point, I believe I have to
11 make a contemporaneous objection during Mr.
12 Durant's opening to preserve any of your pretrial
13 rulings or preserve my record on your pretrial
14 rulings, but I just wanted to let you know that I
15 was planning on doing that so you will know where
16 my objections will be coming from.

17 THE COURT: Okay.

18 MS. NORRIS: Your Honor, just one
19 housekeeping matter. I don't recall Judge Dennis
20 telling jurors this morning that lawyers would
21 avoid them in the hallways, et cetera. And I
22 almost ended up in an elevator with a juror, so I
23 would like the Court to explain to them that we're
24 not being rude.

25 THE COURT: Okay. All right. Thank

1 you. Are they all here? Are the jurors here?

2 BAILIFF: Yes, ma'am.

3 THE COURT: And they have their
4 notepads? And you know Mrs. Fetterolf has been
5 selected as the foreperson.

6 BAILIFF: The notepads are in their
7 chairs, Your Honor.

8 THE COURT: All right. Thank you.
9 Notepads in their chairs. All right. Bring them
10 in. All right.

11 Ms. Seman, the rule of sequestration
12 has been invoked. If you could please scan the
13 audience and make sure that you are compliant.

14 MS. SEMAN: I believe we are compliant,
15 Your Honor.

16 (Jury in, 2:31 p.m.)

17 BAILIFF: All jurors are present.

18 THE COURT: Thank you. Please be
19 seated. Good afternoon, ladies and gentlemen. Did
20 you comply with my instructions over the lunch
21 hour? If you followed my instructions, please
22 raise your right hand.

23 Thank you. All 14 jurors have
24 indicated they have complied with the Court's
25 instructions.

1 Mr. Clerk, if you would please give
2 them their oath.

3 THE CLERK: Will the defendant please
4 rise?

5 Ladies and gentlemen, please rise and
6 raise your right hand.

7 THE JURY,
8 being first duly sworn, testified as follows:

9 THE CLERK: Your Honor, let the record
10 reflect the jurors have been sworn.

11 THE COURT: Ladies and gentlemen, as I
12 indicated before our lunch break, the case that
13 we're about to try is the case of the State versus
14 Joseph Lamar Brown, Junior, the defendant. What I
15 now say is intended to serve as an introduction to
16 the trial of this case. These remarks are not a
17 charge on the law.

18 I will instruct you on the law during
19 the trial as it becomes applicable, but, most
20 importantly, at the end of the trial before you
21 retire to consider your verdict. This is merely an
22 explanation of the procedures we'll be following so
23 you may be better able to understand what is
24 happening.

25 The defendant is charged by four

1 indictments filed in this court with the crimes of
2 murder, possession of a weapon during the
3 commission of a violent crime, burglary in the
4 first degree, and armed robbery. I will explain
5 the elements of those crimes to you at a later
6 time.

7 As I indicated to you, the indictment
8 is simply the charge by which this case is brought
9 into court. It is not in any sense evidence of the
10 allegations it contains. The defendant has pled
11 not guilty to each indictment.

12 The State has the burden of proving
13 each of the elements as to each indictment beyond a
14 reasonable doubt. It is your duty, ladies and
15 gentlemen, to determine whether the State has met
16 that burden.

17 Your purpose as jurors is to find and
18 determine the facts. You are the sole judges of
19 the facts in this case. That is why when you are
20 entering and leaving the courtroom the attorneys,
21 the parties involved in this case, and members of
22 the audience will stand.

23 They will remain standing until all of
24 you are seated, so please come in and take your
25 seat. They will do this out of respect for your

1 new position as judges of the facts.

2 You are to determine the facts from the
3 testimony you hear and any other evidence that is
4 introduced in court. It is up to you to determine
5 the inferences which you feel may be properly drawn
6 from the evidence.

7 It is important that you determine your
8 duty and -- perform your duty in determining the
9 facts diligently and conscientiously because,
10 ordinarily, there is no way to correct an erroneous
11 determination of the facts by a jury.

12 On the other hand, and with equal
13 emphasis, the same law that makes you the judges of
14 the facts makes me the judge of the law. The law
15 as given by this Court is the only law that you may
16 follow. You must accept it and follow it even
17 though you may disagree with it.

18 I cannot tell you what I think the law
19 is, and you cannot disagree with me about what the
20 law is or what the law ought to be. Your job is to
21 take the law as I give it to you, apply it to the
22 facts as you find it from the testimony of the
23 witnesses, and any other evidence that is
24 introduced; and after doing that, you will render
25 your verdict, a verdict under the solemn oath that

1 you just took as jurors.

2 Until I tell you that you may begin
3 your deliberations, you must not discuss this case
4 with anyone. That includes your fellow jurors, but
5 it also includes your friends, your family members,
6 or anyone else.

7 Ladies and gentlemen, you may not read,
8 watch, or listen to any news accounts regarding
9 this case, and you may not do any independent
10 investigation.

11 I have instructed the attorneys and the
12 parties involved in this case that they cannot
13 discuss or even talk to you at all throughout the
14 progress of this trial. So if you should see the
15 attorneys in the hallway during our lunch break and
16 they do not speak to you, please do not think
17 they're being rude. They're merely following the
18 Court's instructions.

19 You must decide this case based solely
20 on the evidence presented here in this courtroom.
21 This means that during the trial you must not
22 conduct any independent research, read, watch, or
23 listen to any news accounts, or discuss this case.
24 You're probably wondering why I have to repeat that
25 so many times, but it happens.

1 Jurors forget and they may go home
2 after the end of a long day and begin discussing
3 this case with their significant other or their
4 friends on Facebook.

5 So it is important; I'm going to say
6 this about a hundred times before you retire to
7 consider your verdict.

8 Ladies and gentlemen, if you become
9 aware of another juror's violations, you must
10 report that to me immediately.

11 It's important that you keep an open
12 mind and not decide any issue in this case until
13 all of the evidence has been presented, the parties
14 have made their closing arguments, and I have
15 instructed you on the law applicable to this case.

16 It is your solemn responsibility to
17 determine the guilt or innocence of the defendant,
18 and your verdict must be based solely on the
19 evidence as it is presented to you in the trial and
20 on the law as I instruct you at the close of the
21 trial.

22 In just a moment, Mr. Durant is going
23 to make an opening statement on behalf of the
24 Solicitor in which he will explain the issues in
25 this case, or at least what he believes the issues

1 to be.

2 Ms. Seman, the attorney for the
3 defendant, may also make an opening statement,
4 although she is not required to do so at this time.
5 Please remember, what the attorneys tell you in
6 their opening statements is not evidence in this
7 case. It's merely their contentions as to what the
8 evidence will show you.

9 The evidence in this case will be
10 presented to you by the testimony of sworn
11 witnesses from the witness stand, as well as any
12 exhibits that may be introduced into evidence.

13 Ladies and gentlemen, the evidence that
14 is introduced will go back with you during your
15 deliberations, so if you do not have an opportunity
16 to observe the evidence as closely or for a long --
17 as long of time as you wish, do not be concerned;
18 those will go back with you.

19 From time to time, you're going to hear
20 one of the lawyers, or both of the lawyers, ask to
21 approach the bench or state an objection. I might
22 find it necessary to excuse you for a short while
23 from the courtroom in order to issue a ruling on
24 those objections.

25 Please do not think we're trying to

1 hide anything from you. The reason I must do this
2 is sometimes it is necessary for me to make a
3 comment on the facts in order to issue a ruling on
4 the law. So I may excuse you for a short while so
5 that in no way anything that I say or do during the
6 progress of my ruling on that objection, that it
7 would influence you in any way as to your finding
8 of the facts.

9 In determining what the facts are in
10 this case, you must decide whether or not the
11 testimony of the witness is believable. It is my
12 responsibility to rule as a matter of law as to
13 whether certain testimony is admissible, but once
14 the testimony is admitted, whether or not you
15 believe it is solely for you to determine.

16 In deciding whether to believe a
17 witness, you have the right to consider the
18 interest of a witness, the bias of the witness, the
19 opportunity for the witness to have seen the
20 matters and things about which the witness
21 testifies, as well as the way the witness acts on
22 the witness stand. That means it's your duty to
23 pay close attention.

24 Please do not let your thoughts wander
25 so at the end of all the testimony, after you have

1 heard closing arguments on behalf of counsel, and I
2 have instructed you on the law applicable to this
3 case, you will be in a position to determine what
4 the facts are, apply the law to those facts, and
5 render a verdict based upon those things.

6 Madam Foreperson, you are the jury's
7 spokesperson here in court, and that is your
8 assigned seat. We will always have at least one
9 bailiff seated close, so if any time you have any
10 concerns or need additional breaks, please let your
11 foreperson know, and she will alert the bailiff,
12 and you'll be able to go back immediately.

13 To my two alternates, those are your
14 assigned seats. The rest of you may sit wherever
15 you choose.

16 I have provided notepads for you which
17 means you may take notes throughout the progress of
18 this trial. I caution jurors, some of us are much
19 better note takers than others. Those notes are
20 for your own use. We will lock them up at the end
21 of the day and give them back to you in the
22 morning.

23 You will have those notes with you
24 during your deliberations, but, please understand
25 if during your deliberations you want some

1 testimony played back, we will simply bring you
2 back into the courtroom and my court reporter will
3 play that back for you.

4 So don't feel like you have to write
5 down word for word -- and I caution jurors
6 sometimes, when I'm writing I have a tendency to
7 look down and I may actually miss things. So I
8 caution jurors to be mindful of that as well. So
9 with all of those things, you are allowed to take
10 notes in any way that you see fit.

11 Ladies and gentlemen, we will now begin
12 the trial.

13 Mr. Durant.

14 MR. DURANT: Thank you, Your Honor.
15 Good afternoon, ladies and gentlemen. On
16 December 23rd, 2016, about two days before
17 Christmas, Johnny Pritchard was at his home at [REDACTED]
18 East Thomas Street in Lincolnville, South Carolina.

19 I don't know if y'all know where
20 Lincolnville is, but it's kind of a little bedroom
21 community in Summerville, but in the Charleston
22 County part of -- before you actually get into
23 Dorchester County.

24 Johnny had come into some money; he had
25 been in a right serious automobile accident. Two

1 or three months before his death, he'd received a
2 settlement, and he used some of that money to
3 purchase a mobile home. And he was in the process
4 on this particular day of packing up his belongings
5 at [REDACTED] East Thomas to move to his new mobile home.
6 And his cousin, Hugh Potter Pritchard, was over at
7 his house to help him pack up.

8 At 12:50 p.m., just before 1:00 p.m.,
9 this man comes through his front door. He has got
10 a 9-millimeter pistol in his hand. He presents the
11 pistol to Mr. Pritchard, and he demands that he
12 give him all his money. In the course of the
13 robbery, he ends up shooting Mr. Pritchard in the
14 throat, severing an artery, and before the police
15 could get there ten minutes later, he was dead.

16 This entire event was witnessed by his
17 cousin, Hugh Pritchard, who was packing up in the
18 kitchen, who, of course, was terrified. He ran out
19 the back door and jumped over a fence and ran to a
20 neighbor's house where 911 was called.

21 He runs out the front door he came in,
22 and he starts running down East Owens Drive towards
23 Summerville, in the direction of Summerville.
24 About a hundred yards away he runs in front of [REDACTED]
25 East Owens Drive and is seen by a neighbor dropping

1 a phone in the ditch in front of her house, and a
2 little bit further down the road dropping some
3 cash.

4 He apparently stops and gathers the
5 cash, but didn't know that his phone was missing.
6 And he continues running on down the road, away
7 from the scene of the crime towards Summerville.

8 About a block past their house, he
9 turns left onto Brenda B Drive. Brenda B Drive is
10 kind of a -- it's a dead-end street, it's not a
11 through street, but you can still get to it driving
12 through -- across the grass from a parallel road
13 called Bell Street.

14 He runs down Brenda B to the end of
15 Brenda B, and somebody driving a dark sedan comes
16 in from the Bell Street side, jumps out of the car,
17 waves to Mr. Brown, Mr. Brown gets into the car
18 with him, and they drive off.

19 And we know that for a couple of
20 reasons. This was witnessed by the resident of [REDACTED]
21 Brenda B Drive, but, more importantly, it was
22 captured on a right sophisticated surveillance
23 video system that he had at his house.

24 The case was investigated by the
25 Charleston County Sheriff's Office and Detective

1 Goldstein was the lead detective on the case. And,
2 quite frankly, they didn't have a whole lot to go
3 on to begin with. They had a bunch of descriptions
4 -- or several descriptions that varied wildly from
5 one another; they had this phone that had been
6 dropped in the ditch that was an iPhone; and they
7 had the video from the end of Brenda B captured by
8 Mr. Martin Perez's surveillance video system.

9 With regard to the phone -- they start
10 with the phone and they can't get in the phone
11 because -- at least open it because it's protected
12 by a pass code. And at that time these people that
13 developed the software that extracts data from
14 these phones --

15 MS. SEMAN: Objection, Your Honor.

16 MR. DURANT: -- were not able or did
17 not have software available to defeat the pass code
18 on an iPhone. But the phone had wallpaper on it.
19 And the wallpaper on the phone was a black male and
20 a black female with the caption, Joe Joe and
21 Naughty.

22 The police were able to identify
23 Naughty as Nautica Manigault, and they interviewed
24 Ms. Manigault. As a result of their interview of
25 Ms. Manigault, they determined that Joe Joe was

1 Joseph Lamar Brown, Junior, and that he was the
2 owner of that iPhone.

3 Mr. Brown was arrested, provided a
4 statement, admitted that phone was his, but just
5 happened to lose his phone on the day that
6 Mr. Pritchard was killed right in the same area
7 where Mr. Pritchard was killed. And as I noted, at
8 the time they couldn't get in that phone because of
9 the pass code.

10 Meanwhile, their investigation
11 progressed, and they determined that a neighbor and
12 friend of Mr. Johnny Pritchard, the victim in this
13 case, named Trey Coleman, had been with
14 Mr. Pritchard right before this shooting.

15 Mr. Pritchard had given him a ride up
16 the road to Summerville and had taken him to a
17 liquor store where he could get his paycheck cashed
18 and had taken him to the Family Dollar Store for
19 him to pick up a few items, and then they returned
20 to Lincolnville.

21 And as soon as they got back to
22 Lincolnville, and as soon as Mr. Pritchard went
23 back into his house, he (indicating) comes through
24 the front door. Well, they get some surveillance
25 video from the Family Dollar Store and the liquor

1 store and, sure enough, Trey Coleman was there.

2 They also pulled all the body cam video
3 from the deputies that responded to the shooting,
4 and they noticed that Mr. Coleman was also there.
5 Showed up shortly after the police got there.

6 And they have Mr. -- the video from the
7 end of Brenda B Drive from Mr. Perez's residence,
8 and they took a close look at that. And they
9 discovered that the person that picked him up at
10 the end of Brenda B Drive was wearing the exact
11 same clothes that Trey Coleman was wearing when he
12 got his check cashed at the liquor store and went
13 to the Family Dollar before the shooting and when
14 he was captured on the body cam after the shooting.
15 It was the same person.

16 So he's arrested and charged with the
17 crimes which resulted in the death of Mr. Johnny
18 Pritchard. But he is not here today. His trial
19 will be at a later date. We are here today for the
20 trial of this defendant, the shooter, Joseph Lamar
21 Brown.

22 In March of 2017, about four months
23 after the shooting, the sheriff's office got a
24 break. Cellebrite is a company that develops
25 hardware and software that is used to extract data

1 from cell phones. They were able to come up with
2 some -- a way to defeat the pass code on an iPhone.

3 The FBI had a program where they agreed
4 to pay Cellebrite for three cell phones that the
5 Charleston County Sheriff's Office wanted a dump,
6 and this was one of the three that they selected.

7 So they obtained a search warrant for
8 the cell phone. It went to Cellebrite and
9 Cellebrite extracted the pass code and provided
10 that to the sheriff's office. On May 17th of 2017,
11 Detective Paul McManigal of the Charleston County
12 Sheriff's Office was able to extract the data from
13 this defendant's iPhone.

14 And they learned some interesting
15 information. And what they learned is that he had
16 a friend and contact in his phone by the name of
17 Red.

18 MS. SEMAN: Objection, Your Honor.

19 MR. DURANT: And Red and him have some
20 relationship that extended for at least six weeks.
21 They appeared to be friends. And Red's phone
22 number is (843)609-9577. And, like I said, they've
23 been calling and texting back and forth with each
24 other since November 7th of 2016, some six weeks
25 before this actual shooting.

1 But what was really interesting about
2 it was the text messages from the day Johnny
3 Pritchard was killed, starting about an hour before
4 his death. Starting at a time when Trey Coleman
5 was with the victim. And it started at 11:53 a.m.
6 with a text message sent by Red to Joseph Brown:
7 Man, you gotta rob dude today. I'm with him now.

8 And then, in a series of text messages
9 between the two of them that lasted up to the time
10 almost that Johnny Pritchard was dead, they planned
11 how the robbery would take place, where the robbery
12 would take place, Mr. Pritchard's home, that Red
13 would let Joseph Brown know when Johnny Pritchard
14 was back in his house, how they were going to split
15 the proceeds from the robbery 50/50, where Red was
16 going to meet Mr. Brown after the robbery at the
17 end of Brenda B Drive, which one of the victims had
18 the money.

19 There was a text from Red to Johnny --
20 to the defendant, the skinny one got the money
21 though. The fat one ain't got nothing, referring
22 to Hugh Potter Pritchard. And he let Joseph Brown
23 know that the victims were not armed.

24 He says: They packing cause he's about
25 to move. They some pussies. There ain't no gun in

1 the house.

2 The last communication between them was
3 at 12:47 p.m. It was a telephone call from Red to
4 Joseph Brown when he lets him know he's back in his
5 house. Some time between that phone call and nine
6 minutes later when the 911 call was made was when
7 he murdered Johnny Pritchard. The only question
8 left unanswered at that time was who was Red.

9 They suspected Red was Trey Coleman,
10 but they didn't know he was Trey Coleman. They
11 went back and looked at the past text messages
12 between the two of them and found on December 15th
13 of 2016, about a week before this, where Joseph
14 Brown texted Red and said: What's your Facebook
15 name? And Red said, Moneybag Fly.

16 So Facebook is searched for an account
17 in the name of Moneybag Fly. And, sure enough, a
18 profile picture pops up. And who is that profile
19 picture? Trey Coleman. And whose name is in the
20 URL of that Facebook account? Trey Coleman.

21 So a search warrant is served on
22 Facebook; they get the account information for the
23 account; they find out that Trey Coleman is also
24 known as Moneybag Fly, also known as Red. They
25 look at that account November of 2016.

1 In opening the account, he used a
2 verified telephone number of (843) 609-9577. The
3 exact same number that Joseph Brown had been
4 communicating with Red for the last six weeks.

5 So what this boils down to, ladies and
6 gentlemen, this is a case of pure greed. Johnny
7 Pritchard had some money, Joseph Brown and Trey
8 Coleman wanted the money, and now Johnny Pritchard
9 is dead. As a result of this incident, Mr. Brown
10 has been charged with burglary in the first degree,
11 armed robbery, murder, and possession of a weapon
12 during the commission of a violent crime.

13 And as Judge Harrington has told you,
14 she'll instruct you on all of those offenses later
15 in the case, but once you've heard all the evidence
16 in this case you will be convinced beyond any
17 reasonable doubt that this man, Joseph Lamar Brown,
18 is guilty of each and every one of these offenses.
19 Thank you.

20 MS. SEMAN: May it please the Court.

21 THE COURT: Ms. Seman.

22 MS. SEMAN: In this room we care about
23 evidence, not about assumptions. The State just
24 told you about a terrible crime that resulted in
25 the death of Johnny Pritchard. The worst crime a

1 person could possibly commit, murder; the killing
2 of another person premeditated.

3 The State also told you that this
4 happened in a neighborhood in Lincolnville, South
5 Carolina. And I think Mr. Durant would agree with
6 me when I tell you this is not the safest area.
7 And in this neighborhood it's normal, it's
8 expected, it's everyday to hear gunshots.

9 And witnesses, as Mr. Durant told you,
10 will tell you that everyone in the neighborhood
11 knew that Mr. Pritchard had come into some money,
12 knew that he had bought a new car, a new trailer,
13 and he was getting out.

14 The State, as Mr. Durant said, charged
15 Mr. Brown with murder, burglary, armed robbery, and
16 possession of a weapon, but the State's own
17 witnesses will tell you that no physical evidence
18 places Mr. Brown in that scene; no fingerprints, no
19 DNA, no hair, nothing.

20 The State's own witnesses will tell you
21 that the murder weapon was never recovered. The
22 State's own witnesses will tell you that no one
23 ever identified Mr. Brown in a lineup.

24 So the State is going to talk to you
25 about some text messages. That's what they have;

1 the most damning evidence they can come up with
2 against Mr. Brown. And I ask that you pay close
3 attention to those text messages, specifically what
4 they do say and what they don't say. Because when
5 you pay close attention, you will notice that those
6 text messages say nothing of murder.

7 Hugh Pritchard will tell you there was
8 one assailant, one suspect, one killer, and at
9 least one other witness will tell you that they saw
10 someone running through the neighborhood shortly
11 after this crime was committed. But no one will be
12 able to tell you that this person, this runner is
13 the same person as the person that was inside
14 Mr. Pritchard's house that day.

15 No one will be able to tell you that
16 they saw this person, this runner with a gun, but
17 the State wants you to assume that the person
18 inside Mr. Pritchard's house that day and the
19 person running through the neighborhood are the
20 same person.

21 The State wants you to assume that the
22 person running through the neighborhood and the
23 person that sent those text messages are the same
24 person; and the State wants you to assume that the
25 person who sent those text messages was planning a

1 murder; and finally and most importantly, the State
2 wants you to assume that that person is Mr. Brown.
3 Quite a chain of assumptions.

4 But we ask that you listen closely to
5 the witness' description of the persons that they
6 saw running through the neighborhood that day. We
7 ask that you listen for any discrepancies you might
8 see in their testimony, and we ask you to consider
9 whether that person could be Mr. Brown.

10 And even if it was, does that make him
11 a killer? In Criminal Law 101, lawyers learn about
12 what a crime is. And, basically, a crime has two
13 parts, mens rea and actus reus. Mens rea is Latin
14 for guilty mind. It means intent, knowledge,
15 purpose. A person has to intend to commit a crime.
16 It's not something that can happen by accident.

17 Actus reus, though, is conduct, guilty
18 act, the thing that a person actually does. And a
19 crime must have both, both mens rea and actus reus,
20 a guilty mind and a guilty act. The State must
21 show not only that Mr. Brown intended to commit a
22 burglary, an armed robbery, and a murder, but that
23 he did commit a burglary, an armed robbery, and a
24 murder. Not that Mr. Brown was planning a crime,
25 but that he did commit this crime.

1 In this country we do beyond a
2 reasonable doubt. We do presumption of innocence
3 until proven guilty. In this country, and
4 especially in this room, we do not do assumption.
5 We do not assume because what a person looks like,
6 his demeanor, or his clothing, or what he does on
7 the weekends, or the kind of selfies he takes, or
8 even what he talks about in his text messages that
9 he committed a murder.

10 We are confident that you will not
11 allow the State to pull the wool over your eyes,
12 that you would not be blinded by the State's
13 attempt to get you to assume that the text messages
14 mean that Mr. Brown committed a murder.

15 And that's why we're confident that
16 when you go back to your jury room and you take
17 with you the evidence that you have learned in this
18 case, your common sense, and the law as Judge
19 Harrington will instruct you, that you will find
20 Mr. Brown not guilty because assumptions are not
21 what we do here.

22 THE COURT: Call your first witness.

23 MR. DURANT: The State will call Hugh
24 Pritchard.

25 HUGH PRITCHARD,

1 being first duly sworn, testified as follows:

2 THE CLERK: Please have a seat, sir.

3 We need you to speak into the microphone so we can
4 hear you, sir. Once you're comfortable, state your
5 full name for the record and spell your last name.
6 Thank you.

7 THE WITNESS: My name is Hugh Potter
8 Pritchard, and the last name is spelled
9 P-R-I-T-C-H-A-R-D.

10 DIRECT EXAMINATION

11 BY MR. DURANT:

12 Q. Good afternoon, Mr. Pritchard.

13 A. Yes, sir.

14 Q. Could you tell our jury how old you
15 are?

16 A. I'm 58 years old.

17 Q. And how far did you go in school?

18 A. I graduated in '78 high school and went
19 to a year of college and then seven years of sheet
20 metal school, the Union.

21 Q. Where did you go to sheet metal school?

22 A. Here in Charleston.

23 Q. What kind of work do you do for a
24 living?

25 A. Sheet metal work.

1 Q. And have you pretty much been doing
2 that your whole life?

3 A. Yes, sir.

4 Q. And what kind of sheet metal work --
5 who do you work for primarily?

6 A. I work for a commercial company,
7 Collum, F. A. Bailey, Tri Mechanical, and Union of
8 Charleston Sheet Metal. And then I do residential
9 too; work for Hardee and several companies.

10 Q. Kind of free lance?

11 A. Yes, sir; I subcontract too.

12 Q. Doing ductwork and things like that for
13 heating and air-conditioning people?

14 A. Uh-huh. Yes, sir.

15 Q. Where are you living now?

16 A. I was living in -- at a friend's house.

17 Q. Okay. You were living at -- weren't
18 you living in a motel?

19 A. Yes, sir.

20 Q. And you got put up at that motel
21 because you were homeless, right?

22 A. Yeah.

23 Q. And you got put up at that hotel by the
24 State because they wanted to make sure that you
25 were here for this trial, correct?

1 A. Yes, sir.

2 Q. Now, what was your relationship to
3 Johnny Glen Pritchard?

4 A. He was my cousin, my third cousin. I
5 believe it's third cousin.

6 Q. Okay. And what was the exact
7 relationship? He was like your brother's --

8 A. It was my second cousin's son --

9 Q. Okay.

10 A. -- James Pritchard.

11 Q. And how was your relationship with
12 Johnny personally?

13 A. It was nice. It was very pleasant.
14 There wasn't no violence or nothing.

15 Q. Was there a time when you actually
16 lived with him?

17 A. Yes, sir.

18 Q. Where did you live with him?

19 A. In Lincolnville, where he stayed at on
20 Thomas Street. And the other street is Colpat, or
21 something like that.

22 Q. So he kind of stayed right at the
23 intersection of Thomas and Colpat --

24 A. Yes.

25 Q. -- is that correct?

1 A. Yes, sir.

2 Q. How long had you lived with Johnny over
3 on -- at [REDACTED] East Thomas?

4 A. I would say about -- off and on, about
5 a year and a half or so.

6 Q. And do you know what period of time
7 that was, what years?

8 A. When he got deceased about two days
9 before Christmas a year and a half ago, so I'd
10 lived with him probably that year -- maybe four or
11 five months out of that year, and then the year
12 before that, another --

13 Q. So 2015 and 2016?

14 A. Yes, sir.

15 Q. Okay. Were you actually living with
16 Johnny at the time of his death?

17 A. No, sir. I was helping him move to his
18 trailer he had bought, boxing the dishes up in the
19 kitchen.

20 Q. Okay. And during the year, year and a
21 half you lived with your cousin, Mr. Pritchard, did
22 you become acquainted with a fellow named Trey
23 Coleman?

24 A. Yes, I did.

25 Q. And how did you become -- how did you

1 come to know Trey Coleman?

2 A. He was a neighbor that lived behind
3 Johnny on Colpat Street.

4 Q. And what was his relationship with
5 Johnny?

6 A. Friend.

7 Q. And during the time that you were over
8 there, did he come and visit Johnny frequently?

9 A. Yes, he did.

10 Q. And you said that he lived right behind
11 where Johnny lived. Who did he live with?

12 A. He lived with his father and his mother
13 and his brother.

14 Q. And --

15 MR. DURANT: Your Honor, at this time
16 we would offer State's Exhibit 61, I believe
17 without objection.

18 MS. SEMAN: That's correct, Your Honor.

19 THE COURT: State's 61 into evidence
20 without objection.

21 (STATE'S EXH. 61 in evidence.)

22 BY MR. DURANT:

23 Q. Can you see that?

24 A. Yes, sir.

25 Q. Okay. And where that little red pin on

1 that map is, what does that signify?

2 A. That's his house.

3 Q. Whose house?

4 A. Johnny's house.

5 Q. That's [REDACTED] East Thomas Street?

6 A. Yes, sir.

7 Q. And if you see on there, can you see
8 where Mr. Trey Coleman lived?

9 A. Yes.

10 Q. And can you put a circle around his
11 house? You can go right on that screen.

12 A. (Indicating)

13 Q. Okay. And he lived there with who?

14 A. With his father and his mother and his
15 brother.

16 Q. What was his father's name?

17 A. Eric.

18 Q. And how about his mother; did you know
19 his mother?

20 A. Barbara, I believe.

21 Q. And how about his brother?

22 A. Aaron.

23 Q. Do you know whether or not Johnny had
24 come into some money sometime before his death?

25 A. Yes, he did.

1 Q. And how?

2 A. He got in a bad auto accident. A
3 person ran into him and killed one of my cousins in
4 the back seat, and Johnny was driving, and his
5 brother was in the passenger seat in the front.

6 Q. And he ended up getting a settlement
7 from that accident?

8 A. I believe so, yes, sir. I'm sure he
9 did. Yes, he got some money.

10 Q. Well, you were aware that he got a
11 settlement, right?

12 A. Yes, sir.

13 Q. And what did he use some of the money
14 for that settlement for?

15 A. He bought him a mobile home and a Jeep.

16 Q. Okay. And where did he buy the mobile
17 home from?

18 A. Now, I -- it was on -- in Hanahan. He
19 bought it from an individual person who was selling
20 it.

21 Q. Okay. And where did he have the mobile
22 home moved to?

23 A. He moved it to -- off of Royal Road.

24 Q. Okay. And that's kind of in the
25 Sangaree area?

1 A. Yes, sir. It's off of 17, Highway 17,
2 and it's by CVS. And you can go -- that's Royal
3 Road right there, and it's all the way to the end
4 of that. And it goes into another street on the
5 corner where a church is, and he lived at the end
6 there in the trailer park.

7 Q. Okay. And that's where he was moving
8 to?

9 A. That's where he was moving to. He
10 never did move into his home.

11 Q. And so he never did get to move; is
12 that correct?

13 A. No. He was -- we were moving his stuff
14 in there at -- you know, boxing his dishes up in
15 his house in Lincolnville, and he never made it
16 to --

17 Q. And you never made it over there
18 either, correct?

19 A. No, sir.

20 Q. Because weren't you supposed to start
21 living with him again after he moved?

22 A. Well, I think I was, you know. He had
23 mentioned it to me.

24 Q. Do you know whether or not Trey Coleman
25 knew that he had this money?

1 A. I believe he did. I know he did.

2 Q. And you know he did because why?

3 A. Because he loaned Johnny some money.

4 Q. He loaned Johnny some money, or Johnny
5 loaned him some money?

6 A. No. Johnny loaned Trey money. Now, I
7 can't exactly tell you how much, but it was, you
8 know --

9 Q. Okay. And they were friends, right?

10 A. Yeah, they were friends. I mean, I
11 never thought nothing like this would ever happen.

12 Q. Okay. Let's talk a little bit about
13 Friday, December 23rd. Were you over at Johnny's
14 house that day?

15 A. Yes, sir.

16 Q. And had you just come over there that
17 morning, or when did you come over?

18 A. I came on a, I think, Thursday.

19 Q. Okay. So you came on Thursday and
20 spent the night with Johnny?

21 A. Yes, sir.

22 Q. And you were over there at Johnny's
23 house for what purpose?

24 A. Helping him move his belongings to his
25 new home on Royal Road.

1 Q. Now, while y'all were there packing up
2 that Friday morning, did Johnny go somewhere?

3 A. Yes, he did.

4 Q. And do you know who --

5 A. He took Trey to -- I thought he said
6 that he was going to pay on his car or something
7 and -- where it was impounded, and that's what he
8 -- that's why --

9 Q. But you don't know exactly, do you?

10 A. I don't know exactly where they went
11 to.

12 Q. But he was giving Trey a ride
13 somewhere?

14 A. Yes, sir.

15 Q. And do you recall what time they left?
16 And if you don't know, that's fine.

17 A. I would say it was about 9:00 in the
18 morning.

19 Q. Could it have been later than that?

20 A. It could have been. I wouldn't say no
21 more than 10:00, but they were gone a good hour and
22 a half.

23 Q. Okay. Did you call Johnny after he
24 left?

25 A. Yes, sir, I did.

1 Q. And why did you call Johnny?

2 A. To pick me up a drink at the store.

3 Q. Okay. And when you say a drink, you
4 mean a couple of beers?

5 A. That's what -- yes, sir.

6 Q. And did he agree to do so?

7 A. Yes, sir.

8 Q. And he was gone about an hour and a
9 half?

10 A. I would say it was about an hour and a
11 half.

12 Q. And what happened when he got back?
13 Where were you when he got back?

14 A. I was in the kitchen, boxing the dishes
15 in the kitchen.

16 Q. And Johnny came in what door? The
17 front door?

18 A. He came in the front door.

19 Q. Okay. And where did he -- where did
20 Johnny go after he --

21 A. He went and sat on the edge of his
22 couch. And he said, Potter -- you know, because he
23 called me Potter. He says, Potter, come and get
24 your two beers. And he said, I bought you a
25 biscuit at McDonald's. And I said, thanks, Johnny,

1 I just ate a sandwich.

2 So I went and got it and took it into
3 the kitchen and started boxing the dishes back up.

4 Q. Okay. Went and got the beer?

5 A. Yes, sir.

6 Q. Okay.

7 A. And the biscuit, and I sat it on the
8 table with the two beers. I didn't even get to
9 open the beer yet.

10 Q. Okay. What happened next?

11 A. Well, as soon as I took the two beers
12 and sat it on the table and started going back at
13 the dishes, the front door knocked -- was knocked
14 open, you know, I guess turning the doorknob, and a
15 man came in with a big pistol in his hand.

16 And Johnny was sitting on the edge of
17 the couch. And he said, give me the money. And
18 Johnny jumped up and went at him, and he shot
19 Johnny in the neck.

20 Q. Did you know Johnny had been shot in
21 the neck at the time?

22 A. Huh?

23 Q. Did you know Johnny had been shot in
24 the neck at the time?

25 A. I knew he got shot. I didn't know

1 exactly, you know, if he was -- you know, what part
2 of his body had been shot.

3 Q. You thought he'd been shot in the head
4 at first, right?

5 A. Yes, sir.

6 Q. What was this guy wearing?

7 A. He had dark clothes on and --

8 Q. Dark top and dark pants?

9 A. Yeah, I believe so, sir.

10 Q. Anything covering his face?

11 A. I think he had a scarf over his face,
12 you know.

13 Q. Pulled up from the bottom?

14 A. Yes, sir, you know, like a bandana
15 maybe, sort of.

16 Q. Did he have any kind of hat on?

17 A. He might've had a hat on. I can't say
18 for certain because I was so scared at the time. I
19 didn't know whether or not he had seen me in the
20 kitchen because it wasn't no more than, you know,
21 eight feet away from where he -- when he shot my
22 cousin.

23 Q. What did the gun look like that he had?

24 A. It was black. I've seen these type of
25 guns. I've never held one. It was like on TV, the

1 Glock, or something like that, automatic.

2 Q. The kind that -- not the kind that's
3 got the cylinder in it?

4 A. No, sir, a revolver.

5 Q. A black revolver. It was like a black
6 semiautomatic?

7 A. Yes, sir.

8 Q. And what happened after he shot Johnny?

9 A. Johnny went to the floor, and he went
10 to his pocket and got the monies out. I do not
11 know how much he got out, but I know he was going
12 in his pocket. And then he turned around and went
13 out the front door.

14 And then I was on the kitchen floor,
15 and I had the chair blocking the door, and I threw
16 it down and went out the back door.

17 And I yelled to -- that Johnny had been
18 shot to Eric, his neighbor, you know, that lived
19 with Trey and Aaron and Barbara.

20 Q. Did you hear the guy that shot Johnny
21 say anything other than give me your money?

22 A. No, sir.

23 Q. Now, do you know if Johnny usually
24 carried a wallet?

25 A. He usually -- he didn't carry a wallet

1 on him. He kept it in his glove box in his car,
2 yes, sir.

3 Q. Where did he keep his money?

4 A. In his front pocket -- I believe it was
5 in his right pocket.

6 Q. And what door did you run out of?

7 A. The back door.

8 Q. And what did you do when you ran out
9 the back door?

10 A. I yelled, because Eric was on the other
11 side of the chain link fence. And I was probably
12 30 yards away to the fence from his house when I
13 went out the back door. And then I said, Johnny
14 just got shot, and then --

15 Q. Was there anything -- any obstruction
16 between where you were and where --

17 A. There was a chain link fence and I
18 jumped the fence and got in with Eric. And Eric --
19 I said, call 911, and he did.

20 Q. And to be clear, where Eric lived is
21 right there that you -- same place Trey Coleman
22 lived, right?

23 A. Yeah.

24 Q. Because Eric is Trey Coleman's
25 stepfather?

1 A. It's his -- I believe it's his
2 biological father.

3 Q. Okay.

4 A. I mean -- I mean, I really didn't know
5 too much about that, but --

6 Q. Okay. Was the guy black or white?

7 A. That shot Johnny?

8 Q. Yeah, the guy that shot Johnny.

9 A. He was a black man.

10 Q. And you could tell that how?

11 A. By his skin, you know, around his eyes
12 and, you know, his hand.

13 Q. Was he like a big, tall guy?

14 A. No, sir. He was about 5-7, 5-8.

15 Q. And was he a big hefty guy?

16 A. No. He was a thinner person, you know,
17 probably about 150 -- 145, 150.

18 Q. Now, what happened when you got over to
19 Coleman's house?

20 A. I jumped the fence and got in the yard
21 with Eric. And then we commenced going to Johnny's
22 house on Colpat Street and then going around to the
23 front, and --

24 Q. And who were you talking to --

25 A. Eric.

1 Q. Who were you talking to when this was
2 going on?

3 A. I was talking to 911.

4 Q. Okay. Who called 911?

5 A. Eric did.

6 Q. And then he gave the phone to you?

7 A. Yes, sir.

8 Q. And State's Exhibit Number 78, do you
9 recognize this as being a copy of the 911 call?

10 A. Yes, sir.

11 Q. And you --

12 A. I initialed it.

13 Q. Okay. And dated it when you listened
14 to it?

15 A. Yes, sir.

16 MR. DURANT: Your Honor, at this time
17 we would offer State's 78, I believe without
18 objection.

19 MS. NORRIS: No objection.

20 THE COURT: State's 78 into evidence
21 without objection. You may publish.

22 (STATE'S EXH. 78 in evidence.)

23 MR. DURANT: Thank you, Your Honor.

24 (Audiotape played in open court)

25 BY MR. DURANT:

1 Q. Whose voice is that, Mr. Pritchard?

2 A. That's Eric.

3 (Audiotape continued)

4 Q. That was you?

5 A. Yes, sir. Yes, we talked to them.

6 Q. What was your state of mind at the
7 time, Mr. Pritchard?

8 A. I was in shock from, you know, being
9 with my cousin getting murdered.

10 Q. And you were kind of frustrated too,
11 right?

12 A. Yes, sir.

13 Q. And when you made that call, you said
14 it'd been 15 to 20 minutes since your cousin had
15 been shot?

16 A. That's what I thought the time was, but
17 it might not have been that long.

18 Q. It couldn't have been that long, could
19 it?

20 A. I know now it wasn't.

21 Q. Seemed like it at the time?

22 A. It seemed like it was forever before
23 EMS and everything got there.

24 Q. So, correct me if I'm wrong, you ran
25 next door and --

1 A. Immediately ran --

2 Q. And Eric called the police immediately?

3 A. Exactly.

4 Q. And when you say that -- when she was
5 asking you what the race was and you were saying, I
6 don't know, was that true?

7 A. Well, I knew that he was black, but I
8 just for my safety probably I said I didn't know,
9 you know.

10 Q. Now, it sounded like Eric called and
11 then the both of y'all walked down there; is that
12 correct?

13 A. Yes, sir.

14 Q. And it was just the two of y'all,
15 right?

16 A. Right.

17 Q. Did Aaron Cooper show up sometime after
18 y'all got there?

19 A. Aaron showed up around right as soon as
20 we got there and then -- we seen Johnny on the
21 floor in the living room, and then Aaron came up
22 and he went in and seen Johnny also.

23 And then, I guess, probably five
24 minutes later then Trey shows up. Trey Coleman.

25 Q. Okay. And you talked to a lot of

1 police officers that day?

2 A. Yes, sir.

3 Q. Talked to this gentleman that day,
4 correct? (Indicating)

5 A. Yes, sir.

6 MR. DURANT: Beg the Court's indulgence
7 for one moment.

8 THE WITNESS: Harve Jacobs came too.

9 MR. DURANT: Could you please answer
10 any questions that defense counsel may have for
11 you?

12 THE WITNESS: Yes, sir, I will.

13 MS. NORRIS: May it please the Court?

14 THE COURT: Yes, ma'am.

15 MS. NORRIS: May I approach a little
16 closer?

17 THE COURT: Wherever you are
18 comfortable.

19 MS. NORRIS: I don't want to yell at
20 you across the room.

21 THE WITNESS: Yes, ma'am.

22 CROSS-EXAMINATION

23 BY MS. NORRIS:

24 Q. Mr. Pritchard, understanding that you
25 were freaking out, as you said --

1 A. Yes, ma'am, I was very --

2 Q. -- in the 911 call --

3 A. Yes, I was frightened.

4 Q. -- you did tell the 911 officer that
5 you didn't know the race of the person that came
6 in; is that correct?

7 A. I believe so, but I thought I did
8 mention to them that he was black after --

9 Q. Well, we just listened to the call. Do
10 we need to play it back?

11 A. No, I --

12 Q. Okay. Now, going back before the 911
13 call, it wasn't just Trey Coleman and his family
14 that -- in the neighborhood that knew that Johnny
15 had gotten some money, right?

16 A. I couldn't tell you who he told. I
17 know he told Trey and Trey borrowed money from him.

18 Q. But Johnny was friendly with his
19 neighbors?

20 A. Yes.

21 Q. And would talk to them about that sort
22 of thing?

23 A. Yes.

24 Q. And in addition to buying a mobile
25 home, he had also just bought him a new car, right?

1 A. A Jeep.

2 Q. A Jeep. Okay. Now, in addition to the
3 911 dispatch, you talked to a number of other
4 officers that day, right?

5 A. Yes, ma'am.

6 Q. There were some before Detective
7 Goldstein?

8 A. Yes, ma'am.

9 Q. And there were officers out there that
10 were wearing body cameras. Did you see that?

11 A. I didn't really notice it.

12 Q. Okay. Has the solicitor played for you
13 the body cameras that you're making additional
14 statements out there that day?

15 A. Yeah. I mean --

16 Q. Okay. And in those you told Detective
17 Gillard that -- that you thought the defendant was
18 black, right? You couldn't say for sure, you
19 thought he was?

20 A. Well, I know that he was black. The
21 reason why I didn't say that he was black is
22 because I was scared for my life. I didn't know
23 whether or not -- you know, what was going to
24 happen.

25 Q. You just thought if you said a black

1 person in general that you might be hurt for that?

2 A. Well, I didn't know what was going to
3 happen if I would have said, you know, that I know
4 he was a black man.

5 Q. But with that said, he had at least up
6 above his nose covered, correct?

7 A. Yes, ma'am.

8 Q. And that day you told the officers that
9 he was wearing a hat. Do you remember that?

10 A. Yeah, I do believe so.

11 Q. And you also told an officer, at least
12 one, that you thought the guy was in his mid 30s?

13 A. Yes, ma'am.

14 Q. Okay. You even used the phrase, middle
15 aged, didn't you?

16 A. I think so.

17 Q. And now today you testified -- and
18 correct me if I'm wrong. Today you told us that
19 Johnny was shot and then the shooter went through
20 his pockets, right?

21 A. Yes, ma'am.

22 Q. All right. Now, you told Officer
23 Simlitch out there on body camera that day a few
24 minutes afterwards --

25 A. I was in shock.

1 Q. All right.

2 A. So all I know is he shot Johnny and
3 then Johnny hit the floor, and then he went through
4 his pocket. And I -- he --

5 Q. Well, I understand you were in shock,
6 but my question is, that day, just a few minutes
7 after this you told an officer, specifically,
8 Officer Simlitch --

9 A. That Johnny handed him the money?
10 But --

11 Q. You said --

12 A. -- he did not hand him the money.

13 Q. Let me finish the question, sir.

14 A. Okay. Go ahead.

15 Q. You told Officer Simlitch that you
16 didn't see a robbery, you just heard afterwards
17 that somebody saw somebody running and saw cash,
18 right?

19 A. Yes, ma'am.

20 Q. And --

21 A. I didn't know exactly how much money --
22 whatever he was doing in his pocket, whether he got
23 money out of it or not, but I would believe that he
24 had that money on him because he went and took
25 Johnny to the -- you know, wherever he went to.

1 And that's -- I mean, he had a bunch of money on
2 him and so --

3 Q. You said --

4 A. -- I don't know if I -- the lady that
5 seen him running down the front street, well, he
6 had dropped his cell phone and then money.

7 Q. Well, Mr. Potter, you didn't see that,
8 right?

9 A. No. The lady seen it, though.

10 Q. All right.

11 A. A neighbor.

12 Q. Well, we'll hear from her.

13 A. Okay.

14 Q. But my question is, you specifically
15 told the police officer that day that you did not
16 see the shooter go through Johnny's pockets?

17 A. I seen him going in his pocket.

18 Q. My question is, did you tell the
19 officer that day that you did not see that?

20 A. I don't believe I did.

21 Q. All right.

22 A. That money was dropped on the street
23 with the cell phone. Then, evidently, he did get
24 money from him.

25 MS. NORRIS: Your Honor, I'm going to

1 ask for an instruction that the witness just answer
2 the question.

3 THE COURT: If you would, please listen
4 to the question and answer her question.

5 THE WITNESS: Yes, ma'am. Yes, Your
6 Honor.

7 THE COURT: And if you need to explain
8 anything further, you can do that, but answer her
9 question if you --

10 BY MS. NORRIS:

11 Q. All right. Mr. Pritchard, I'm going to
12 ask you one more time. Specifically, do you recall
13 telling Officer Simlitch shortly after 1:32 p.m.
14 that day, about 30 minutes, 45 minutes after the
15 shooting, that you didn't see a robbery, you just
16 heard cash was taken?

17 A. I don't know exactly what he was doing
18 in his pocket when we went to get --

19 Q. Did you say --

20 A. -- whatever he got out, but I seen him
21 in his pocket. That's exactly what I did. I seen
22 the black man going into his pocket bent over.

23 MS. NORRIS: Your Honor, I have marked
24 previously Defendant's Exhibit 1, I believe the
25 State has no objection.

1 MR. DURANT: (Shaking head)

2 MS. NORRIS: This has a number clipped
3 on the envelop. I'm going to play clip five.

4 THE COURT: Okay. Are you moving that
5 into evidence?

6 MS. NORRIS: Yes, Your Honor, I
7 apologize.

8 THE COURT: Any objection?

9 MR. DURANT: No, ma'am.

10 THE COURT: Defendant's 1 into evidence
11 without objection. You may publish the portion you
12 wish.

13 (DFT. EXH. 1 in evidence.)

14 MR. DURANT: Just one moment, Your
15 Honor.

16 (Audiotape played in open court)

17 BY MS. NORRIS:

18 Q. That was you in the clip?

19 A. Yes, ma'am.

20 Q. And you told the officer that you did
21 not see the bad guy go through his pockets?

22 A. Well, I know for a fact the reason why
23 I said that, I don't know if I was in shock, but I
24 did -- do remember him going down, crouching down
25 over Johnny and going in his pocket and turning out

1 and going out the front door.

2 So I don't know how much money he had
3 at that time that he got from Johnny. Now, the one
4 way you can find out about how much Johnny had on
5 him is the --

6 Q. Mr. Pritchard, I didn't ask you that.
7 We'll hear from other witnesses down the line.

8 A. Yes, ma'am.

9 Q. All right. And now you also talked to
10 Detective Goldstein, right?

11 A. Well, I mean, I don't -- all these
12 names like Goldstein and this --

13 Q. The gentleman right there, (indicating)
14 does --

15 A. I know, but I didn't go to him
16 personally, you know. What I'm saying is, that was
17 a year and a half ago, and I only met him for that
18 one little short brief time.

19 Q. I understand. I understand.

20 A. I don't have a photographic memory for
21 that.

22 Q. And now, again, you told him that you
23 thought the shooter was a black male in his late
24 20s or 30s, right?

25 A. Yes, ma'am.

1 Q. He had a mask on his face and a hat on?

2 A. Uh-huh. Yes, ma'am.

3 MS. NORRIS: Give me just a second.

4 THE COURT: Take your time.

5 MS. NORRIS: I don't have any other
6 questions of Mr. Pritchard.

7 THE COURT: Mr. Durant?

8 MR. DURANT: Just a couple follow-up,
9 Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. DURANT:

12 Q. The fact of the matter is, you didn't
13 know how old he was, right?

14 A. No, sir.

15 Q. I believe you told Detective Goldstein
16 he was in his 20s and 30s, but then you said right
17 after, I don't really know how old he was?

18 A. I didn't know exactly how old he was.
19 As far as what I seen -- what I seen of him, he
20 didn't seem to be old, you know.

21 Q. And, also, when you said something to
22 the deputy on the body cam about 20s and/or 30s,
23 right after you say that, you said, no, he wasn't
24 that old, he was in his 20s. Do you remember
25 saying that?

1 A. Not really, but --

2 Q. And on that little clip she played,
3 that she said you didn't say he reached into his
4 pocket, you did say he reached into his pocket,
5 didn't you?

6 A. Yeah. I seen him crouched down, going
7 into his pocket.

8 Q. And you said that on the little clip,
9 he reached into his pocket?

10 A. Yes, sir.

11 Q. And you did tell Detective Goldstein
12 that he was a black male, correct?

13 A. Yes, sir.

14 Q. And you told all the other deputies out
15 there he was a black male?

16 A. Yes, sir.

17 Q. And that he was medium build?

18 A. Yes, sir.

19 Q. Five-foot, something, you know, not six
20 feet, you know --

21 A. That's correct.

22 Q. -- black male, medium height, medium
23 build, correct?

24 A. Yes, sir.

25 Q. Wearing all black, correct?

1 A. Dark clothes.

2 Q. Dark clothes, face covered, correct?

3 A. Yes, sir.

4 MR. DURANT: That's all.

5 MS. NORRIS: Nothing further, Your
6 Honor.

7 THE COURT: All right. Ladies and
8 gentlemen, we are going to take our midafternoon
9 break. Please remember all my admonitions. You
10 can leave your notepads in your chair or take them
11 with you. Please rise for the jury.

12 (Jury out, 4:03 p.m.)

13 THE COURT: You may be seated. Sir,
14 you may step down. Feel free to stay with us or
15 you are free to go.

16 THE WITNESS: Thank you, Your Honor.

17 MR. DURANT: Thank you.

18 THE COURT: Thank you.

19 MR. DURANT: Your Honor, may I approach
20 just a moment?

21 THE COURT: For me?

22 MR. DURANT: Yeah --

23 THE COURT: Let me just see y'all back
24 here.

25 (A recess transpired.)

1 THE COURT: Anything before we bring in
2 the jury? Mr. Durant?

3 MR. DURANT: Just that thing we -- a
4 housekeeping matter we wanted to put on the record
5 was that the exhibit introduced by the defense, we
6 will be substituting another exhibit because the CD
7 they had had seven -- six or seven different clips.
8 And we just wanted to substitute the exhibit that
9 had the one clip she showed.

10 THE COURT: All right.

11 MS. NORRIS: Yes, Your Honor. They're
12 making that now, and I would ask that the other one
13 just be made a court's exhibit.

14 (COURT'S EXH. 1, CD that was marked
15 Defendant's 1, with multiple clips, was marked for
16 identification.)

17 THE COURT: Okay. Great. Go ahead and
18 bring in the jury. Please rise for the jury.

19 (Jury in, 4:20 p.m.)

20 BAILIFF: All jurors are present, Your
21 Honor.

22 THE COURT: Thank you. Please be
23 seated. Call your next witness.

24 MR. DURANT: The State would call
25 Celeste McBride.

1 CELESTE MCBRIDE,

2 being first duly sworn, testified as follows:

3 THE CLERK: We need you to speak into
4 that microphone so we can hear you. State your
5 full name for the record and spell your last name
6 for us. Thank you.

7 THE WITNESS: Celeste McBride,
8 M-C-B-R-I-D-E.

9 DIRECT EXAMINATION

10 BY MR. DURANT:

11 Q. Good afternoon, Mrs. McBride.

12 A. Good afternoon.

13 Q. Could you tell our jury how old you
14 are?

15 A. Nineteen.

16 Q. And are you currently employed?

17 A. I'm a full-time college student.

18 Q. And where are you going to school?

19 A. Trident Technical College.

20 Q. What are you studying at Trident Tech?

21 A. I'm studying cosmetology.

22 Q. Could you tell our jury where you were
23 living on Friday, December 23rd of 2016?

24 A. [REDACTED] East Owens Drive, Lincolnville,
25 South Carolina.

1 Q. And who else lived at that address with
2 you?

3 A. My mother, my father, and my little
4 brother.

5 Q. And your father's name is Allen
6 McBride; is that correct?

7 A. Yes.

8 Q. And did you happen to be home that
9 afternoon shortly before 1:00 p.m.?

10 A. Yes.

11 Q. Could you tell our jury what happened?

12 A. I heard a sound outside, and I was
13 curious to what it was. It kind of sounded like a
14 bang. I looked out my window and I saw someone
15 running down the street. I continued watching him,
16 because it was a little weird.

17 He dropped his phone, which at the time
18 I didn't know it was a phone. I just saw something
19 fall out of his pocket by the telephone pole in
20 front of my house. A few feet later he dropped a
21 bunch of cash, and I followed him as far as I could
22 see.

23 Tailing behind him was a vehicle going
24 in the same direction that he was running.

25 Q. Okay. Could you tell if this person

1 was black or white?

2 A. He appeared black.

3 Q. And when you say, he was running by the
4 house, if you're standing in the front of your
5 house or in your living room, looking out towards
6 East Owens --

7 A. He was running from right to left.

8 Q. From your right to your left --

9 A. Yes.

10 Q. -- correct? And did Mr. Johnny
11 Pritchard live to your right or to your left?

12 A. My right.

13 Q. Okay. So he was running from the
14 direction of Mr. Johnny Pritchard's house?

15 A. Yes.

16 Q. Do you recall what he was wearing?

17 A. I recall that he was wearing stone gray
18 pants, and I couldn't really see his shirt too
19 well, but it was a dark-colored shirt.

20 Q. Okay. Specifically, was it red?

21 A. Not that I can recall.

22 Q. Where his pants red?

23 A. No.

24 Q. And you, of course, would not be able
25 to identify that individual, I would assume, just

1 because you saw him running by fairly quickly; is
2 that correct?

3 A. That is correct.

4 Q. Now, where did he drop the phone?

5 A. It was by the telephone pole that is
6 directly in front of my house.

7 Q. Okay. Did he appear to know that he
8 had dropped his phone?

9 A. It kind of looked like he was slowing
10 down, but then, again, he just kept running.

11 Q. Never went back and picked it up?

12 A. Never went back to pick it up.

13 Q. And what else did you see falling out
14 of his pocket?

15 A. He dropped a large amount of cash and
16 that he did pick up.

17 Q. Okay. And was that in the same place
18 that he had dropped the phone or was that a little
19 bit further down?

20 A. A little further down.

21 Q. Okay. And if I can refer you to
22 State's Exhibit 61. Okay. And do you recognize --
23 are you good at maps?

24 A. Yes.

25 Q. And does -- that red marker there, that

1 designates where Mr. Pritchard lived; is that
2 correct?

3 A. Yes.

4 Q. Could you tell jury where your house is
5 on that -- on that aerial photograph?

6 A. Like point it out?

7 Q. Yeah. You can actually put a circle
8 around it because you can draw on the screen, so --

9 A. (Marking)

10 Q. Okay. That's pretty close to where
11 Mr. Pritchard lived; is that correct?

12 A. Yes.

13 Q. And if you would, could you just put a
14 line with an arrow indicating the direction you saw
15 the person running?

16 A. (Marking)

17 Q. Okay. And I believe you said his pants
18 were stone gray; is that correct?

19 A. Yes.

20 Q. Do you recall whether the top was dark
21 or light or --

22 A. It was a dark color.

23 Q. Okay.

24 A. It appeared black at the time to me.

25 Q. Now, you had previously described this

1 person as having dreads. Did you see dreads?

2 A. At the time with how he was running, it
3 appeared that he had dreads, but thinking back, it
4 could have been a hood over his head moving.

5 Q. Or he could have had dreads. You
6 certainly told people he could have had dreads or
7 did have dreads, correct?

8 A. It appeared that he did, yes.

9 Q. Okay. And he continued running down
10 East Owens to, I guess, like kind of northwest,
11 correct? Until you lost sight of him?

12 A. Yes.

13 Q. What did you do when you saw this?

14 A. I alerted my dad that he had dropped
15 something over by the road.

16 Q. Okay. And what did your father do?

17 A. He went out and he picked up the object
18 that I had mentioned had fallen out of the man's
19 pocket.

20 Q. And what was that object?

21 A. It was a black smartphone.

22 Q. Okay. And where did your father put
23 the phone?

24 A. He put it on the grill on our front
25 porch.

1 Q. Okay. Why did y'all put the phone
2 there?

3 A. Good Samaritans, waiting for him to
4 come back and pick it up so no one would steal it.

5 Q. Okay. Because at this point you didn't
6 know anything about what had happened up the road,
7 correct?

8 A. That is correct.

9 Q. How long after this, you saw the man
10 dropping the phone, did the cops show up?

11 A. It was about five, ten minutes after.

12 Q. Okay. And where did the cops go to?

13 A. They went immediately to Mr. Johnny's
14 house.

15 Q. Okay. And did you or somebody walk
16 down there?

17 A. My dad did, to let them know that we
18 had a cell phone.

19 Q. Okay. And that that person had been
20 seen running from that direction, correct?

21 A. I don't believe he had mentioned that
22 to the police.

23 Q. Okay. At this time, did y'all even
24 know that Mr. Johnny had been shot?

25 A. No.

1 Q. And the police came to your house,
2 right?

3 A. Yes.

4 Q. And you told them what you had seen?

5 A. Yes.

6 Q. When did you find out that Johnny had
7 been shot?

8 A. A little while later I was brought down
9 so they could grab papers for me to fill out,
10 witness statements. And the man that was living in
11 the house with him had been talking about it, and I
12 overheard.

13 Q. Okay. What did the police do with the
14 phone that y'all -- that was dropped out in front
15 of the house?

16 A. They picked it up and put it into an
17 evidence bag.

18 MR. DURANT: Your Honor, at this time,
19 I would offer State's 1 through 12, I believe
20 without objection.

21 MS. NORRIS: That's correct, Your
22 Honor, no objection.

23 THE COURT: State's 1 through 12 into
24 evidence without objection.

25 (STATE'S EXH. 1 - 12 in evidence.)

1 BY MR. DURANT:

2 Q. I'm not going to publish all of them,
3 I'm just going to publish a couple. And I'll start
4 with State's Exhibit Number 2. Do you recognize
5 what that view is?

6 A. That is the view from Johnny's house
7 over towards where mine is at.

8 Q. Okay. And I believe -- moving on to
9 State's Number 4, do you recognize what that is?

10 A. That is the view from the driveway of
11 my house looking down the road in the direction
12 that the man was running.

13 Q. Okay. And that 330 refers to y'all's
14 address; is that correct?

15 A. Yes.

16 Q. Okay. And that ditch there, is that
17 the ditch of which we are talking about?

18 A. Yes.

19 Q. And does that photo kind of show the
20 location where you saw the person dropping the
21 phone?

22 A. Yes.

23 Q. And could you point it out, just in the
24 general direction -- general area of where that
25 was?

1 A. Just in there. (Indicating)

2 Q. Right about where that little short
3 pole is?

4 A. Uh-huh.

5 Q. Okay. And where -- you can clear that,
6 by the way, by going up to that upper right corner
7 and click. There you go. And could you show in
8 the area where the money was dropped?

9 A. (Indicating)

10 Q. So that was up as he was just about
11 past your house; is that correct?

12 A. Yes.

13 Q. And let me go to State's Exhibit 5. It
14 probably shows it a little better. If you would,
15 show where the phone was dropped and where the
16 money was dropped.

17 A. The phone was dropped here. The money
18 was dropped up about there. (Indicating)

19 Q. Okay. And State's Exhibit Number 6,
20 what does that depict?

21 A. That is the front view of our house
22 from where the phone was dropped.

23 Q. Okay. And does this view show the
24 window that you were looking out of?

25 A. Yes.

1 Q. And could you point that out to the
2 jury?

3 A. (Indicating)

4 Q. Okay. And that would be better shown
5 probably in State's Exhibit Number 7, I believe?

6 A. Yes.

7 Q. And, once again, is it the one by the
8 door there?

9 A. Yep.

10 Q. And State's Exhibit Number 8, what does
11 that depict.

12 A. This is the view that I had of the
13 street and the man running by, from inside of the
14 house.

15 Q. Okay. And what direction was the man
16 running toward?

17 A. He was running right to left.

18 Q. You can put a line --

19 A. That way. (Indicating)

20 Q. Okay. And where does he drop the
21 phone?

22 A. About here. (Indicating)

23 MR. DURANT: Your Honor, at this time
24 the State would offer State's Exhibit Number 71.

25 MS. NORRIS: No objection.

1 MR. DURANT: I'm not going to play this
2 whole --

3 THE COURT: Hold on one second.
4 State's 71 into evidence without
5 objection.

6 (STATE'S EXH. 71 in evidence.)

7 MR. DURANT: Thank you, Your Honor.

8 BY MR. DURANT:

9 Q. I'm going to play you a clip off of
10 State's Exhibit Number 71.

11 (Playing clip)

12 And you were shown that before,
13 correct?

14 A. Yes.

15 Q. You obviously didn't get a good enough
16 look to identify this person. Anything about the
17 clothes that you saw there that you recognized?

18 A. The pants were similar to the ones that
19 I saw.

20 Q. Would you be willing to admit that that
21 person does not appear to be -- to have dreads?

22 A. He does not appear to have dreads, no.

23 Q. Would you agree that that person does
24 appear to be wearing a hoodie?

25 A. Yes.

1 Q. And looking at his pants, is that the
2 color you're talking about when you say stone gray?

3 A. Yes.

4 MR. DURANT: Your Honor, at this time
5 we would offer State's Exhibit 132 and 133.

6 THE COURT: One more time, what now?

7 MR. DURANT: 132 and 133.

8 THE COURT: Any objection?

9 MS. NORRIS: No, Your Honor.

10 THE COURT: 132 and 133 into evidence
11 without objection.

12 (STATE'S EXH. 132 in evidence.)

13 (STATE'S EXH. 133 in evidence.)

14 BY MR. DURANT:

15 Q. Let's start with 132. Does the
16 gentleman depicted in State's Exhibit 132 appear to
17 be wearing the same clothing as the person that you
18 saw that day?

19 A. No.

20 Q. And 133?

21 A. No.

22 Q. Do you recognize that person?

23 A. No.

24 Q. Okay. But that does not resemble the
25 clothing you saw of this person who dropped the

1 phone?

2 A. It does not.

3 Q. Okay.

4 MR. DURANT: Beg the Court's
5 indulgence.

6 I have no further questions. Could you
7 please answer any questions the defense has?

8 MS. NORRIS: May it please the court?

9 THE COURT: Yes, ma'am.

10 CROSS-EXAMINATION

11 BY MS. NORRIS:

12 Q. Ms. McBride, when you looked out your
13 window that day, I believe you said you had heard a
14 noise?

15 A. That is correct.

16 Q. And you could not say whether that was
17 a gunshot or somebody dropping things on concrete,
18 right?

19 A. That is correct.

20 Q. And when you looked out and saw the man
21 running, you don't know where he started running
22 from; is that correct?

23 A. I didn't know where he started running
24 from, but I knew the direction that he had come
25 from.

1 Q. Okay. And that day you talked to
2 several officers, and you told them the same thing
3 in terms of description, right?

4 A. Uh-huh.

5 Q. And all of those descriptions included
6 that he had black dreadlocks?

7 A. It appeared that he did to me at the
8 time.

9 Q. And shoulder length?

10 A. Yes.

11 Q. And now, you saw something drop out of
12 his pocket. And you've already told us that you
13 couldn't say then what it was, right?

14 A. I couldn't say at the time what it was
15 until my father had gone to pick it up.

16 Q. And you said that he dropped money out?

17 A. He did.

18 Q. All right. And at the time, you could
19 not see close enough to say whether it was actually
20 money, right?

21 A. I could see that it was money.

22 Q. All right. I'm showing you what was
23 marked as State's Exhibit 8. Now, from that window
24 where we're looking at the screen out to the street
25 is a distance of about 30 yards; is that about

1 right?

2 A. I would assume so.

3 Q. It's your house.

4 A. I don't measure things that well.

5 Q. So about 30 yards. And so can you see

6 in the picture about where you said -- where you

7 were circling and saying he dropped the money

8 there. Can you see that place in the picture?

9 A. I can't see where he dropped the money
10 in this picture.

11 Q. All right. So that would be a little
12 bit further down the road than 30 yards then?

13 A. Yes.

14 Q. And now, you said that you also saw an
15 older model SUV -- or did you describe the vehicle,
16 I'm sorry?

17 A. It was an older model SUV, yes.

18 Q. That looked like it was driving right
19 beside the guy?

20 A. It was unusually slow for the typical
21 speed that drivers take on that road.

22 Q. And are you always watchful in that
23 neighborhood?

24 A. I'm just very curious and I'm nosey.

25 Q. But there have been a number of crimes

1 committed around the neighborhood?

2 A. The neighborhood I live in is high
3 crime, yes.

4 MR. NORRIS: I don't have any other
5 questions. Thank you.

6 THE COURT: Mr. Durant?

7 MR. DURANT: I have nothing on
8 redirect, Your Honor.

9 THE COURT: You may step down. Thank
10 you. Call your next witness.

11 MR. DURANT: The State would call Allen
12 McBride.

13 ALLEN MCBRIDE,
14 being first duly sworn, testified as follows:

15 THE CLERK: We need you to speak into
16 that microphone so we can hear you. State your
17 full name for the record, spelling your last name
18 for us. Thank you.

19 THE WITNESS: Allen Keith McBride,
20 M-C-B-R-I-D-E.

21 DIRECT EXAMINATION

22 BY MR. DURANT:

23 Q. Good afternoon, Mr. McBride. Could you
24 please tell our jury your age?

25 A. Fifty-two.

1 Q. And what do you do for a living, sir?

2 A. Pest control.

3 Q. And you've been doing that for awhile,
4 correct?

5 A. Nearly 30 years.

6 Q. Are you still working at Truly Nolen?

7 A. Yes, sir.

8 Q. And how long have you been with them?

9 A. About 25.

10 Q. You're married?

11 A. Yes.

12 Q. How many kids do you have?

13 A. Two.

14 Q. And one of those is Celeste that just
15 testified; is that correct?

16 A. Yes, sir.

17 Q. She is your oldest child?

18 A. Yes, sir.

19 Q. And could you tell our jury where you
20 were living on December -- Friday, December 23 of
21 2016?

22 A. [REDACTED] Owens Drive.

23 Q. And that's in Lincolnville?

24 A. Lincolnville.

25 Q. And could you tell our jury what

1 happened shortly before 1:00 p.m. that day?

2 A. Well, I just heard my daughter. She
3 said something -- that a fellow was running and he
4 dropped something. And I came out from the kitchen
5 to the front door, went out, saw a fellow running
6 up towards Bell Street. And I proceeded --

7 Q. Do you have any description of that
8 fellow you saw running up towards Bell Street?

9 A. Just an older -- well, he was an adult,
10 dark clothing. That's all I really saw.

11 Q. Okay. Do you know if he was black or
12 white or --

13 A. He was black, yes.

14 Q. Okay. His clothing was dark?

15 A. Yes.

16 Q. Build-wise, what was he? Medium build,
17 heavyset?

18 A. He was medium.

19 Q. And he was running in the direction of
20 Bell Drive; is that correct?

21 A. Yes, sir.

22 Q. And you didn't get a very good look at
23 him; is that correct?

24 A. No. No.

25 MR. DURANT: Could we show State's

1 Exhibit 161?

2 BY MR. DURANT:

3 Q. And if you would, could you -- you
4 can -- that's a touch screen. So if you can put a
5 circle around your house.

6 A. Okay. That's my house there.

7 (Marking)

8 Q. Where did you see this fellow running,
9 and which direction was he running?

10 A. I saw him running, it had to be
11 probably right through this area right here, toward
12 Bell Drive.

13 Q. Okay. And if you would, just show the
14 jury where Bell Drive is?

15 A. Bell Drive is right here. (Indicating)

16 Q. Okay. And do you know what the next
17 road is up that way?

18 A. I see that it's Brenda B, I --

19 Q. Brenda B?

20 A. Yes.

21 Q. Okay. That's fine. You can take that
22 down. So what did you do -- you said Celeste said
23 he had dropped something in front of the house?

24 A. Yeah. I went out to the front of the
25 house, and there was a cell phone right next to the

1 telephone pole that's right in front of my house.

2 Q. Okay. And that was kind of like right
3 in the middle of where your house was located,
4 correct?

5 A. Exactly. Exactly.

6 Q. What kind of phone was it, if you know?
7 Was it like a flip phone or a smartphone?

8 A. A smartphone.

9 MR. DURANT: Your Honor, at this time
10 we would offer State's Exhibit Number 63, I believe
11 without objection.

12 THE COURT: Any objection?

13 MS. NORRIS: Your Honor, only as
14 related to our previous motion.

15 THE COURT: Okay. State's 63, noting
16 defendant's previous motion, is entered into
17 evidence.

18 (STATE'S EXH. 63, iPhone, in evidence.)

19 BY MR. DURANT:

20 Q. Okay. And do you remember there being
21 wallpaper on that phone?

22 A. Yes.

23 Q. And do you remember what was depicted
24 on that wallpaper?

25 A. A man and a woman.

1 Q. And would that be the man and woman?

2 A. Yep.

3 Q. And with a caption saying Joe Joe and
4 Naughty?

5 A. I really didn't look at that.

6 Q. Didn't remember that, but you
7 remembered the picture?

8 A. Yes.

9 Q. Okay. And this was the picture you
10 remember?

11 A. Yes.

12 Q. And would you agree that that's a
13 picture of him?

14 A. Yes.

15 Q. And what did you do when you found this
16 phone?

17 A. I brought it back to my house, put it
18 on my barbecue grill, hoping that whoever dropped
19 it would come back and get it.

20 Q. Okay. You didn't know at that time
21 anything was going on, I assume?

22 A. No.

23 Q. How did y'all find out something was
24 going on?

25 A. Saw some police officers down at

1 Johnny's house, and we kind of got nosey, I guess.

2 Q. And walked down there; is that correct?

3 A. Yes. Yeah.

4 Q. And that's the direction that -- this
5 individual you and your daughter saw was running
6 from that direction; is that correct?

7 A. Yes.

8 Q. And what did you do when you got there
9 where the police were?

10 A. Just started asking questions, what was
11 going on, things like that. And she said that she
12 saw somebody running, and I told them that a phone
13 was dropped and --

14 Q. And you let them know what Celeste had
15 seen, correct?

16 A. Yes.

17 Q. You did that pretty soon after they got
18 there, correct?

19 A. Yes.

20 Q. And the police ended up -- State's
21 Exhibit Number 63. The police ended up taking that
22 phone into custody?

23 A. Yes.

24 Q. I just want to show you a couple of
25 photographs, I believe, that are already into

1 evidence. And we'll start with -- this, I believe,
2 is State's Exhibit Number 5. Do you recognize
3 that?

4 A. Yes. That's the front of my house.

5 Q. Okay. And if you would, just tell the
6 jury, roughly, or show the jury, roughly, where you
7 picked up that phone?

8 A. It was right in this area, right there.
9 (Indicating)

10 Q. Okay. And when you say you put it on
11 the grill, I'm now showing you State's Exhibit
12 Number 9. Is that the grill you're talking about?

13 A. Yes, sir.

14 Q. And State's Exhibit 10?

15 A. Yep.

16 Q. This would be the phone, right here?

17 A. Yes, sir.

18 Q. State's Exhibit 11?

19 A. Yep.

20 Q. And State's Exhibit 12?

21 A. Yep.

22 MR. DURANT: Could you please answer
23 any questions that defense counsel might have for
24 you?

25 THE WITNESS: Certainly.

1 CROSS-EXAMINATION

2 BY MS. NORRIS:

3 Q. Afternoon, Mr. McBride. That day you
4 talked to -- talked to Detective Goldstein, right?

5 A. I talked to him, yeah.

6 Q. And do you recall telling him that the
7 guy you saw running, the back, that the hair was
8 longer than on the picture on the cell phone?

9 A. I really can't recall that. I can't
10 say yes or no.

11 Q. If I show you a transcript that they've
12 typed up, would that help you?

13 A. Certainly.

14 MS. NORRIS: May I approach, Your
15 Honor?

16 THE COURT: You may.

17 BY MS. NORRIS:

18 Q. I would ask you to look at page 6,
19 lines 9 through 16.

20 A. Okay.

21 Q. And does that help you recall that you
22 said --

23 A. Yes.

24 Q. -- his hair was longer?

25 A. It was probably longer at the time,

1 yes.

2 MS. NORRIS: I don't have anything
3 else, sir.

4 No further questions, Your Honor.

5 THE COURT: Mr. Durant?

6 MR. DURANT: Nothing on redirect, Your
7 Honor.

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

10 Do you have a short witness.

11 MR. DURANT: Let me ask how long she
12 thinks this witness --

13 THE COURT: Okay. Call your next
14 witness.

15 MR. DURANT: The State would call
16 Charles Gillard.

17 MS. NORRIS: Your Honor, may I
18 approach?

19 THE COURT: You may.

20 (Bench Conference)

21 THE COURT: We're going to take a
22 witness out of order, so sit tight. We're going to
23 call somebody else. I need you to wait outside,
24 please.

25 MS. NORRIS: Your Honor, we are going

1 to have a matter of law that we need to address
2 first.

3 THE COURT: All right. Ladies and
4 gentlemen, we're going to go ahead and break for
5 the evening. Please be back at 9:30 in the
6 morning, at 9:30 in the morning.

7 Ladies and gentlemen, please be mindful
8 of what tomorrow is. We will go into 5:00 p.m., so
9 make arrangements to take care of your other civic
10 responsibility in the morning. I think that is the
11 best procedure.

12 Again, please be mindful of all my
13 admonitions. Do not begin discussing this case
14 amongst yourselves. Do not read, watch, or listen
15 to any news accounts. Do not do any independent
16 investigation. Don't go by the scene where the
17 events are alleged to have taken place.

18 Ladies and gentlemen, simply put, go
19 home and have a wonderful evening and be restful.
20 I know that most of you did not realize how
21 exhausting sitting and listening and paying
22 attention is. Please be mindful -- do I have
23 anybody that works the night shift? All right.

24 So you are to go home -- because your
25 job until I tell you otherwise is to be a fully

1 attentive juror. So please go home and get some
2 rest this evening.

3 Leave your notepads in the chair and
4 we'll go ahead and take care of them, box them up
5 and give them back to you. 9:30 in the morning.
6 Please rise for the jury.

7 (Jury out 4:49 p.m.)

8 THE COURT: Thank you. Please be
9 seated. Let's do our pretrial motions.

10 MS. NORRIS: Your Honor, as I
11 understand it from disclosure from the State, this
12 witness just recently says that he identifies
13 Mr. Brown. He was questioned on the day, gave the
14 video, in fact, that the young lady played, never
15 said he could identify anybody, but afterwards he
16 saw this on the news, and even today, as I
17 understand it, keeps a picture of my client on his
18 cell phone.

19 So I believe that any -- any
20 identification of my client is tainted, and it
21 would be admissible only in violation of my
22 client's constitutional rights.

23 THE COURT: So what is it that you want
24 to do now?

25 MS. NORRIS: We need a hearing. I

1 mean, if the State disputes what I just said about
2 how he's going to identify him, then we need a
3 hearing.

4 THE COURT: What's the police procedure
5 that was involved?

6 MS. NORRIS: The actual picture that he
7 has on his cell phone is actually from the jail
8 website. So the actual identification process, I
9 believe Mr. Durant just showed him a picture and
10 said is the --

11 THE COURT: How come we didn't do this
12 on Friday?

13 MS. NORRIS: I apologize, Your Honor;
14 we should have.

15 MS. SEMAN: I believe we did address it
16 briefly that we could take it up immediately before
17 the witness's testimony.

18 THE COURT: So usually immediately
19 before the witness's testimony is something like a
20 two- or three-minute explanation. We're actually
21 going to have at least two witnesses, I'm sure.
22 Right?

23 MR. DURANT: If I just might be heard
24 on that, Your Honor, I'm not at all sure of the
25 case law that they're even entitled to a hearing.

1 I would point the Court's attention to the *State v*
2 *Tisdale*, South Carolina case, a 2000 case, 338 S.C.
3 607. I cited it in my trial brief.

4 And that involved -- that involved a
5 case where three bank tellers had identified a
6 suspect from photographs they had seen in the
7 newspaper. And the Court went on to say that there
8 was no police involvement in the pretrial procedure
9 and, therefore, no deterring effect, and that the
10 appropriate remedy in the case such as that would
11 be cross examination of the witness regarding the
12 suggestions.

13 But should the Court need to take
14 testimony, I believe Mr. Perez is here, but I'm
15 just -- it's the State's position that it's not
16 necessary pursuant to the authority in *Tisdale*.

17 THE COURT: Call your first witness,
18 Mr. Durant.

19 MR. DURANT: The State would call Mr.
20 Marvin Alto Perez. And we are going to need the
21 interpreter.

22 THE INTERPRETER: Good afternoon, Your
23 Honor.

24 THE CLERK: Your Honor, would you like
25 me to swear the interpreter or the witness first?

1 THE COURT: You need to swear the
2 interpreter first.

3 THE INTERPRETER,
4 being first duly sworn, testified as follows:

5 MARVIN ALTO PEREZ,
6 being first duly sworn, testified as follows:

7 THE CLERK: Please have a seat. Please
8 speak into the microphone so we can hear you.
9 State your full name for the record and spell your
10 last name.

11 THE WITNESS: My name is Marvin Alto
12 Perez.

13 THE INTERPRETER: Your Honor, I believe
14 the witness just spoke English.

15 MR. DURANT: He definitely understands
16 some English, Your Honor.

17 THE COURT: Can you explain to him that
18 he -- does he need an interpreter?

19 Sir, do you need an interpreter?

20 THE INTERPRETER: Yes.

21 THE COURT: All right.

22 THE INTERPRETER: So, Your Honor, would
23 you instruct him to speak either Spanish or
24 English?

25 THE COURT: Sir, you need to utilize

1 the interpreter. Please listen to her as she
2 translates the question, speak to her in Spanish,
3 and she will instruct the Court what you said.

4 THE INTERPRETER: Okay.

5 THE COURT: Try again.

6 DIRECT EXAMINATION

7 BY MR. DURANT:

8 Q. Mr. Perez, we're going to get right to
9 the point of this hearing we're having right now.

10 A. Okay.

11 Q. Were you home on the afternoon -- early
12 afternoon of December 23rd, Friday, December 23rd,
13 2016?

14 A. Yes.

15 Q. Did you observe anything unusual that
16 afternoon that happened behind your house?

17 A. Yes.

18 Q. And what was that?

19 A. In Spanish?

20 Q. Yes. Just so we'll be clear that
21 you're saying what you want to say?

22 A. Okay. I was outside my house and I saw
23 a car coming. It was coming very fast, and it
24 stopped in the back. And the person got off and
25 started running. And he yelled out to another

1 person to run faster.

2 And then seconds later, another person
3 came by also running fast. And they went inside
4 the car, and they left.

5 Q. Okay. Referring you to State's
6 Exhibit Number 71. Do you recognize that location?

7 A. Yes.

8 Q. What is it?

9 A. My home.

10 Q. This person here, is that the person
11 you saw drive up in the car? (Indicating)

12 A. Yes.

13 Q. This person down here, who is that?

14 A. Myself.

15 Q. Now, the person you had seen driving
16 the car, had you seen that person before?

17 A. Yes.

18 Q. And did you recognize him?

19 A. Yes.

20 Q. And you recognized him from being
21 around the neighborhood; is that correct?

22 A. Yes.

23 Q. Okay. The guy that you saw being
24 picked up, had you seen him before?

25 A. No.

1 Q. Did you see a picture of him later,
2 sometime later?

3 A. Yes.

4 Q. Where did you see that picture?

5 A. In the news, on the Internet.

6 Q. And when you saw that picture on the
7 news on the Internet, did you save it to your
8 phone?

9 A. Yes.

10 Q. And is it on your phone to this day?

11 A. Yes.

12 Q. And if you would, could you show the
13 Judge the picture on your phone?

14 A. Yes.

15 Q. And can you pull up the picture?

16 A. It's this one. (Indicating)

17 Q. And can you pull up the picture?

18 A. I don't know what's going on with the
19 phone.

20 Q. Well, let me ask him this. I'm showing
21 him what was marked as State's Exhibit 77 for
22 identification. Does that appear to be a
23 picture -- the picture that you saw online?

24 A. Yes.

25 Q. Now, why do you think this is the guy

1 you saw?

2 A. Because he was the one that came by
3 running and went inside the car with the other
4 person.

5 Q. What do you recognize about him?

6 A. His face.

7 Q. Did anybody tell you that this was the
8 guy that you saw?

9 A. No. I saw the news and I recognized
10 him when he had come running.

11 MR. DURANT: Thank you.

12 I have nothing further on that issue,
13 Your Honor.

14 CROSS-EXAMINATION

15 BY MS. NORRIS:

16 Q. Mr. Perez, when you were outside in the
17 yard and saw the people running, what were you
18 doing at the time?

19 A. I was cleaning up some things.

20 Q. So you were cleaning when somebody ran
21 by really fast, right?

22 A. Yes.

23 Q. And so you weren't particularly focused
24 on trying to see if you could recognize anybody,
25 right?

1 A. Yes. Because I saw -- it kind of
2 seemed weird to me that this car came by fast and
3 then stopped right by my house.

4 Q. And so were you focused more on the car
5 and the guy getting out of the car?

6 A. Yes.

7 Q. Okay. And so he ran, and then the
8 other guy comes running back, right?

9 A. Yes.

10 Q. And you had never seen the guy that ran
11 and got in with the driver of the car?

12 A. No.

13 Q. And so when you saw the picture on the
14 news that Mr. Brown had been arrested, you just
15 assumed that was the guy, right?

16 A. Yes.

17 Q. And you've been carrying that picture
18 in your phone for the last year and a half?

19 A. Yes.

20 Q. And do you look at that picture
21 frequently?

22 A. Yes.

23 MS. NORRIS: I don't have any other
24 questions, Your Honor.

25 MR. DURANT: I just have a couple on

1 redirect.

2 REDIRECT EXAMINATION

3 BY MR. DURANT:

4 Q. Now, I want to ask you this question,
5 and I really don't care what the answer is. Okay?
6 When you saw that picture online, did you recognize
7 it as the person you saw, or did you assume that it
8 was the person you saw because he had been arrested
9 for killing Mr. Pritchard?

10 A. I saw -- well, when the person ran, I
11 saw his face well. I left for an errand out of my
12 house, and when I came back there were policemen
13 outside in the street. And I wasn't able to get
14 into my house because the road was blocked.

15 And so I had asked what had happened,
16 and I've been told that a murder had occurred. And
17 that's what became suspicious to me when I saw the
18 face of the person, that he had come by running.

19 And I saw the picture on the Internet
20 and I knew that was the person from the murder.

21 Q. Did you know that just because he had
22 been arrested for it?

23 A. Yes.

24 Q. Or did you know it because that's what
25 your eyes saw that day?

1 MS. NORRIS: Your Honor, I'm going to
2 object. He just answered the question.

3 THE COURT: Overruled.

4 THE INTERPRETER: Can you repeat the
5 question?

6 BY MR. DURANT:

7 Q. What I'm trying to find out, did you
8 recognize that -- did you say -- recognize him as
9 the shooter because that's what the paper said or
10 because that's what your eyes told you that day
11 when you saw him?

12 A. I recognized him because of what I saw
13 in the Internet, his face. And I knew that that
14 was the person that had been coming by, running by
15 my house.

16 MR. DURANT: Okay.

17 RECROSS-EXAMINATION

18 BY MS. NORRIS:

19 Q. And you knew that because that's the
20 guy that was arrested, right?

21 A. Yes.

22 MS. NORRIS: No further questions, Your
23 Honor.

24 THE COURT: You may step down. Do you
25 have another witness?

1 MR. DURANT: No, Your Honor.

2 THE COURT: Do you have any witnesses,
3 Ms. Norris?

4 MS. NORRIS: Your Honor, I don't have
5 any further witnesses for the hearing, but I think
6 based on what he said, even if Your Honor finds
7 that the identification procedure is not
8 suggestive, I submit that that witness's
9 identification is not appropriate and inadmissible.

10 It's obviously within Your Honor's
11 discretion, and it's unduly prejudicial. He said a
12 number of times -- and granted, he went back and
13 forth, but he said a number of times that -- that
14 he just assumed that's the guy because that's the
15 guy that was arrested.

16 THE COURT: Tell me where we have
17 unnecessary and unduly suggestive police procedure?

18 MS. NORRIS: Your Honor, the only
19 argument that I can make on that is that that
20 particular picture comes from the jail website. So
21 by putting that out there --

22 THE COURT: But the --

23 MS. NORRIS: -- the government is
24 involved.

25 THE COURT: The jail didn't put it out,

1 did they?

2 MS. NORRIS: Well, they published --
3 the published the picture. I mean, I could go on
4 the Internet --

5 THE COURT: They published it on a
6 website. They're not publishing it on the news.

7 MS. NORRIS: Right. But that's the
8 picture that the news used. So it's a little
9 different than the case that Mr. Durant cited,
10 *Tisdale*, because there the news media put it on You
11 Tube. Here, there is the government in the middle
12 by they're the ones that published that picture.

13 So I submit that -- that it's a
14 violation of due process under the suggestiveness,
15 but even if not, it's unduly prejudicial.

16 MR. DURANT: And if I might respond
17 briefly, Your Honor.

18 THE COURT: Not yet.

19 MR. DURANT: Okay.

20 THE COURT: Ms. Norris, my
21 understanding, and please steer me where I need to
22 be, is that the analysis is, as to the unduly
23 suggestiveness of the police procedure. Is it your
24 argument that by placing that photograph on the
25 jail website and the media getting that, that

1 that's the government involvement in this?

2 MS. NORRIS: Yes, Your Honor. The jail
3 is a government entity that puts that picture out
4 there; otherwise, this gentleman would not be able
5 to look at that picture for the last year and a
6 half and say that's the guy.

7 THE COURT: At what point -- and this
8 is where I missed a cue. At what point, Mr.
9 Durant, did the police become aware of this
10 warrant?

11 MR. DURANT: Aware -- they were aware
12 he was there that day, and he's the one that
13 provided them with the video. They never showed
14 him any kind of -- they never showed him any kind
15 of identification or tried to get him to identify
16 anybody.

17 THE COURT: And then, on his own
18 accord, this photograph pops up on the media outlet
19 from the jail, and he contacts the detective?

20 MR. DURANT: No. No. He told us that
21 when we were talking -- when we were preparing for
22 trial, Your Honor. Because I asked him if he had
23 -- he recognized the driver, and he said, yes, he
24 recognized -- he basically said the same thing he
25 did today.

1 He recognized the driver from the
2 neighborhood. And I said, well, did you ever --
3 did you recognize the other guy? He said, no, I've
4 never seen the other guy before, but I did see a
5 picture of him in the news. And then he pulled out
6 a phone and showed us the picture. And -- which
7 was that picture.

8 So -- and, like I said, in terms of
9 police identification procedure, there were none.
10 He volunteered that -- he volunteered that on his
11 own. And under *Tisdale*, I mean, we've had the
12 hearing, but I think it's in your discretion to
13 allow it but, you know, I mean --

14 THE COURT: It didn't hurt anything,
15 and I think that we need to clarify and we needed
16 -- I needed to clarify if there was police
17 involvement.

18 Ms. Norris believes that by the very
19 nature of publishing those photographs that may be
20 enough State action. I don't know. I cannot find
21 any case on that. Do you have --

22 MS. NORRIS: I do not, Your Honor.

23 THE COURT: As a matter of fact, I
24 think that the case law would probably go the other
25 way at this point; is that correct?

1 MS. NORRIS: The case law that I am
2 aware of is *Tisdale* that the solicitor cited, where
3 witnesses saw a video from a bond hearing, and they
4 were allowed to give an in-court identification.

5 MR. DURANT: I believe they also saw
6 his photograph. It's my understanding from
7 *Tisdale*, they actually saw the photograph in the
8 paper, which I'm assuming was also a mugshot.
9 Because the defendant had been -- the defendant had
10 been arrested first, there was a picture published
11 and the cops went back there, I think, a day or two
12 day later to show a photograph of the lineup.

13 And three of the tellers said it's the
14 guy that was in the newspaper, we saw him in the
15 newspaper. So it's pretty much the same thing
16 and --

17 THE COURT: I think this -- you know,
18 you can argue, but I do believe that due process
19 requires a preliminary judicial inquiry if it is
20 contended that an identification is obtained under
21 unnecessarily suggestive circumstances arranged by
22 state action, regardless of the witness's prior
23 knowledge of the accused.

24 So I don't believe that this hearing,
25 based upon the defendant's due process rights was

1 unnecessary, but I do believe that the in-court
2 identification would be inadmissible if it was
3 suggestive -- if the procedure is suggestive
4 creating a very substantial likelihood of
5 irreparable misidentification.

6 Based upon the witness's testimony and
7 the order of events, I deny your motion to suppress
8 the out-of-court identification. You have -- you
9 will have free latitude of cross-examination of
10 this witness, but I think based upon the case law
11 and the State action in this instance, that your
12 motion is properly denied.

13 Note your exception to the ruling of
14 the Court.

15 All right. What else.

16 MR. DURANT: I don't think anything
17 today, Your Honor.

18 THE COURT: Is there anything that we
19 can do? All right. So what -- what's your lineup
20 for tomorrow?

21 Well, who else do you believe, Ms.
22 Seman, that we will have pretrial issue or
23 issues -- preliminary issues that we need to take
24 up outside of the --

25 MS. SEMAN: Your Honor, my

1 understanding is there's only the one remaining
2 issue, the third-party guilt motion. And we've
3 agreed to put in the evidence and let Your Honor
4 hear that immediately before closing, if that's
5 appropriate for you.

6 THE COURT: That's fine.

7 MS. SEMAN: Okay.

8 THE COURT: So now the witnesses are
9 going to be a little bit out of order. And so, Ms.
10 Norris, what do you need?

11 MR. DURANT: I think we can probably go
12 back to our original order now because her problem
13 was primarily --

14 THE COURT: All right. So we have a
15 full day tomorrow with no issues, correct?

16 MR. DURANT: We -- we will have some --
17 do you want to talk about exhibits?

18 MS. NORRIS: We can, Your Honor.
19 Depending on who he's calling tomorrow, et cetera,
20 there are some crime scene photos and some autopsy
21 photos that he has disclosed to us that we do have
22 objections to.

23 THE COURT: All right. And do you want
24 to do this now or --

25 MR. DURANT: And --

1 THE COURT: -- lunch break, or when?

2 MR. DURANT: I don't think those will
3 take a long time. They are some exhibits that come
4 from the dump of the cell phone that Ms. Seman is
5 taking exception to.

6 THE COURT: Well, you let me know when
7 that -- before that witness is called so we don't
8 have what we had now.

9 MS. SEMAN: Yes, ma'am.

10 THE COURT: I'm happy to give you as
11 much time before, but it's just -- it's very
12 complicating and then the jurors are coming in and
13 out.

14 MS. SEMAN: Yes, ma'am.

15 THE COURT: All right. Please take
16 care of your other civic duties tomorrow before
17 court just so -- see you at 9:20. Thank you.

18 (These proceedings were recessed at
19 5:30 to be continued 9:20, 6/12/18.)
20
21
22
23
24
25

1 (The following proceedings were had
2 June 12, 2018, 9:42 a.m., Charleston County General
3 Sessions Court.)

4 THE COURT: I understand we have an
5 issue, Ms. Norris?

6 MS. NORRIS: Yes, Your Honor. I
7 learned this morning that juror Ben Walsh is known
8 to Pete Shahid in our office. They apparently have
9 played in high school football leagues and, I
10 think, do at present.

11 While they're not close friends, I'm
12 told that he certainly would be aware that Pete
13 works in our office and that was not disclosed.

14 THE COURT: Mr. Durant?

15 MR. DURANT: Well, it disturbs me a
16 little bit that he didn't disclose it, for sure.

17 MS. NORRIS: It disturbs me as well, so
18 I would move to --

19 THE COURT: All right. Get Mr Walsh,
20 and let's bring him in.

21 MS. NORRIS: Your Honor, while we are
22 doing that, getting him, I also have the disk that
23 I would like to substitute for the Defendant's
24 Exhibit 1.

25 THE COURT: Thank you. That's the disk

1 that you're introducing into evidence, correct?

2 MS. NORRIS: Yes. That should be
3 Defendant's Exhibit 1; and the one that I played
4 has other clips, if we could remark that as a
5 court's exhibit.

6 THE COURT: Ms. Norris, they are on the
7 same soccer team?

8 MS. NORRIS: Do you have the text?

9 MS. SEMAN: I believe I do, Your Honor.

10 MS. NORRIS: I know it was a high
11 school sports league and currently --

12 MS. SEMAN: Fantasy football league
13 together, I believe, but I'll pull it up.

14 (Juror Benjamin Walsh in, 9:46 a.m.)

15 (VOIR DIRE OF JUROR WALSH)

16 THE COURT: Hi. Mr. Walsh?

17 JUROR WALSH: Yes, ma'am.

18 THE COURT: So it has come to my
19 attention that you potentially do know somebody
20 that works in the public defender's office.

21 JUROR WALSH: Did. He did.

22 THE COURT: I'm sorry?

23 JUROR WALSH: He did work.

24 THE COURT: And who do you believe that
25 to be?

1 JUROR WALSH: Robert Nicolas Bianchi.

2 THE COURT: That was the solicitor's
3 office.

4 JUROR WALSH: Yes.

5 THE COURT: And so do you know Pete
6 Shahid?

7 JUROR WALSH: I do.

8 THE COURT: And did you know that he
9 works in the public defender's office?

10 JUROR WALSH: I do.

11 THE COURT: And so I asked if anybody
12 knew anybody in the public defender's office --

13 JUROR WALSH: I -- it blew my mind
14 until this morning, yeah.

15 THE COURT: All right. And so what
16 made you think about it this morning?

17 JUROR WALSH: I just was thinking about
18 people I might know, and it just came to my mind.

19 THE COURT: And how -- you play fantasy
20 football with him --

21 JUROR WALSH: Yes.

22 THE COURT: -- as I understand it.

23 JUROR WALSH: Yeah.

24 THE COURT: We know a lot about you, Mr
25 Walsh. So how much contact do you have? I know

1 nothing about fantasy football.

2 JUROR WALSH: You know, I probably talk
3 to him every couple months.

4 THE COURT: When was the last time that
5 you talked to him?

6 JUROR WALSH: The other night.

7 THE COURT: And pursuant to a -- the
8 football or something else?

9 JUROR WALSH: Football.

10 THE COURT: And do you ever discuss his
11 work?

12 JUROR WALSH: No, I've never discussed
13 his work with him.

14 THE COURT: Did you know that -- but
15 you did know he was in the public defender's
16 office?

17 JUROR WALSH: Yeah.

18 THE COURT: Is there anything about
19 that, that would affect your ability to be fair and
20 impartial in this case?

21 JUROR WALSH: No, Your Honor.

22 THE COURT: Is there anything about
23 this questioning that would affect your ability to
24 be fair and impartial in this case?

25 JUROR WALSH: No, Your Honor.

1 THE COURT: All right. Thank you, Mr.
2 Walsh.

3 JUROR WALSH: Yes, ma'am.

4 (Juror out, 9:47 a.m.)

5 THE COURT: Mr. Durant? Not that it
6 matters, but he is an alternate.

7 MR. DURANT: Yes. The Court's
8 indulgence just one moment?

9 MS. NORRIS: Your Honor, while they're
10 discussing that, I don't believe that he disclosed
11 having known the former solicitor either.

12 THE COURT: He did.

13 MS. SEMAN: He did.

14 MS. NORRIS: He did? Oh, okay.

15 MR. DURANT: I would ask that he be
16 removed from the jury.

17 MS. NORRIS: I agree.

18 THE COURT: All right. That makes it
19 easy since he's an alternate; I don't even have to
20 draw names. All right. Anything before we bring
21 in the jury?

22 MR. DURANT: Not from the State, Your
23 Honor.

24 MS. NORRIS: No, Your Honor.

25 THE COURT: Do we need a comfort break

1 or are we ready to go?

2 MR. DURANT: We're ready, I believe.

3 THE COURT: If you will pull him out,
4 I'm going to release him. I'll be right back.

5 (A recess transpired.)

6 THE COURT: Are we ready to bring in
7 the jury, Mr. Durant?

8 MR. DURANT: Yes, Your Honor.

9 MS. NORRIS: Yes, Your Honor.

10 (Jury in, 9:52 a.m.)

11 THE BAILIFF: All jurors are present.

12 THE COURT: Please be seated.

13 Good morning, ladies and gentlemen. If
14 you complied with my instructions over the evening
15 hours, please raise your right hand.

16 Thank you. All 13 jurors have
17 indicated they complied with the Court's
18 instructions.

19 Mr. Durant, call your next witness.

20 MR. DURANT: Thank you, Your Honor.
21 The State would Charles Chuck Gillard.

22 CHARLES ERIC GILLARD

23 being first duly sworn, testified as follows:

24 THE CLERK: Please speak into the
25 microphone so we hear you. State your full name

1 for the record, spelling your last name. Thank
2 you, sir.

3 THE WITNESS: My full name is Charles
4 Eric Gillard, G-I-L-L-A-R-D.

5 DIRECT EXAMINATION

6 BY MR. DURANT:

7 Q. Good morning, Deputy Gillard.

8 A. Good morning, sir.

9 Q. Would you please tell our jury where
10 you're employed.

11 A. Charleston County Sheriff's Office.

12 Q. And how long have you been with the
13 sheriff's office?

14 A. Just over three years today.

15 Q. And what are your current duties with
16 the Charleston County Sheriff's Office?

17 A. I'm a patrol deputy.

18 Q. And what is your current area of
19 patrol?

20 A. District 8, which is the south
21 district.

22 Q. And were you in a different district in
23 December of 2016?

24 A. Yes, sir.

25 Q. And what district was that?

1 A. The north area.

2 Q. And does the north area include the
3 area of the [REDACTED] East Thomas Street in Lincolnville,
4 South Carolina?

5 A. Yes, sir.

6 Q. And in what county is that address
7 located?

8 A. Charleston County, sir.

9 Q. Did you have the occasion to be
10 dispatched to [REDACTED] East Thomas Street on December
11 23rd of 2016?

12 A. Yes, sir.

13 Q. In reference to what?

14 A. An assault with a weapon.

15 Q. And what time were you dispatched?

16 A. I believe it was about 12:57 p.m.

17 Q. Okay. Just before 1:00 p.m. And how
18 long did it take you to arrive there? What time
19 did you actually arrive on scene?

20 A. About 13:03, 1:03 p.m.

21 Q. So about six minutes later?

22 A. Yes, sir, 1:03 p.m.

23 Q. Did any other deputies respond to that
24 location?

25 A. Deputy Hamill and I both responded.

1 Q. And y'all got there I believe at about
2 the same time?

3 A. Yes, sir.

4 Q. And then I'm assuming after that, a
5 bunch of people started showing up?

6 A. Everybody started showing up.

7 Q. Were you and Deputy Hamill able to
8 enter the residence?

9 A. Yes, sir.

10 Q. What did you observe?

11 A. When we walked into the residence, I
12 observed a white male laying on his left side. It
13 was -- he looked to be partially under a table,
14 near the wall, in the very front room right when
15 you walk in the door, and he had blood pooling from
16 his head area.

17 Q. Okay. And the front door opens right
18 into the living room; is that correct?

19 A. As soon as you walk in. It's a small
20 residence and it's like a -- I guess you would call
21 it a living room.

22 Q. Okay. Did the victim appear to be
23 alive at the time that you entered the residence?

24 A. To me, no, sir, he did not appear to be
25 alive.

1 Q. When EMS arrived, did they confirm that
2 the victim was, in fact, deceased?

3 A. Yes, sir.

4 Q. What was the victim's name?

5 A. Johnny Pritchard.

6 Q. And did you have an occasion to speak
7 to his cousin, Hugh Pritchard?

8 A. Yes, sir, I did.

9 Q. And based upon your conversation with
10 Hugh Pritchard, did you have a description of the
11 possible suspect?

12 A. Yes, sir.

13 Q. And what was that description?

14 A. It was a black male, approximately 5, 8
15 in height, all dressed in black with his face
16 covered, and dark-colored clothing.

17 Q. Now, at the scene, were you also
18 provided with a direction of flight of the
19 potential suspect?

20 A. Yes, sir.

21 Q. What was that direction of flight?

22 A. That would have been out the front door
23 and to his left, running down East Owens towards
24 Bell Street.

25 Q. And from whom did you obtain this

1 information?

2 A. Hugh Pritchard.

3 Q. And where -- did you talk to the
4 McBrides? Do you remember the --

5 A. Yes. We talked to the father, Allen
6 McBride, as well as the daughter, Celeste McBride.

7 Q. Okay. And do you recall where the
8 McBrides lived?

9 A. There's a street, East Colpat, and a
10 brick house, and they live right there in a trailer
11 on East Owens. I think it's [REDACTED] East Owens.

12 Q. And do you have any idea of actual
13 distance-wise? Was it like a hundred yards maybe?

14 A. Yes, sir.

15 MR. DURANT: And would you pull up 61,
16 please?

17 BY MR. DURANT:

18 Q. And If you would, I just kind of --
19 this is State's Exhibit 61 already into evidence.
20 You've seen this before, correct?

21 A. Uh-huh.

22 Q. And the little red pen is the area of
23 the crime scene. Could you just kind of orient the
24 jury as to what all the streets are?

25 A. This house is facing East Thomas --

1 Q. And if you need -- by the way, if you
2 need to mark something, you can do it right on the
3 screen.

4 A. Okay. The house right here in front of
5 you is East Thomas. Here's East Owens, and this is
6 East Colpat. (Indicating) Any reason why this is
7 not --

8 Q. Are you touching the screen?

9 A. Yes, sir.

10 MR. DURANT: Any reason why it's not --

11 THE CLERK: Let me see.

12 (Brief pause.)

13 BY MR. DURANT:

14 Q. No problem. We'll do this the
15 old-fashioned way. Would you stand up and tell
16 them, where is East Owens?

17 A. This whole road right here is East
18 Owens Drive. This is the crime scene right here.
19 (Indicating)

20 Q. Okay.

21 A. This is East Thomas, and this would be
22 East Colpat. (Indicating)

23 Q. Okay. Now, with regard to East Owens,
24 if you go out that way, the one at the upper right
25 corner, where does that road lead to?

1 A. This one here?

2 Q. Yes.

3 A. It would go back out to 78, Highway 78.

4 Q. Okay. And how about if you go up East
5 Owens, the other way, to the northwest?

6 A. It'll take you out to Berlin G. Myers
7 and Summerville, South Carolina.

8 Q. Okay. So it goes straight to
9 Summerville. Do you have any idea how far
10 Summerville actually is from this particular area?

11 A. Maybe three tenths to a half mile,
12 roughly.

13 Q. Okay. So it's close to Summerville?

14 A. It's very close.

15 Q. And where is the East Colpat?

16 A. East Colpat is this road right here.

17 (Indicating)

18 Q. Okay. And East Thomas?

19 A. Thomas is right here.

20 Q. And so this house is kind of at a --

21 A. It's unusual.

22 Q. -- an intersection of three different
23 roads; is that correct?

24 A. Yes.

25 Q. As a matter of fact, there was some

1 confusion as to what the address was when the call
2 went out, correct?

3 A. Yes, I believe there was.

4 Q. Okay. And do you know where Bell Drive
5 is?

6 A. Bell Drive is right down here.

7 (Indicating)

8 Q. Okay. And do you know where Brenda B
9 is?

10 A. Brenda B is up there, the street down
11 from Bell.

12 Q. The street one down from Bell; is that
13 correct?

14 A. Yes, sir.

15 Q. Do you know -- and if you don't, that's
16 fine, but do you know, can you get to the end of
17 Brenda B Drive from Bell Drive?

18 A. There's cuts. I believe it's a dead
19 end back in there and it's cut. It's lined with
20 trailers and there's an old house back in there.

21 Q. And actually right there where that --
22 where that -- it looks like a field there, kind of
23 goes over to the back of Brenda B, correct?

24 A. Back in here? (Indicating)

25 Q. Yeah.

1 A. Yes, sir.

2 Q. Okay. You can have a seat. Thank you,
3 Deputy. Oh, I did -- one thing, could you show us
4 the McBrides' residence?

5 A. Yes, sir. The McBrides' residence is
6 right here. (Indicating)

7 Q. Okay. And you say that's probably
8 around a hundred yards from the crime scene?

9 A. Maybe less.

10 Q. Okay. Now, what did you learn from
11 speaking to the McBrides?

12 A. That the daughter apparently had told
13 her dad, Allen, that she saw a guy run down the
14 street and he dropped a large sum of cash in front
15 of their house, along with a cell phone in the
16 drainage ditch there.

17 And that he took custody of the cell
18 phone and put it on his barbecue that was on his
19 front porch.

20 Q. Okay. Did you actually, physically go
21 to that location?

22 A. Yes, sir.

23 Q. Was the cell phone still in the ditch
24 when you arrived at the scene?

25 A. No, sir, it was not.

1 Q. And that was because Mr. McBride had
2 done what with it?

3 A. He placed it on the barbecue on his
4 front porch.

5 Q. Okay. And was Mr. McBride able to
6 provide any kind of description of the potential
7 suspect?

8 A. Celeste McBride told me that it was a
9 black male wearing a dark-colored sweater with gray
10 pants and ran past her house.

11 Q. Okay. I believe she also said that he
12 had dreads, right?

13 A. Yes. Yes, that's correct.

14 Q. Prior to speaking with the McBrides,
15 did you have an occasion to encounter someone named
16 Trey Coleman?

17 A. Yes, sir. He was on scene shortly
18 after we got there.

19 Q. Okay. He wasn't -- was he on the scene
20 when you got there?

21 A. No, sir.

22 Q. And how long after you and Deputy
23 Hamill arrived did he actually show up?

24 A. Approximately, three minutes.

25 Q. Were you wearing a body camera that

1 day?

2 A. Yes.

3 Q. And was your body camera activated?

4 A. Yes, sir.

5 Q. And did your body camera capture some
6 footage regarding your encounters with Mr. Coleman
7 and McBride?

8 A. Yes, sir.

9 Q. And Mr. Pritchard, for that matter?

10 A. Yes, sir.

11 MR. DURANT: Your Honor, at this time
12 we would offer, I believe, State's Exhibit
13 Number 98, I believe without objection.

14 MS. NORRIS: No objection.

15 THE COURT: State's 98 into evidence
16 without objection.

17 (STATE'S EXH. 98, DVD, in evidence.)

18 BY MR. DURANT:

19 Q. This is not your entire body cam
20 footage, but maybe the first 12 or 13 minutes that
21 you were on the scene, correct?

22 A. Yes, sir.

23 MR. DURANT: Your Honor, permission to
24 publish to the jury?

25 THE COURT: You may.

1 (Video played in open court.)

2 BY MR. DURANT:

3 Q. Now, Deputy Gillard, was this right
4 after you arrived on scene?

5 A. Yes.

6 Q. And I believe the time is 13:03; is
7 that correct?

8 A. Correct. It's stamped at the bottom.

9 (Video played in open court.)

10 Q. Do you recall who that gentleman is?

11 A. No, sir, I do not.

12 Q. How about that, who is the gentleman in
13 the front?

14 A. Hugh Pritchard.

15 Q. And do you recall who the gentleman in
16 the back is?

17 A. No, sir, I do not.

18 (Video played in open court.)

19 Q. Do you recall who that individual is?

20 A. That's Trey Coleman.

21 Q. Is that the first time he showed up on
22 the scene?

23 A. Yes.

24 Q. And now it's about 13:07, so about four
25 minutes after you got there?

1 A. Yes, sir.

2 Q. That's when you first found out about
3 the phone?

4 A. Yes, sir.

5 Q. And we're about maybe seven minutes out
6 since you got there?

7 A. Yes, sir.

8 Q. And just to be clear, that's Mr.
9 McBride and Mrs. McBride, correct? Or Ms. McBride,
10 his daughter, correct?

11 A. Correct, Celeste McBride.

12 (Video played in open court.)

13 MR. DURANT: I just want to, at this
14 point, introduce State's Exhibits 139, 140, 141,
15 142, and 143, I believe without objection.

16 THE COURT: Ms. Norris?

17 MS. NORRIS: Are those the screen
18 shots?

19 MR. DURANT: The screen shots.

20 MS. NORRIS: No objection.

21 THE COURT: 139 through 143; is that
22 correct?

23 MR. DURANT: That's correct, Your
24 Honor.

25 THE COURT: Into evidence without

1 objection.

2 (STATE'S EXH. 139 - 142, Screen shots,
3 in evidence.)

4 BY MR. DURANT:

5 Q. And just to publish those briefly,
6 those are basically the screen shots from this
7 video that we just observed; is that correct?

8 A. Yes.

9 Q. And once again, this depicts Trey
10 Coleman?

11 A. Yes, sir; that's Trey Coleman.

12 Q. There's 141 and 142. He had that
13 two-toned hat on?

14 A. Yes, sir. Chicago Bills, I believe.

15 Q. It's like red on one side and black on
16 the other, correct?

17 A. Yes, sir.

18 Q. And that accurately depicts his -- the
19 clothing that he was wearing?

20 A. Yes, sir.

21 Q. And this was probably four minutes
22 after you got there?

23 A. Yes, sir.

24 MR. DURANT: Could you please answer
25 any questions that defense counsel may have for

1 you?

2 THE WITNESS: Yes, sir.

3 MS. NORRIS: May I have just a moment,

4 Your Honor?

5 THE COURT: Take your time.

6 MS. NORRIS: No questions.

7 THE COURT: All right. You may step
8 down. Thank you.

9 MR. DURANT: The State calls Martin
10 Perez.

11 THE INTERPRETER: Good morning, Your
12 Honor.

13 THE COURT: Good morning.

14 INTERPRETER,

15 being first duly sworn, testified as follows:

16 MARTIN PEREZ

17 being first duly sworn, testified as follows:

18 THE CLERK: Please have a seat, sir.

19 Please state your full name for the record,
20 spelling your last name, sir.

21 THE WITNESS: My name is Martin Alto
22 Perez.

23 THE INTERPRETER: My name is Martin
24 Alto Perez.

25 THE COURT: Please spell your last

1 name.

2 THE WITNESS: Alto, A-L-T-O, Perez --

3 THE INTERPRETER: Your Honor, the
4 witness spoke English.

5 THE COURT: Okay. Mr. Perez, can you
6 utilize the interpreter and spell your last name.

7 THE INTERPRETER: It's P-E-R-E-Z.

8 THE COURT: Okay. Ladies and gentlemen
9 of the jury, you're about to hear the testimony of
10 a witness who will be testifying in Spanish. This
11 witness will be testifying through an interpreter.

12 Some of you may have knowledge of
13 Spanish. You cannot rely on your own knowledge of
14 Spanish. Even if you disagree with the
15 interpreter's translation, you must accept the
16 translation of the witness's testimony by the
17 interpreter.

18 Mr. Durant.

19 MR. DURANT: Thank you.

20 DIRECT EXAMINATION

21 BY MR. DURANT:

22 Q. Good morning, Mr. Perez.

23 A. Good morning.

24 Q. And it is true that you speak some
25 English, correct?

1 A. Yes.

2 Q. But you're obviously more comfortable
3 in Spanish; is that correct?

4 A. Yes.

5 Q. Okay. Could you tell the jury how old
6 you are?

7 A. Twenty-nine.

8 Q. Okay. And what do you do for a living,
9 Mr. Perez?

10 A. I work in construction.

11 Q. Okay. Any particular area of
12 construction?

13 A. Uh, no.

14 Q. Okay. And could you tell us where you
15 lived on December 23rd of 2016?

16 A. Yes. It's [REDACTED] Brenda Drive in
17 Lincolnville.

18 Q. Okay. And how long have you lived at
19 that address?

20 A. Seven years.

21 Q. Do you have surveillance cameras
22 installed at your home?

23 A. Yes.

24 Q. And why?

25 A. Because they have come stealing into my

1 house three times.

2 Q. So you've been burglarized three times?

3 A. Yes.

4 Q. And how many cameras did you have with
5 your video surveillance system?

6 A. Eight.

7 MR. DURANT: Your Honor, at this time I
8 would offer State's 62 into evidence, I believe
9 without objection.

10 MS. NORRIS: No objection.

11 THE COURT: State's 62 into evidence
12 without objection.

13 (STATE'S EXH. 62, Diagram, in
14 evidence.)

15 BY MR. DURANT

16 Q. Do you recognize this exhibit, Mr.
17 Perez?

18 A. Yes.

19 Q. And does State's Exhibit 62 accurately
20 depict the location and orientation of the cameras
21 in your video surveillance system?

22 A. Yes.

23 Q. Okay. I'm probably going to have to
24 ask you to stand up. Could you show the jury, up
25 here, where Bell Drive is?

1 A. Yes, it's here. (Indicating)

2 Q. Okay. And could you show the jury
3 where Brenda B Drive is on this photograph?

4 A. Yes. It's here.

5 Q. Okay. And can you get to Brenda B -- I
6 mean, to Brenda B Drive from Bell Drive through
7 that cut through?

8 A. Yes.

9 Q. And could you show the jury where that
10 cut-through is?

11 A. Yes. It's here. (Indicating)

12 Q. Right there at that brown spot?

13 A. Yes.

14 Q. Okay. And, obviously, your home is in
15 the middle of that picture, correct?

16 A. Yes.

17 Q. Thank you. You can be seated. Now,
18 the images from your home surveillance system,
19 where are they stored at your house?

20 A. In my room.

21 Q. Do you have a computer in there?

22 A. Yes.

23 Q. And directing your attention to
24 December 23rd of 2016, at about five minutes until
25 1:00 p.m., did you happen to be at home?

1 A. Yes.

2 Q. Were you inside or outside?

3 A. Outside.

4 Q. And what did you observe that was
5 unusual to you?

6 A. That a car came in the back of my
7 house, it parked, and a person came out of the car
8 running. And he yelled out to another person to
9 run faster. And another person came by running,
10 and they got in the car, and they left with the
11 other.

12 Q. Where did the car come from, Brenda B
13 or Bell?

14 A. From Bell.

15 Q. And they came through that little cut
16 through we just talked about?

17 A. Yes.

18 Q. Okay. And where did the car park? And
19 you can show on that -- you can show up there, if
20 you want.

21 A. About here.

22 Q. Okay. Do you remember what the car
23 looked like?

24 A. Yes.

25 Q. What did the car look like?

1 THE INTERPRETER: The interpreter
2 couldn't understand the witness speaking English or
3 Spanish.

4 THE COURT: Ask the question again.
5 Sir, we need you to utilize the
6 services of the interpreter.

7 THE WITNESS: Okay. Thank you.

8 THE COURT: Thank you.

9 THE WITNESS: It was a black car.

10 BY MR. DURANT:

11 Q. Okay. You can sit down. And where did
12 he run after -- the fellow that was driving the
13 car, where did he run after getting out of the car?

14 A. He ran towards the position where
15 camera number four is.

16 Q. Okay. Do you recall what that guy was
17 wearing, the driver?

18 A. Yes.

19 Q. What was he wearing?

20 A. He had black pants and a black T-shirt
21 -- well, with some white writing and red hat.

22 Q. Okay. I would like for him to look at
23 State's Exhibits 139 through 143. And ask, does
24 that appear to be the same clothing of the person
25 you saw driving the car?

1 A. Yes.

2 Q. And, in fact, had you seen that person
3 before?

4 A. Yes.

5 Q. And how did you recognize him?

6 A. Because he would come visit my
7 neighbor.

8 Q. In fact, you even knew where he lived,
9 didn't you?

10 A. Yes.

11 Q. I'm referring you to State's Exhibit
12 61. Could you point out on this aerial photograph
13 where he lived?

14 A. Here. (Indicating)

15 Q. Right behind the house where the man
16 was killed at?

17 A. Yes.

18 Q. And if you would, could you point out
19 your house on that same map?

20 A. Here. (Indicating)

21 Q. Okay. Thank you. You can resume your
22 seat. So after you saw this guy run over to the
23 area of camera four and yell for someone to hurry
24 up, what did you see next?

25 A. After he yelled to the other person to

1 run faster, I saw the other guy got in the car.

2 Q. What direction did the other guy come
3 from?

4 A. From Brenda Drive.

5 Q. And he appeared to be running down
6 Brenda Drive from the area of East Owens?

7 A. He was running from Owens, and he ran
8 to the entire Brenda Drive.

9 Q. Okay. Now, do you recall the police
10 coming to your house that day?

11 A. Yes.

12 Q. And was this immediately or sometime
13 later?

14 A. A little later.

15 Q. As a matter of fact, hadn't you left
16 and -- to run an errand and returned to your home?

17 A. Yes.

18 Q. And what happened when you got back to
19 your home?

20 A. There were a lot of policemen outside
21 on the road, and I couldn't have access to the
22 street where I live. And so I asked what had
23 happened. And I have been told that a crime had
24 been -- crime had been committed.

25 And they asked me if I had seen

1 anything suspicious, and I said yes. And they
2 asked me whether I remembered anything, and I said,
3 yes, that I have cameras in my house. And so they
4 went to my house to see the videos.

5 Q. Did y'all watch the videos together at
6 your house?

7 A. Yes.

8 MR. DURANT: Your Honor, at this time,
9 I would request to publish State's Exhibit 71, I
10 believe without objection.

11 THE COURT: You may publish.

12 MS. NORRIS: No objection.

13 THE COURT: 71 is already in evidence.

14 BY MR. DURANT:

15 Q. This is the first clip. What view is
16 this from your house? From the back of your house
17 or the front of the house?

18 A. It's the front of my house.

19 Q. Can you see that?

20 A. Yes.

21 Q. Is that your house?

22 A. Yes.

23 Q. What is this road going that way?

24 A. It's the street that is in front of my
25 house.

1 Q. That would be Brenda B?

2 A. Yes.

3 Q. Clip two. This is your porch?

4 A. Yes.

5 Q. This is your dog?

6 A. Yes.

7 Q. What view does that clip show?

8 A. This is a person that came by running
9 to my house.

10 Q. And that is the same person that you
11 saw out there that day?

12 A. Yes.

13 Q. And the time of this is 12:55:14; is
14 that correct?

15 A. Yes.

16 Q. Now, what is this view? This is
17 channel seven?

18 A. Yes. This is the back part of my
19 house.

20 Q. And does this show the cut where you
21 saw the car drive -- arrive and park?

22 A. Yes.

23 Q. I want to ask you a couple of questions
24 regarding that clip. What road is back over that
25 way?

1 A. It's a road that goes to a neighbor's
2 house.

3 Q. And ask him if Bell Road is that
4 direction.

5 A. Yes.

6 Q. Okay. This is clip number five. Could
7 you orient us as to where this is at your house?

8 A. This is on a side of my house in the
9 back part.

10 Q. This guy here, was he the one that you
11 saw driving the car? (Indicating)

12 A. Yes.

13 Q. And what was he saying when he got over
14 to this corner?

15 A. It's when he yelled to the other person
16 to run faster.

17 Q. Just to be clear, this is you, correct?

18 A. Yes.

19 Q. And you told us that you recognized the
20 driver of the car?

21 A. Yes.

22 Q. Did you recognize the other guy? Had
23 you ever seen him before?

24 A. No.

25 Q. Did you see a photograph of him later?

1 MS. NORRIS: Your Honor, I object to
2 this line --

3 THE COURT: Hold on one second.

4 MS. NORRIS: I object to this line,
5 renewal, plus 403.

6 THE COURT: Overruled.

7 BY MR. DURANT:

8 Q. Did you later see a picture of the
9 other individual?

10 A. Yes.

11 Q. And could you tell us how that
12 happened?

13 A. I recognized the person that got on the
14 car. And later I saw his photograph in the news,
15 that he was being accused of a crime. And the same
16 person that when -- that got into the car --

17 THE INTERPRETER: Interpreter corrects
18 herself. It was the same person that got into the
19 car.

20 BY MR. DURANT:

21 Q. The picture that you saw was the same
22 person you saw get in the car?

23 A. Yes.

24 Q. Do you recall when you saw that?

25 A. Yes.

1 Q. How long after December 23rd?

2 A. The photograph came out in the news.

3 The news came out on June 10 of 2017.

4 Q. Okay. Is that -- the first time that
5 you saw the picture was in June of 2017?

6 A. Yes.

7 Q. Okay. Did you recognize the guy in the
8 picture?

9 A. Yes.

10 Q. How did you recognize him?

11 A. Because it was the same person that got
12 on the car with the other person.

13 Q. And do you know that because of what
14 your eyes told you, or because OF what you saw in
15 the newspaper?

16 A. Because I saw the same person that went
17 in the car, and it was the same person that was in
18 the news.

19 Q. Okay. And you, in fact, saved the
20 picture when you saw it; did you not?

21 A. Yes. After I saw it in the news, I
22 saved it in my phone.

23 Q. And do you remember actually showing it
24 to me and some others in my office three or
25 four weeks ago?

1 A. Yes.

2 Q. And I hand you what's been marked as
3 State's Exhibit Number 77 for identification, and
4 ask if that was the photograph you showed us.

5 A. Yes.

6 Q. And you base that upon what you saw on
7 December 23rd?

8 A. Yes.

9 MR. DURANT: Your Honor, at this time,
10 we would offer State's Exhibit 77.

11 MS. NORRIS: Continuing objection.

12 THE COURT: State's 77 into evidence,
13 noting the defendant's objection.

14 (STATE'S EXH. 77, Photograph, in
15 evidence.)

16 BY MR. DURANT:

17 Q. This would be the picture that you saw
18 in your phone -- or had in your phone and showed to
19 us?

20 A. It's the same picture that I have saved
21 in my phone from the news.

22 Q. Okay. And that's the fellow right
23 there, isn't it? (Indicating)

24 A. Yes.

25 MR. DURANT: Could you please answer

1 any questions defense counsel has for you?

2 CROSS-EXAMINATION

3 BY MS. NORRIS:

4 Q. Good morning, Mr. Perez.

5 A. Good morning.

6 Q. Now, you said that you have this home
7 video system because you had burglaries at your
8 house?

9 A. Yes.

10 Q. And also a lot of crime in the
11 neighborhood, right?

12 A. Yes.

13 Q. Even a murder at one point in that
14 cut-through you've been talking about?

15 A. Yes.

16 Q. And now, on the clips that we saw, was
17 that you in the backyard of your house?

18 A. Yes.

19 Q. And what were you doing out there; do
20 you recall?

21 A. I was cleaning up some things.

22 Q. And you said earlier -- well, let me
23 ask you this: Other than your point of view and
24 what your video system said, you couldn't say where
25 the runner started, right?

1 A. Well, the car was coming from Bell
2 Drive and the other person was coming from Owens
3 Drive, Brenda Drive.

4 Q. I understand, but my question is, the
5 person who was running on Brenda Drive, you don't
6 know where they started running, correct?

7 A. Well, the only access to the street
8 where I live is through Owens Drive.

9 Q. The person could have run between
10 houses between Bell and Brenda, though, right?

11 A. But in the camera you can see that he
12 was coming running throughout Brenda.

13 Q. It shows that right in front of your
14 house. It doesn't show you Owens Drive, though,
15 correct?

16 A. Correct.

17 Q. Okay. And you were in the back of the
18 house so you couldn't see beyond your house?

19 A. Correct.

20 Q. Now, when the guy came running from
21 Brenda B, he was running pretty fast, wasn't he?

22 A. Yes.

23 Q. And you observed him for no longer than
24 what you see in the clips, right?

25 A. I saw their faces very well of the two

1 people when they went in the car.

2 Q. Well, now, how did you do that?

3 Because the video shows after the guy runs by, you
4 were bent down there with your dog.

5 A. Yes, but after that, I got up and I saw
6 when they got into the car.

7 Q. And now there's some bushes and things
8 back there between where you were and the car. I
9 mean, we see that on the video too, right?

10 A. From where I was standing through the
11 view of the car, there was nothing there that would
12 prevent me from seeing.

13 Q. And how far was the car from where you
14 were standing, approximately?

15 A. Approximately, 25 feet or 30.

16 Q. Well, it looks like -- more like 25 to
17 30 yards to me, but the video will speak for
18 itself. Okay. All right.

19 So between this day on December 23rd,
20 when you see this activity out there, and June
21 2017, you didn't ever see the runner again, right?

22 A. The person that I had seen driving the
23 car, he had come to visit his neighbor, but the
24 other person had disappeared for awhile.

25 Q. And so based on the guy running by real

1 fast for a few seconds, when you see a picture in
2 the news six months later, did you make the
3 assumption that that was the person you saw because
4 he was arrested for this crime?

5 A. From December 23rd to January 6th, it's
6 not six months. It's just a few days to forget a
7 face.

8 Q. Oh, I apologize, I thought you said it
9 was June 2017.

10 A. No.

11 Q. All right. But you knew when you saw
12 the picture in the news that he had been arrested
13 for this crime, correct?

14 A. Yes.

15 Q. And you just assumed that was the guy
16 that you saw running, right?

17 A. Yes.

18 Q. And did you keep that picture -- is the
19 picture still on your phone?

20 A. Yes, until today. I still have it
21 today saved.

22 Q. And you kept it on your phone because
23 you anticipated being called to court, right?

24 A. Yes.

25 Q. And you wanted to be able to be sure

1 that you could identify Joseph Brown in court,
2 right?

3 A. Yes.

4 Q. And between January 2017 and now,
5 you've looked at that picture frequently, right?

6 A. Yes.

7 MS. NORRIS: May I have just a moment,
8 Your Honor? No further questions, Mr. Perez.

9 MR. DURANT: I have one thing I want to
10 ask on redirect.

11 REDIRECT EXAMINATION

12 BY MR. DURANT:

13 Q. And what I would like to know, can he
14 describe to me the difference between knowing
15 something and assuming something.

16 THE INTERPRETER: How do you say -- I'm
17 sorry?

18 MR. DURANT: I want to know what his --
19 in Spanish and him communicating with you in
20 Spanish, what is the difference between knowing
21 something, knowing a fact and assuming a fact?

22 MS. NORRIS: Your Honor, I'm going to
23 ask that she just translate or interpret what the
24 solicitor says, rather than her asking the
25 question.

1 THE COURT: Correct.

2 THE INTERPRETER: Your Honor, the
3 interpreter is interpreting everything as it's
4 being said.

5 Q. (Interpreting repeating question.)

6 A. To know is to see something and to
7 assume a fact is to ensure of what you saw.

8 Q. And I guess my question is this: Do
9 you recognize this fellow from what you saw on
10 December 23rd or from what you saw on the Internet?

11 THE INTERPRETER: What was the last
12 part?

13 MR. DURANT: Or from what he saw on the
14 Internet.

15 THE INTERPRETER: On what?

16 MR. DURANT: On the Internet.

17 THE WITNESS: It's the same person that
18 I saw running in my house -- in front of my house,
19 and it's the same person that I saw in the news.

20 MR. DURANT: Thank you.

21 MS. NORRIS: No further questions.

22 THE COURT: You may step down, sir.

23 MR. DURANT: Would you thank Mr. Perez
24 for his testimony for me, please?

25 THE COURT: Call the next witness.

1 MS. NORRIS: Your Honor, could we have
2 a brief comfort break?

3 THE COURT: Ladies and gentlemen, they
4 have requested a comfort break. We'll go ahead and
5 take our midmorning break. Do not begin to
6 deliberate. Remember all my admonitions. Leave
7 your notepads in your seats or take them with you.

8 Please rise for the jury.

9 (Jury out, 10:58 a.m.)

10 THE COURT: Thank you. Please be
11 seated. Anything before we take our comfort break?

12 MR. DURANT: Nothing from the State,
13 Your Honor.

14 MS. NORRIS: No, Your Honor.

15 THE COURT: About ten minutes.

16 (A recess transpired.)

17 MR. DURANT: Not with this next
18 witness, but the next witness after that is going
19 to be my crime scene guy, and they were objecting
20 to the crime scene photos.

21 THE COURT: Okay.

22 So, as I understand, the photographs of
23 the crime scene, 17, 19, 20, 21, 22, 23, 24, and
24 28, there were no objections; is that correct?

25 MS. NORRIS: That's correct, Your

1 Honor.

2 THE COURT: Okay. And so those will be
3 introduced without objection.

4 (STATE'S EXH. 17, 19, 20, 21, 22, 23,
5 24, 28, Photographs, in evidence.)

6 THE COURT: Then, there was objection
7 to 15, 16, 18, 25, 27, and 26, as I understand it.
8 Is that correct.

9 MS. NORRIS: Yes, Your Honor.

10 THE COURT: And if you'll just place
11 your -- the grounds for your objection on the
12 record.

13 MS. NORRIS: Thank you, Your Honor. My
14 objection is that those photos that I objected to
15 unnecessarily, by the gruesome nature of showing
16 the pictures of the body and the blood, that it's
17 -- its relevance under Rule 401 is diminished
18 because there's no dispute that Mr. Pritchard was
19 shot in the neck.

20 There's no dispute, won't be any
21 dispute that the shot went through his jacket and
22 his collar. The police officers can testify to
23 what they saw. There will be a medical examiner
24 later to tell us what the cause of death is.

25 So I just -- that those pictures under

1 403 are more prejudicial than probative.

2 THE COURT: Okay. And your response,
3 Mr. Durant?

4 MR. DURANT: My response, Your Honor,
5 I'm entitled to prove my case, prove the crime
6 scene and the condition that it was in when the
7 police officers got there. There's nothing that --
8 all of those pictures that showed the deceased are
9 taken from way back; there's not a lot of blood.

10 There's some blood on his head, but
11 this is a murder case. And, basically, it shows
12 the position of the body. It shows -- it shows the
13 location of the gunshot wound and how it was
14 inflicted.

15 And just because they're not disputing
16 what the crime scene looked like does not mean that
17 I don't get a chance to prove the crime scene. I
18 just don't believe that the pictures are unduly
19 prejudicial, and I would ask that they be admitted.

20 THE COURT: And my concern -- one of my
21 concerns on the picture -- State's Exhibit 25, is
22 the picture of the entry wounds, I'm assuming, on
23 his neck.

24 MR. DURANT: Yes, ma'am.

25 THE COURT: And was this -- I'm

1 assuming this picture was taken after medical
2 intervention; is that correct?

3 MR. DURANT: That would have been after
4 EMS got there, for sure.

5 THE COURT: Because it appears clearly
6 -- and the reason I ask is, on this photograph, it
7 appears there's fingerprints and it does appear --
8 that would be a concern that the Court would have
9 that that picture -- so I wanted to make sure, and
10 that was my assumption because I knew based upon
11 the trial -- the facts.

12 You also have, as I understand, a
13 similar photograph where the body is cleaned; is
14 that correct?

15 MR. DURANT: I do, Your Honor, and I
16 can go ahead and show you that now if you want to
17 go ahead and --

18 THE COURT: I just wanted -- my concern
19 about this photograph is that I believe it's
20 potentially misleading at this point.

21 MR. DURANT: Yes, ma'am.

22 THE COURT: All right. So 401 is
23 relevant evidence, through any evidence, having any
24 tendency to make the existence of any fact that is
25 of consequence to the determination of the action

1 more probable or less probable than it would be
2 without the evidence.

3 And, clearly, I must exclude irrelevant
4 evidence if it is -- if the probative value is
5 substantially outweighed by the danger of unfair
6 prejudice, confusion of the issues, misleading the
7 jury, or -- and our courts have indicated that when
8 determining the admissibility of photographs,
9 photographs calculated to arouse sympathy or
10 prejudice should be excluded if they are not
11 necessary to substantiate material facts or
12 conditions.

13 Based upon my review of those
14 photographs in question, I am allowing State's 15,
15 26, and 27; noting your objection to those.

16 I am excluding 25 for the reasons
17 previously articulated; State's 16 as cumulative
18 and 18 as cumulative. And note your objection to
19 both of you in my ruling.

20 So as to the packet of pictures, just
21 to be clear, State's 15, 17, 19, 20, 21, 22, 23,
22 24, 26, 27, and 28 will be admitted into evidence.
23 State's 16, 18, and 25 will not.

24 (STATE'S EXH. 15, 17, 19, 20, 21, 22,
25 23, 24, 26, 27, 28, Photographs, in evidence.)

1 (Jury in 11:23 a.m.)

2 THE BAILIFF: The jury is all present,
3 Judge.

4 THE COURT: Thank you. Please be
5 seated. Call your next witness.

6 MR. DURANT: The State would call Corey
7 Shelton.

8 COREY JACK SHELTON

9 being first duly sworn, testified as follows:

10 THE CLERK: Please speak into the
11 microphone so we can hear you. State your full
12 name for the record, spelling your last name.
13 Thank you, sir.

14 THE WITNESS: Corey Jack Shelton,
15 S-H-E-L-T-O-N.

16 DIRECT EXAMINATION

17 BY MR. DURANT:

18 Q. Good afternoon, Mr. Shelton. How are
19 you doing?

20 A. I'm doing well. How are you, sir?

21 Q. Good; thank you. Could you tell the
22 jury how old you are?

23 A. I am 46 years old.

24 Q. And where are you employed?

25 A. Ceres Marine Terminals.

1 Q. And what do you do for Ceres Marine
2 Terminals?

3 A. I'm a supervisor. I supervise the
4 loading and unloading of container ships.

5 Q. And how long have you been with Ceres
6 Marine?

7 A. One year and four months.

8 Q. And what did you do before that?

9 A. I was a Charleston County Deputy
10 Sheriff.

11 Q. And what your responsibilities as a
12 Charleston County Deputy Sheriff in December of
13 2016?

14 A. I was a forensic investigator.

15 Q. And that's what they call on TV a CSI,
16 crime scene investigator?

17 A. Sure.

18 Q. In that capacity, did you have the
19 occasion to participate in the investigation of the
20 murder of Johnny Pritchard on December 23rd, 2016?

21 A. Yes.

22 Q. How did you become involved with the
23 investigation?

24 A. I was actually out Christmas shopping
25 for my son and overheard the call go out over the

1 radio. Knowing that Investigator McElroy was on
2 his way, I didn't want him to do it by himself, so
3 I dropped the skateboard and went on.

4 Q. Okay. And when you arrived at the area
5 of the shooting at [REDACTED] East Thomas, did you end up
6 going to [REDACTED] East Owens Street?

7 A. Yes.

8 Q. And what did you do at East Owens?

9 A. I -- I apologize, sorry?

10 Q. What did you do at [REDACTED] East Owens?

11 A. I assisted Deputy McElroy.

12 Q. Okay. Did you end up collecting
13 something into evidence at that location?

14 A. Yes.

15 Q. Okay. And that will be an iPhone?

16 A. Yes.

17 Q. And that would be State's Exhibit 63 in
18 evidence. Does that appear to be the iPhone that
19 you collected?

20 A. Yes.

21 Q. What did you do upon collecting that
22 iPhone at [REDACTED] East Owens?

23 A. I believe I swabbed the phone
24 initially, and then I -- using the proper personal
25 protective equipment, I placed the phone back into

1 Deputy McElroy's vehicle.

2 Q. Okay. So you turned it over to him?

3 A. That's correct.

4 Q. Where was it when you collected it; do
5 you recall?

6 A. It was, I believe, sitting on top of a
7 grill.

8 Q. Okay. Now --

9 A. On the left-hand side of the grill.

10 Q. Later that afternoon, did you have the
11 occasion to go over to [REDACTED] Brenda B Drive?

12 A. Yes.

13 Q. Where is that in relation to [REDACTED] East
14 Owens?

15 A. Just down the street, and there's a
16 side road on the left-hand side of that road.

17 Q. Okay. And why did you go to [REDACTED] Brenda
18 B?

19 A. It was understood that there was
20 footage of suspects leaving the scene.

21 Q. And do you remember meeting with
22 Mr. Martin Alto Perez?

23 A. Yes.

24 Q. He's the resident at [REDACTED] Brenda B?

25 A. Yes.

1 Q. Who else was there besides you and Mr.
2 Perez?

3 A. Deputy Thompson.

4 Q. Okay. And that will be Mike Thompson?

5 A. Yes, Detective Mike Thompson. Yes.

6 Q. Okay. What do you remember about his
7 surveillance system?

8 A. I remember that the TV that he had on
9 the grounds was a large TV, probably a 65 --
10 65-inch, which made it a little bit difficult to
11 see some of the outer edges of the video. So we
12 decided to take custody of the DVR system so we
13 could utilize a better screen to see it down at the
14 forensic lab.

15 Q. And what do you recall from reviewing
16 the video at his house that day?

17 A. I remember seeing a vehicle pull up
18 from behind his residence, a subject running out,
19 waving, and then another subject running back from
20 the opposite end from the -- it'd be the western
21 side of his house.

22 Q. And was there a video taken of the
23 actual monitor of that time?

24 A. Yes.

25 Q. By whom?

1 A. It was Detective Thompson's phone, but
2 we were both standing there when he took it.

3 Q. Okay. Showing you what's been marked
4 as State's Exhibit 128.

5 A. Yes.

6 Q. Do you recognize that as being a copy
7 of that video?

8 A. Yes.

9 Q. And how do you know that?

10 A. I reviewed it myself and signed it
11 myself.

12 MR. DURANT: Your Honor, we would offer
13 128 at this time, I believe without objection.

14 MS. NORRIS: No objection.

15 THE COURT: State's 128 into evidence
16 without objection.

17 (STATE'S EXH. 128, DVD, in evidence.)

18 BY MR. DURANT:

19 Q. Do you believe that video footage to be
20 relevant to your investigation?

21 A. Yes.

22 MR. DURANT: Could you please answer
23 any questions defense counsel may have for you?

24 THE WITNESS: Yes.

25 MS. NORRIS: No questions.

1 THE COURT: You may step down. Thank
2 you.

3 THE WITNESS: Thank you.

4 MR. DURANT: The State would call
5 Hershel McElroy.

6 HERSHEL MCELROY

7 being first duly sworn, testified as follows:

8 THE CLERK: You need to speak into that
9 microphone so we can hear you. State your full
10 name for the record, spelling your last name.
11 Thank you, sir.

12 THE WITNESS: Hershel McElroy,
13 M-C-E-L-R-O Y.

14 DIRECT EXAMINATION

15 BY MR. DURANT:

16 Q. Good afternoon. Could you please tell
17 our jury where you're employed?

18 A. Charleston County Sheriff's Office.

19 Q. And you have been with them since when?

20 A. 2014.

21 Q. Before that, did you have any law
22 enforcement experience previously?

23 A. I worked eight years in North Carolina
24 and then about six years with Isle of Palms when I
25 moved down here in 2008.

1 Q. Okay. What are your current duties at
2 the sheriff's office?

3 A. Forensic services unit.

4 Q. And that is your crime scene office or
5 the crime scene section of the sheriff's office?

6 A. Yes.

7 Q. Have you been with the forensic
8 services unit during the entire tenure --

9 A. No, sir.

10 Q. -- with the sheriff's office?

11 A. I started September of 2016 with the
12 forensic services.

13 Q. So you started basically just shortly
14 before this incident; is that correct?

15 A. Yes, sir.

16 Q. And I believe this was actually your
17 first murder case you were involved in; is that
18 correct?

19 A. Yes, sir.

20 Q. Directing your attention to
21 December 23rd of 2016, did you have the occasion to
22 respond to [REDACTED] East Thomas?

23 A. I did.

24 Q. And that is in Lincolnville, South
25 Carolina?

1 A. Yes.

2 Q. Why were you dispatched to that
3 location?

4 A. I was first advised that there was a
5 homicide there.

6 Q. And do you recall what time you were
7 notified?

8 A. About 1:19.

9 Q. And what time did you actually arrive
10 on the scene?

11 A. About 1:49.

12 Q. And were you the principal crime scene
13 investigator assigned to this case?

14 A. I was.

15 Q. What did you do upon arriving at the
16 scene?

17 A. I spoke with the deputies that were on
18 scene, Deputy Hamill, and he debriefed me on the
19 incident that occurred.

20 Q. Okay. And what was your understanding
21 of what you would be investigating?

22 A. After he told me everything, it would
23 be a burglary, a robbery, and a homicide.

24 Q. Now, prior to actually processing the
25 scene at [REDACTED] East Thomas, did you have the occasion

1 to respond to [REDACTED] East Owens Street?

2 A. I did.

3 Q. Why?

4 A. I was advised Deputy Gillard was down
5 there securing evidence, that a witness seen
6 somebody drop something.

7 Q. Okay. And what was that that the
8 witness had seen somebody drop?

9 A. The witness advised they seen someone
10 drop a cell phone and some money.

11 Q. And where is [REDACTED] East Owens in
12 reference to the crime scene?

13 A. It's basically next door.

14 Q. Now, you walked down to [REDACTED] East Owens?

15 A. Yes.

16 Q. And do you have any idea how far that
17 is?

18 A. Um --

19 Q. Less than 100 yards? A hundred yards?

20 A. A hundred yards, I guess.

21 Q. And did you have the opportunity to
22 speak to Mr. McBride and his daughter, Celeste
23 McBride?

24 A. I did.

25 Q. Were you shown where the phone was

1 dropped?

2 A. I was.

3 Q. And were you shown where the money was
4 dropped?

5 A. I was.

6 Q. Were you able to locate any cash?

7 A. No, sir. I was told that the person
8 that dropped the money picked it up.

9 Q. Okay. And where was the phone when you
10 actually got there?

11 A. It was sitting on a grill beside the
12 front door in front of his residence.

13 Q. And what did you do at [REDACTED] East Owens?

14 A. I took photographs from the incident --
15 original incident location to his residence. I
16 took photographs of the ditch where he showed me
17 the phone had fell, photographs of the front of the
18 residence, and started photographing the phone that
19 was on top of the grill.

20 Q. While photographing the phone, did you
21 have the opportunity to see the wallpaper on the
22 phone?

23 A. I did. A notification popped up as I
24 was taking pictures.

25 Q. And what did you observe on the

1 wallpaper of the phone?

2 A. There was a black male and black
3 female.

4 Q. And very quickly I just want to go
5 through State's Exhibits 1 through 12 with you.
6 They're already into evidence and we've already
7 seen some of them. And if you would, just explain
8 what they depict, starting with State's Exhibit
9 Number 1.

10 A. That is the intersection of where the
11 incident happened at.

12 Q. Okay. And Colpat is the street running
13 from East Owens by [REDACTED], and East Owens kind of
14 turns into East Thomas and runs in front of the
15 crime scene; is that correct?

16 A. Correct, it's like -- it's in a curved
17 area, but, yes, sir.

18 Q. Okay. State's 2?

19 A. Yes, sir. That's the intersection
20 looking back towards the witness's residence.

21 Q. Okay. And from that -- from that
22 photograph the crime scene would be behind you and
23 to your left, correct?

24 A. Yes, sir.

25 Q. State's 3?

1 A. Yes, sir. Just a little bit closer
2 walking towards where the cell phone was dropped
3 at.

4 Q. State's 4?

5 A. Yes, sir. This is standing in the
6 driveway of the witness's residence.

7 Q. State's 5?

8 A. Yes, sir. This is the ditch where I
9 was advised the phone was dropped.

10 Q. And do you recall roughly where you
11 were told that phone had been dropped?

12 A. It's right there close to where the --
13 in front of where that telephone pole is.

14 Q. Okay. Is it working now? You can
15 write on that with your finger if you want.

16 A. It should have been right in this area
17 somewhere, I believe, or right there below it.
18 (Indicating)

19 Q. Okay. How about the money, was that
20 dropped in the same location or --

21 A. I was told it was a little further down
22 this way, closer to that trash can, like somewhere
23 right around in this area. (Indicating)

24 Q. Okay. State's 6?

25 A. Yes. This is the front of the

1 witness's residence.

2 Q. Okay. From the area roughly where the
3 phone was located?

4 A. Yes, sir.

5 Q. And State's 7, basically the front of
6 their house obviously?

7 A. Yes, sir. And there's the grill.

8 Q. Okay. And State's 8 is basically from
9 inside looking out, correct?

10 A. Yes. And this is the grill and that's
11 the phone in the location they set it down at.

12 (Indicating)

13 Q. Okay. That's shown a little closer in
14 State's 10?

15 A. Yes, sir.

16 Q. And when you said the phone came on
17 when you were photographing it, State's 11 is what
18 you're talking about?

19 A. Yes.

20 Q. And State's 12?

21 A. Yes.

22 Q. And I believe Corey Shelton, that just
23 testified, is the one that actually collected that
24 phone and delivered it to you?

25 A. Yes, sir.

1 Q. And State's 63 is the phone that was
2 actually recovered?

3 A. Can I turn it on?

4 Q. Yeah, you can. It may take a second.
5 Can I ask you a couple of questions while that is
6 powering up.

7 A. Yes, sir.

8 Q. So after you took the photos at [REDACTED]
9 East Owens, where did you go next?

10 A. I went back to the victim's residence.

11 Q. And what did you do at the victim's
12 residence?

13 A. I started processing the scene, taking
14 overall photographs from the outside, the way it is
15 when I arrived, took photographs of the vehicle
16 that was sitting at the front door, photographs of
17 inside of the residence.

18 Q. And, generally, that's how you go about
19 processing a scene; you kind of photograph it as
20 you find it?

21 A. Photograph everything as is first, and
22 then once that is complete, we look for evidence
23 and we mark whatever may be potential evidence, and
24 photograph it all again, and then we collect.

25 Q. Okay. What did you observe when you

1 entered the residence at [REDACTED] East Thomas?

2 A. When you enter the front door, you
3 enter into the living room. I had noticed the
4 victim laying on the left side on the floor
5 partially up under a small table. Towards the
6 middle of the living room, towards up on the
7 right-hand side, I noticed one single shell casing.

8 Q. Okay. What injuries did you observe to
9 the victim, Johnny Pritchard, at that time?

10 A. A gunshot wound to the neck, throat
11 area, pool of blood up under his head.

12 Q. And were you present when the coroner
13 went through the victim's pockets?

14 A. I did.

15 Q. Did he have any cash on him?

16 A. I believe he had a quarter.

17 Q. But no folding money?

18 A. No; there was no currency cash.

19 Q. No wallet, nothing like that?

20 A. No, sir.

21 The phone came on.

22 Q. And what did you locate on the coffee
23 table?

24 A. A handwritten note. It was handwritten
25 from Johnny Pritchard to Trey Coleman for \$200.

1 Q. What did the note indicate, that
2 Mr. Coleman had owed Mr. Pritchard \$200?

3 A. That's what was written on it and it
4 had a line for someone to sign, but there was no
5 signature on it.

6 Q. Okay. I hand you what's been marked as
7 State's 64.

8 MR. DURANT: Do you have any objection?

9 MS. NORRIS: No objection.

10 MR. DURANT: Which is now in
11 evidence -- we would offer it in evidence, Your
12 Honor.

13 THE COURT: State's 64 into evidence
14 without objection.

15 (STATE'S EXH. 64, Spent cartridge, in
16 evidence.)

17 BY MR. DURANT:

18 Q. And I'd ask you to take a look at it.
19 Oh, by the way, the phone came on. Is that the
20 phone that you collected?

21 A. It is.

22 Q. And it obviously has that picture on
23 the wallpaper that you testified to previously,
24 correct?

25 A. Yes, sir.

1 Q. Okay.

2 A. Do you want me to power it back off?

3 Q. Yeah, you can turn it off.

4 And what is State's 64?

5 A. It is the shell casing that I recovered
6 from the middle of the living room.

7 Q. And what caliber is that shell casing?

8 A. It's a Speer 9-millimeter Luger.

9 Q. At this point, I would like to go
10 through some photographs with you.

11 MR. DURANT: Your Honor, at this time
12 we would offer State's 15, 16 -- excuse me, 15, 17,
13 19, 20, 21, 22, 23, 24, 26, 27, and 28.

14 MS. NORRIS: Objection to 15, 18, 26
15 and 27, Your Honor.

16 THE COURT: Noting your objection,
17 those will be entered into evidence.

18 MR. DURANT: Okay. Thank you, Your
19 Honor. Permission to publish?

20 THE COURT: You may.

21 MR. DURANT: Thank you. Your Honor, we
22 would also offer 13 and 14, I believe without
23 objection.

24 MS. NORRIS: No objection.

25 THE COURT: State's 13 and 14 into

1 evidence without objection.

2 (STATE'S EXH. 13, Photograph, in
3 evidence.)

4 (STATE'S EXH. 14, Photograph, in
5 evidence.)

6 BY MR. DURANT:

7 Q. Okay. Let's start with State's 13.
8 Could you tell the jury what that depicts?

9 A. This is the front of the victim's
10 residence with the vehicle parked at the front
11 door.

12 Q. Okay. And that view is taken kind of
13 from East Thomas Street towards the front of the
14 house; is that correct?

15 A. It is.

16 Q. And what is that street running off to
17 the right there?

18 A. That was Colpat.

19 Q. Okay. State's 14?

20 A. Yes, sir. Just an up-close picture of
21 the address on the side of the residence.

22 Q. Okay. State's 15?

23 A. Standing in the doorway looking
24 straight into his residence.

25 Q. So that's the view you have when you

1 come in that front door?

2 A. Yes, sir.

3 Q. And it appears to be a rather compact
4 type place; is that correct?

5 A. Yes.

6 Q. What is the part in the back here?

7 A. That's the kitchen area.

8 Q. And this obviously is the living room,
9 correct?

10 A. Yes, sir.

11 Q. And this was the deceased as you found
12 him?

13 A. Yes, sir.

14 Q. State's 17, I believe. And what does
15 that show?

16 A. This is the opposite corner of the
17 living room showing back towards the front door.

18 Q. Okay. And on this occasion the
19 deceased is up here on the right; is that correct?

20 A. Correct.

21 Q. State's 19?

22 A. The shell casing I found in the middle
23 of the floor.

24 Q. Okay. State's 20?

25 A. This is the living room, again, after I

1 marked what I had found as potential evidence.

2 Q. Okay. And what is 1 marked?

3 A. The shell casing.

4 Q. And what is 2 marked?

5 A. Two is marking the victim.

6 Q. And 3 and 4?

7 A. I believe those were cell phones that I
8 found at the time.

9 Q. And what is this way in the back?

10 A. That's a cell phone battery that just
11 seemed out of place by the back door.

12 Q. Okay.

13 A. It's just a midrange view of the shell
14 casing.

15 Q. And that would be State's 21. State's
16 22?

17 A. That's the headstamp of the shell
18 casing.

19 Q. That you identified as a Speer
20 9-millimeter Luger?

21 A. Yes, sir. That is just walking into
22 the kitchen area showing the phone battery still on
23 the floor.

24 Q. 24?

25 A. This is the victim's front right

1 pocket, what the coroner had located.

2 Q. And that was the only cash y'all found
3 on him?

4 A. Yes.

5 Q. What does State's 26 depict?

6 A. That's the collar of the victim's shirt
7 with a hole in it. It's around about the same area
8 as the hole in his neck.

9 Q. And State's 27?

10 A. That's the jacket that he was wearing,
11 same thing, with the hole that lined up with the
12 collar of the shirt.

13 Q. That would be the hole right there?

14 A. Yes, sir.

15 Q. And State's 28?

16 A. It's the note that we found saying
17 that: I, Johnny Pritchard, loaned Trey Coleman
18 \$200 and promised to pay back by -- and he put the
19 line with a blank on it.

20 Q. Which appears to be some sort of an
21 IOU; is that correct?

22 A. Yes.

23 Q. While at the crime scene did you come
24 into possession of a DVR?

25 A. I did.

1 Q. Video recorder?

2 A. Yes.

3 Q. From whom?

4 A. Corey Shelton.

5 Q. And that was obtained from where?

6 A. [REDACTED] Brenda B.

7 Q. And I believe that DVR was logged into
8 evidence and later processed by you; is that
9 correct?

10 A. Yes, sir.

11 Q. You did some -- and we'll get to this a
12 little later, but you observed the video and did
13 some enhancements and things of that nature; is
14 that correct?

15 A. Yes, sir.

16 Q. Now, moving on to December 28th, did
17 you have occasion to respond to the Medical
18 University of South Carolina?

19 A. I did.

20 Q. And for what purpose?

21 A. To gather the victim's belongings and
22 any potential evidence that they had found during
23 the autopsy.

24 Q. And among the evidence that you
25 collected at the Medical University of South

1 Carolina, did that include State's Exhibit Number
2 65?

3 A. It did.

4 Q. And that was the bullet that had been
5 removed from the victim at his autopsy; is that
6 correct?

7 A. Yes.

8 MR. DURANT: Your Honor, we would offer
9 State's 65 at this time, I believe without
10 objection.

11 MS. NORRIS: No objection.

12 THE COURT: State's 65 into evidence
13 without objection.

14 (STATE'S EXH. 65, Projectile, in
15 evidence.)

16 BY MR. DURANT:

17 Q. I believe that and the shell casings
18 that you located have both gone up to SLED sometime
19 after the fact; is that correct?

20 A. Yes, sir.

21 Q. Okay. We're going to move ahead to
22 January the 3rd. At this time, we're about maybe a
23 week or so after the shooting. Did you have
24 occasion to assist in the service of a search
25 warrant at apartment ■ of an apartment complex

1 located at [REDACTED] East Third North Street in
2 Summerville?

3 A. I did.

4 Q. And where is that apartment complex
5 located in reference to the crime scene?

6 A. Not real far. I don't know the
7 distance.

8 Q. And straight, right up -- straight up
9 East Owens Drive, right?

10 A. I believe it was, yes, sir. We took a
11 different route so I don't know the exact route.

12 Q. Okay. And what did you do during the
13 execution of that search warrant?

14 A. I photographed and collected evidence.

15 Q. And did you know whose residence that
16 was at the time?

17 A. I did not know whose it was. I just
18 know it was a suspect's residence.

19 Q. Okay. And do you know whose residence
20 it was now?

21 A. No.

22 Q. Okay. And who was with you when you
23 executed the search warrant?

24 A. Detective Kahn and Detective Thompson,
25 and then Summerville PD cleared the residence to

1 make sure nobody was in there.

2 Q. How many bedrooms was in that
3 apartment?

4 A. Two bedrooms upstairs.

5 MS. NORRIS: Your Honor, I just need to
6 note I have a continuing objection from our motions
7 hearing last week.

8 THE COURT: All right.

9 BY MR. DURANT:

10 Q. There were two upstairs, I believe, one
11 in the front and one in the back; is that correct?

12 A. Correct.

13 Q. And what did y'all locate in the front
14 bedroom?

15 A. There was a mattress and box spring
16 lying on the floor in the corner towards the front
17 of the residence, and up under the box springs was
18 two boxes of ammunition.

19 MS. NORRIS: Objection. May we
20 approach, Your Honor?

21 THE COURT: You may.

22 (Bench conference)

23 THE COURT: And, Ms. Norris, I'm going
24 to allow you to fully articulate your position on
25 the record outside of the presence of the jury, but

1 just make the objections as you need to based upon
2 our Supreme Court's rulings.

3 MS. NORRIS: Thank you, Your Honor.

4 MR. DURANT: Do you have any objection
5 subject to what you just put on the record?

6 MS. NORRIS: I object, but nothing
7 additional.

8 BY MR. DURANT:

9 Q. I'm going to hand you what's marked as
10 State's Exhibit 66 and 67, ask if you recognize
11 those items.

12 A. I do.

13 Q. And what are those?

14 MS. NORRIS: Objection.

15 THE COURT: Noted for the record.

16 THE WITNESS: 66 is a box of Hornady
17 defense ammunition.

18 BY MR. DURANT:

19 Q. And what caliber --

20 A. Nine-millimeter.

21 Q. -- on the box?

22 A. The box indicates 9-millimeter.

23 Q. And inside was --

24 MS. NORRIS: Objection.

25 THE COURT: Noted for the record.

1 THE WITNESS: CCI 9mm Lugers, Speer 9mm
2 Lugers, and some Hornady 9mm Lugers.

3 BY MR. DURANT:

4 Q. Okay. So there are three different
5 types of manufacturers -- manufacturers of bullets
6 in that one box, correct?

7 A. Correct.

8 Q. And one of them matched the shell
9 casings that you found at -- one of the brands
10 matched the shell casing you found at [REDACTED] East
11 Thomas?

12 A. Yes.

13 Q. Okay. And State's 67?

14 A. 67 is a box of Blazer 9mm Luger
15 ammunition.

16 MS. NORRIS: Objection.

17 THE COURT: Noted for the record.

18 THE WITNESS: And they all appear to be
19 CCI.

20 MR. DURANT: Okay. And if I have not
21 done so, Your Honor, I would offer 66 and 67.

22 THE COURT: 66 and 67 into evidence,
23 noting your objection.

24 (STATE'S EXH. 66, Hornady bullets, in
25 evidence.)

1 (STATE'S EXH. 67, Blazer bullets, in
2 evidence.)

3 BY MR. DURANT:

4 Q. And just a couple of brief other
5 questions from the search. Were y'all looking for
6 some red tennis shoes?

7 A. We were.

8 Q. Did you find some?

9 A. We did.

10 MS. NORRIS: Objection.

11 THE COURT: Noted for the record.

12 BY MR. DURANT:

13 Q. And the ones that y'all found, did
14 y'all determine that they were not the ones you
15 were looking for?

16 A. Correct.

17 Q. And why was that?

18 A. The ones we were looking for had a red
19 toe -- or a white toe on the front.

20 Q. Okay. And the ones you found did not?

21 A. They did not.

22 Q. And when you say the ones that were
23 scene on the video, are you talking about the video
24 that came from [REDACTED] Bee -- Brenda B or [REDACTED] Brenda B?

25 A. [REDACTED] Brenda, yes.

1 MR. DURANT: Your Honor, at this time
2 the State would offer State's Exhibits 29, 30, 31,
3 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, all of
4 which were obtained during the actual search
5 itself. I believe Ms. Norris is objecting based
6 upon her previous objection, but has no objection
7 to the actual photos themselves.

8 THE COURT: All right. And --

9 MS. NORRIS: Just a continued
10 objection, Your Honor.

11 THE COURT: Starting with 28 or 29?

12 MR. DURANT: 29, Your Honor.

13 THE COURT: State's 29 through 42 into
14 evidence, noting your previous
15 objection.

16 (STATE'S EXH. 29 - 40, Photographs, in
17 evidence.)

18 MR. DURANT: Okay. Also, I intend to
19 offer -- would offer State's 48, 49, 50, and 51.

20 THE COURT: Same objection, Ms. Norris?

21 MS. NORRIS: Continued objection.

22 THE COURT: In evidence, noting your
23 continued objection.

24 (STATE'S EXH. 48 - 51, Photographs, in
25 evidence.)

1 MR. DURANT: Thank you, Your Honor.

2 BY MR. DURANT:

3 Q. Okay. Let's start at State's 29.

4 Where is that building?

5 A. This is the front of the apartment
6 complex with the apartment that we executed the
7 search warrant on.

8 Q. And this would be Abby Lane Townhouses;
9 is that correct?

10 A. I believe that was the name of it, yes,
11 sir.

12 Q. And that's an F. This is building F
13 obviously?

14 A. Yes.

15 Q. Moving on to State's 30. I'm assuming
16 this is ■?

17 A. Yes.

18 Q. Is the apartment number?

19 A. Yes.

20 Q. State's 31, what does that depict?

21 A. This is standing at the front door
22 looking in with the stairwell that goes up and then
23 the living room to the right.

24 Q. Okay. So the stairwell is right in
25 front of the door; is that correct?

1 A. It is.

2 Q. State's 32?

3 A. The top of the stairwell where it turns
4 back to the right to go towards the bedrooms.

5 Q. Okay. So you go up to the top there
6 and you turn to the right, and you'll have one
7 bedroom to your left and one bedroom to your right;
8 is that correct?

9 A. Correct.

10 Q. And the one to the left is on the back
11 of the house and the one to the right is in the
12 front of the house?

13 A. Yes.

14 Q. State's 33.

15 A. It's just showing the bedroom to the
16 left after you make that right. It's showing the
17 bedroom on the left side that would be at the back
18 and the bedroom in the front which is on the
19 right-hand side of you.

20 Q. Okay. State's 34?

21 A. Another picture from standing in the
22 same spot showing the bedroom at the front of the
23 residence.

24 Q. Okay. Just orienting, this would be
25 the front door down here; is that correct?

1 A. Correct. This would be the doorway
2 going into the front residence bedroom.

3 Q. State's 36?

4 A. The corner of the bedroom where the
5 mattress and box springs are laying.

6 Q. State's 37?

7 A. This is the mattress and box springs as
8 we flipped them over to see what was up under, and
9 it's showing the two boxes of ammunition that we
10 located.

11 Q. Which is shown a little better in
12 State's 38, I believe?

13 A. Yes.

14 MS. NORRIS: Continued objection.

15 THE COURT: Noted for the record.

16 BY MR. DURANT:

17 Q. State's 39?

18 A. It's just another picture of the same
19 box of ammunition.

20 Q. State's 40?

21 A. An up-close picture of one of the boxes
22 of ammunition that was located.

23 Q. State's 41?

24 A. The second box of that was located how
25 we found it, just up close.

1 Q. State's 41?

2 A. Same box, just flipped over so that you
3 could see the brand.

4 Q. Okay. And these others were taken, I
5 believe, a little bit later at the crime scene; is
6 that correct? Which would be -- excuse me. Let me
7 get out of there. Starting with 48.

8 A. Yes, sir.

9 MS. NORRIS: Continued objection.

10 THE COURT: Noted for the record.

11 THE WITNESS: Yes, this was taken later
12 at the evidence lab.

13 BY MR. DURANT:

14 Q. Okay. By you?

15 A. It was.

16 Q. Okay. And this is the contents of the
17 Blazer box; is that correct?

18 A. It is.

19 Q. Which I believe was State's 16 -- I
20 forgot --

21 A. 67?

22 Q. Okay. And those are just up-close
23 headstamps from -- this will be State's 49, just
24 the up-close headstamps from the Blazer box
25 bullets?

1 A. Correct.

2 Q. State's 50?

3 A. It's just the picture at the lab,
4 again, of the box of the Hornady rounds, State's
5 Exhibit 66.

6 Q. Okay. And State's 51?

7 A. Up-close picture of the headstamps of
8 the rounds that are in there.

9 Q. Okay. And the Speer that you talked
10 about --

11 A. Yes, sir.

12 Q. -- are those four rounds right here?

13 A. Yes.

14 Q. Correct?

15 A. Correct.

16 Q. And you reviewed -- do you recall
17 reviewing some video clips that were obtained from
18 Mr. Perez's video in my office?

19 A. Yes.

20 Q. And do you recognize State's Exhibit 71
21 as being the DVD containing those video clips?

22 A. Yes.

23 Q. And State's Exhibit 71 basically came
24 from the DVR that you collected in evidence; is
25 that correct?

1 A. Correct.

2 Q. Now, does the sheriff's office have any
3 equipment that y'all use to assist you in
4 clarifying photographs and videos and things of
5 that nature?

6 A. Yes, sir, we have a program.

7 Q. And what is that program?

8 A. Star Witness.

9 Q. And what does Star Witness do?

10 A. With videos, it can slow it down frame
11 by frame; you can zoom in on pictures. The quality
12 of the picture determines on how good the quality
13 will be when you zoom in.

14 It doesn't change the picture -- it
15 will still be blurry if you zoom in too far.

16 Q. Okay. It doesn't really add anything,
17 it just slows it down and enlarges it; is that
18 correct?

19 A. Yes.

20 Q. Using the software from your -- that
21 you just referred to, were you able to create some
22 enhanced photographs of who you designated is
23 suspect one from the Perez video?

24 A. I did.

25 MR. DURANT: Your Honor, at this time

1 we would offer State's 73, 74, 75, and 76, I
2 believe without objection.

3 MS. NORRIS: No objection.

4 THE COURT: 73, 74, 75, and 76 into
5 evidence without objection.

6 (STATE'S EXH. 73 - 76, Photographs, in
7 evidence.)

8 BY MR. DURANT:

9 Q. State's 73, is that one of the enhanced
10 photos that you prepared using the computer
11 software at the sheriff's office?

12 A. It is.

13 Q. And this would be the suspect that you
14 designated as suspect one for your purposes?

15 A. Yes.

16 Q. State's 74.

17 A. Yes.

18 Q. And the suspect appears to be wearing
19 red shoes?

20 A. Yes.

21 Q. And he does appear to have white toes
22 on those shoes, correct?

23 A. Yes, sir.

24 Q. And it's clear that this suspect does
25 not have dreads, would you agree?

1 A. Yes.

2 Q. It looks like he could be wearing a hat
3 maybe or some sort of --

4 MS. NORRIS: Objection.

5 THE COURT: What's the basis?

6 MS. NORRIS: Leading.

7 THE COURT: Watch your leading
8 questions.

9 BY MR. DURANT:

10 Q. Does it or does it not appear that he
11 may have something on his head?

12 A. To me, it does not look like he has
13 anything on his head.

14 Q. Okay. What is this on his back if you
15 can tell?

16 A. There's something back there. I can't
17 tell what it is. I mean --

18 MS. NORRIS: Objection; the picture
19 speaks for itself.

20 MR. DURANT: Okay.

21 THE COURT: Overruled.

22 BY MR. DURANT:

23 Q. State's 74?

24 A. Just another picture from --

25 Q. Excuse me, that would be State's 75.

1 And State's 76?

2 A. Yes.

3 Q. Okay. And I believe you also prepared
4 a couple of enhanced videos; is that correct?

5 A. Correct.

6 Q. And those would be on State's 72?

7 A. Yes.

8 Q. And you know that how?

9 A. It's got my handwriting on the top.

10 Q. Okay.

11 MR. DURANT: Any objection to State's
12 72?

13 MS. NORRIS: No objection.

14 MR. DURANT: Your Honor, we would offer
15 State's 72, I believe without objection.

16 THE COURT: State's 72 into evidence
17 without objection.

18 (STATE'S EXH. 72, DVD, in evidence.)

19 BY MR. DURANT:

20 Q. Let's first do the one that you have
21 designated suspect one. And what enhancement did
22 you do with this particular video? Just primarily
23 an enlargement?

24 A. Just enlarged it here, and then slowed
25 it down so that as the suspect one was running by

1 you could get a better view of him, because his
2 fast -- normal speed, it was real fast. You
3 wouldn't be able to see him very well.

4 Q. And the other clip on here designated
5 suspects one and two.

6 MR. DURANT: Your Honor, at this time
7 we would offer State's 43, 44, 45, 46, 47.

8 MS. NORRIS: No objection.

9 THE COURT: 43 through 47 into evidence
10 without objection.

11 (STATE'S EXH. 43 - 47, Screen shots, in
12 evidence.)

13 BY MR. DURANT:

14 Q. And I will just show these to you and
15 ask you what they are.

16 A. This is a still shot from the video we
17 just watched. That one's another still shot.
18 They're all still shots of the person I deemed as
19 suspect two from the video we just watched.

20 Q. Okay. And this is State's 43. That's
21 showing him going one direction; is that correct?

22 A. Correct. That's the back of [REDACTED] Brenda
23 B with him working towards Brenda B, the dead end
24 of Brenda B.

25 Q. What color does this hat appear to be

1 there?

2 A. It appears to be black there.

3 Q. This is State's Exhibit 44. That's
4 just a continuation of the way he was going?

5 A. Yes.

6 Q. 45?

7 A. That's him turned around going back the
8 direction he came from.

9 Q. And what color does his hat appear to
10 be now?

11 A. Red.

12 Q. 46?

13 A. Him still going in the same direction
14 that he came from, kind of looking back towards
15 Brenda B.

16 Q. And 46?

17 A. Again, him still going back the
18 direction he came from.

19 MR. DURANT: Could you please answer
20 any questions that defense counsel may have for
21 you?

22 THE WITNESS: Yes.

23 THE COURT: Ms. Norris?

24 MS. NORRIS: May it please the Court.

25 CROSS-EXAMINATION

1 BY MS. NORRIS:

2 Q. Tell me again your official title.

3 A. Investigator with the Charleston County
4 Sheriff's Office.

5 Q. Investigator. I didn't want to call
6 you the wrong thing.

7 A. Yes, ma'am.

8 Q. All right. Investigator McElroy, going
9 back to the shell casing that was found at the
10 crime scene --

11 A. Yes, ma'am.

12 Q. -- did you -- was any attempt made to
13 fingerprint that?

14 A. I do not recall. I would have to look.

15 Q. If it had been, would you have
16 documented it in your report?

17 A. It would have been documented in our
18 computer system that keeps track of chain of
19 custody and all the work orders.

20 Q. And how about DNA swabs, did you do any
21 of that testing?

22 A. I did not order DNA.

23 Q. And at the front door, did you or
24 another officer present attempt to take
25 fingerprints there?

1 A. Another officer did.

2 Q. And no fingerprints were found,
3 correct?

4 A. Correct.

5 Q. And there were no signs of a forced
6 entry at the door, right?

7 A. Correct.

8 Q. The ammunition from the apartment
9 search --

10 A. Yes, ma'am. I've got them both right
11 here.

12 MS. NORRIS: I'm sorry, may I approach,
13 Your Honor?

14 THE COURT: You may, and thank you for
15 asking.

16 BY MS. NORRIS:

17 Q. Exhibit 67, the Blazer -- well, let me
18 ask you this: Now that I'm now holding that box,
19 if you were to fingerprint it right now, would it
20 have my prints on it?

21 A. Could or could not.

22 Q. All right. Was any attempt made to
23 fingerprint the box?

24 A. I don't believe so.

25 Q. Okay. And it looks like about 28

1 bullets in there. Was any attempt made to
2 fingerprint that?

3 A. No, ma'am.

4 Q. Could you get fingerprints off the
5 bullets?

6 A. Some of our investigators have. I've
7 never had any luck.

8 Q. And the same thing with Exhibit 66, no
9 attempt to fingerprint?

10 A. Correct.

11 Q. Inside ammunition, no attempt to
12 fingerprint?

13 A. No attempt.

14 Q. Okay. Any attempt to take DNA off of
15 either one of those?

16 A. No, ma'am.

17 Q. And as part of your crime scene
18 investigation and documentation you make note of
19 the weather, correct?

20 A. Yes, ma'am.

21 Q. And do you have what the weather
22 conditions were that day?

23 A. At 12:56, it was 54 degrees with east,
24 northeast wind at 9.2 miles an hour, and partly
25 cloudy.

1 Q. And how do you determine the wind
2 speed?

3 A. The website that we use. I believe
4 it's called National Weather Underground.

5 MS. NORRIS: Give me just a second. No
6 further questions. Thank you.

7 MR. DURANT: I have nothing on
8 redirect, Your Honor.

9 THE COURT: You may step down. Thank
10 you. And this completes our witnesses prior to
11 lunch; is that correct?

12 MR. DURANT: Yes, ma'am.

13 THE COURT: All right. Ladies and
14 gentlemen, we've reached an appropriate time for us
15 to take our lunch break. Using this clock, please
16 be back and ready to begin at 2:00 p.m., at
17 2:00 p.m.

18 Please leave your notepads right in
19 your chair, and we'll lock them up and give them
20 back to you after the lunch hour.

21 Please remember all of my admonitions.
22 Have a wonderful lunch.

23 (Jury out, 12:27 p.m.)

24 THE COURT: Thank you. Please be
25 seated. All right. Ms. Norris, let's go ahead and

1 place the complete objection on the record.

2 MS. NORRIS: Thank you, Your Honor.

3 The items I objected to, the crime scene photos,
4 we've already addressed.

5 The other objections I had were to
6 items from Mr. Brown's apartment. While this
7 investigator didn't know whose apartment it was, it
8 was, in fact, Mr. Brown's apartment, and we have a
9 continuing objection to the search warrant that we
10 addressed last week.

11 But, in addition, specifically, my
12 objection within and beyond that is to the
13 relevance, Rule 401, Rule 403, due process, fair
14 trial; that, in essence, what the Solicitor is
15 trying to do is say that because Mr. Brown had
16 ammunition in his apartment -- somebody had
17 ammunition in his apartment, they're going to tie
18 that in later.

19 We will also be addressing objections
20 to items from the phone. One of those is a picture
21 -- at least one of those is a picture of Mr. Brown
22 holding a weapon that is a 9-millimeter. There's
23 going to be no actual connection to this crime, but
24 what the solicitor will do is take this ammunition
25 and take that picture, say it matches the evidence

1 at the crime scene, which half of Charleston County
2 probably has 9-millimeters and ammunition in their
3 home. The actual expert that tested this can't say
4 more than that.

5 THE COURT: All right. It is placed on
6 the record. Anything before we take our lunch
7 break?

8 MR. DURANT: We do at some point, Your
9 Honor, need to go through some exhibits that Ms.
10 Seman was requesting redaction of.

11 THE COURT: All right. Let's go ahead
12 and do that.

13 MS. SEMAN: Thank you, Your Honor. Beg
14 the Court's indulgence. Your Honor, may we
15 approach?

16 THE COURT: You may.

17 (Off-the-record conference.)

18 THE COURT: All right. So we're
19 talking about State's Exhibit 110, looking at -- on
20 the left-hand column, 17071.

21 Ms. Seman?

22 MS. SEMAN: And so in that message, two
23 individuals are talking about a tone. We believe
24 that the State is going to try to say that a tone
25 is a gun or a firearm. We would object to that

1 based on relevance and on 403.

2 We would object to the line immediately
3 following that for the exact same reason, line
4 17072. Again, with the tone, we believe that the
5 State is going to say that that's a weapon.

6 Again, we're going to object to any
7 characterization that their witnesses will put on
8 that word, but we do believe that that's not
9 relevant and that it's substantially prejudicial.

10 THE COURT: Just so I understand, you
11 are not necessarily objecting to 110 overall.
12 You're just making a request to redact what we were
13 talking about?

14 MS. SEMAN: Correct. Well, I will be
15 renewing my earlier objection for the motion to
16 exclude phone data, but assuming that Your Honor
17 has not changed her ruling, I will be objecting to
18 specific parts of these exhibits as well.

19 THE COURT: All right.

20 MR. DURANT: And my position on that,
21 of course, is that it is a gun. They know it's a
22 gun because they wanted me to take out other
23 references to somebody named Tony, the tone, Hi
24 Point, because it was in reference to a gun, which
25 I did. So I didn't have any objection to that.

1 But this is a -- this is a
2 communication between Red, a/k/a, Moneybag Fly,
3 a/k/a, Trey Coleman with Joe Joe Brown where Trey
4 Coleman is asking him to borrow his weapon. And he
5 is saying, no, I need it -- I think that's the one
6 that says, no, I need it tonight, because he had
7 had some sort of trouble.

8 I think it goes to show that he does
9 have a weapon and that Red knew that he had a
10 weapon.

11 THE COURT: And what are the other
12 ones?

13 MS. SEMAN: And then also we would
14 object to line 17101. We -- just based on
15 relevance. This chain of text messages started at
16 9:32 a.m. where Red says that he had a problem last
17 week -- last night.

18 I just don't think it's relevant to the
19 communications between the two of them, and the
20 State is going to introduce the text messages
21 starting at 11:50 that morning, so I would object.

22 THE COURT: What's the relevance of
23 17101?

24 MR. DURANT: It's just that all this is
25 is a communication -- communications between those

1 two on the calendar day of December 23rd of 2016.
2 And that -- that, basically, references back to the
3 one before where he said he was wanting to borrow
4 his gun. And I don't know -- and what's the
5 prejudice?

6 THE COURT: And all these are objected
7 to?

8 MS. SEMAN: No, Your Honor.

9 MR. DURANT: No.

10 MS. SEMAN: Those are the only lines
11 that I'm objecting to, other than the previous
12 objection that I will renew.

13 THE COURT: Okay.

14 MS. SEMAN: But those are the only
15 lines of that exhibit that I'm objecting to.

16 THE COURT: All right.

17 MR. DURANT: Okay. And now --

18 THE COURT: Noting your objection, I am
19 overruling your objection. I believe that it's not
20 more prejudicial than probative based upon the
21 analysis and argument by the State that it's
22 relevant. That's Exhibits 170171 and 1701701 and
23 State's 110.

24 What else do we have?

25 MS. SEMAN: The next one will be

1 State's 111, which I believe Mr. Durant is
2 retrieving now. Your Honor, this is an exchange
3 between this contact and Red on December 18th, so
4 about, I guess -- what is that? Five days before
5 this happened.

6 Again, there is -- I'm talking about
7 lines 579 and 580, as well as 584, which is
8 irrelevant, I believe, for a different reason. But
9 579 and 580 we'll address first. Again, there's
10 some testimony about a tone or toting. We would
11 argue that that is not relevant to this case.

12 The State is not going to be able to
13 establish any connection between this so-called
14 tone in these text messages and this crime. We
15 believe it's substantially more prejudicial than
16 probative.

17 So we would ask that you exclude these
18 text messages for that reason. Plus, as we stated
19 earlier, we believe it's cumulative.

20 MR. DURANT: And, once again, Your
21 Honor, this is offered to show the relationship of
22 these parties, that their relationship extended
23 back past the day of December 23rd, 2016; that Red
24 was very much aware that -- that Joe Joe had a
25 weapon, because he's continually asking to borrow

1 it.

2 And I can't -- quite frankly, I can't
3 even remember what 584 is. I don't have my exhibit
4 in front of me.

5 MS. SEMAN: 584 looks like it's a text
6 from Mr. Brown's mother -- it's right here if you'd
7 like to look at it -- talking about his girlfriend
8 spending the night, and I really don't think
9 that --

10 MR. DURANT: And I just don't think
11 it's prejudicial.

12 THE COURT: What is the relevance?

13 MR. DURANT: It's not that it's
14 irrelevant. I just don't think that it's
15 prejudicial. I mean --

16 THE COURT: It has to be relevant or
17 it's not admissible.

18 MR. DURANT: Well, that's not why I'm
19 introducing that document, Your Honor. I'm
20 introducing that document before 579 and 580. And
21 I just don't see any -- I don't view anything else
22 on that page as being prejudicial.

23 THE COURT: So you're objecting to 584
24 as well?

25 MS. SEMAN: Yes, ma'am.

1 THE COURT: Anything else?

2 MS. SEMAN: I mean, I think the rest of
3 it is irrelevant, but I don't think, you know,
4 there's nothing particularly that I'm worried about
5 arguing about. I mean, clearly 579 and 580 are
6 what the State is trying to get out of this.

7 THE COURT: Explain to me what the
8 relevance is of the 12/18 date. So it's five days
9 before the shooting?

10 MR. DURANT: It's -- primarily, Your
11 Honor, what I'm attempting to show through all of
12 these things is that these people have an ongoing
13 relationship together; they're co-conspirators;
14 that Joe Joe had a gun; that Red had a gun and he
15 knew he had a gun; that Red is asked to borrow that
16 gun on at least two occasions.

17 And, also, with their claim that we
18 cannot link this gun to the shooting, we can't say
19 for sure it is the murder weapon, but the testimony
20 is that in -- later on, this gun that he is posting
21 pictures of on his phone has a serial number to it
22 that, basically, are -- that our firearms examiner
23 cannot rule out as being the murder weapon from the
24 firing pin --

25 THE COURT: Okay. I'm going to allow

1 579 and 580 and redact 584.

2 MR. DURANT: Okay. Redact 584. Okay.

3 I think 113, I've agreed to all of those
4 redactions, although I don't think they're
5 necessary, but -- which brings us to State's
6 Exhibit 114.

7 MS. SEMAN: Which really are, I
8 believe, the same issues as earlier.

9 MR. DURANT: Yeah, I think so. She's
10 talking about 36, 40, and 41 in terms of the
11 left-hand column.

12 THE COURT: Is that the same --

13 MR. DURANT: That's the same.

14 THE COURT: Okay.

15 MR. DURANT: It's, basically, the same
16 thing as was in State's 110.

17 MS. SEMAN: I believe State's 110 and
18 State's 111 --

19 THE COURT: So why do we need it in,
20 114?

21 MR. DURANT: Because 114 -- the only --
22 because number one, Your Honor, it's already coming
23 in. 114 -- the purpose of 114 is to show the
24 relationship of these parties over a period of six
25 weeks.

1 I have not -- I only put their text
2 messages in for the last day. I blanked out
3 everything else, but everything that is highlighted
4 on there just shows the text messages between the
5 two between November 7th of 2016 and December the
6 23rd of 2016. And there well over 200 texts
7 between the parties.

8 THE COURT: What I guess I don't
9 understand is the difference between 110 and 111
10 and 114. It appears to me that 114 is the --

11 MR. DURANT: They're offered for
12 different purposes. This is offered to their
13 communications that particular day.

14 THE COURT: But aren't they the same
15 thing?

16 MR. DURANT: They're the same things,
17 and that's why I'm saying, Your Honor, this is
18 offered to show the duration of their relationship.

19 THE COURT: Well, then, why -- I'm
20 failing to understand why we need those two
21 documents. Is that --

22 MS. SEMAN: That's part of my
23 objection, yes, Your Honor. I've certainly written
24 down that it's cumulative. And I also, you know --
25 and I understand the way that Your Honor has ruled,

1 and I'm certainly not trying to -- not trying to do
2 anything about that, but I will say that the call
3 log in 113 that the State is intending to introduce
4 to show the relationship between the parties, they
5 show that they've been calling each other back and
6 forth for six weeks.

7 I don't really know why we need the
8 text messages between those five days before to
9 show their relationship, but --

10 MR. DURANT: I can tell you why.
11 Because your client said that he lost his phone
12 right before this thing happened, and he's going to
13 say -- which leaves the door open for him to claim
14 that somebody got his gun.

15 THE COURT: I found that it is
16 relevant. We're letting it in. I'm just trying to
17 make sure that -- what I don't understand is, is
18 everything in 110 and 111 in 114?

19 MR. DURANT: Yes. It should be because
20 this is just for that day, the day of
21 December 23rd. This is December 23rd to
22 November the 7th. So this goes back six weeks, and
23 the only point -- the only point of this -- this
24 exhibit is to show the jury that these two people
25 have a relationship together.

1 And, you know, if you're not a friend
2 with somebody, you don't text them 250 times and
3 call them 250 times in a six-week period.

4 THE COURT: Okay. But explain to me
5 how introducing 110 and 111 and 114 is not
6 cumulative.

7 MR. DURANT: It's only cumulative as to
8 that particular day. That -- as I said, that
9 particular -- that particular exhibit is to show
10 something different. This is to show the
11 communications between them that day.

12 That is to show the communications
13 between them over a period of time, and there is
14 truth that that one day overlaps, but that's not --
15 if this is relevant, that shouldn't make that
16 prejudicial in any way.

17 THE COURT: That wasn't my argument --
18 or my question. My question was, why are you
19 introducing -- and then it appears, to me, that it
20 would appear to the jury to confuse them. Because
21 we're drawing attention out of --

22 MR. DURANT: Well, primarily, because
23 when I put this in, I'm going to have my
24 investigator testify that -- what is the point of
25 this exhibit. And he's going to show this exhibit

1 shows the number of text messages between these
2 people between November 7th of 2016 and
3 December 23rd, 1016, up to the time this phone was
4 lost.

5 THE COURT: Okay. Your response?

6 MS. SEMAN: Your Honor, I still believe
7 it's cumulative. If the State intends to introduce
8 -- certainly, I'll still have an objection, but I
9 do think that they can probably refer to portions
10 of what is 110 and 111 using 114.

11 So if that would cure the problem of
12 cumulative, I would suggest that.

13 THE COURT: So What I understand -- one
14 more time. And it's not my -- talking about
15 technology. What I understand is what you have
16 done is just created, in essence, a summary -- this
17 is the total -- 114 is the total communication, and
18 then 110 is one day and 111 is one day from 114; is
19 that correct?

20 MR. DURANT: 110 is definitely one day;
21 this is the day of the murder. That is to show the
22 continuing relationship of them over a six-week
23 period. And this was about -- the ones that was on
24 the 18th, I'm just showing that day once again to
25 show the -- to show the relationship between the

1 parties and knowledge of the parties.

2 THE COURT: But everything that's in
3 110 and 111 is in 114.

4 MR. DURANT: I'm not sure 111 is,
5 because I think -- and, quite frankly, Gwen, I went
6 through and -- but I'm not positive about that
7 because -- do you know if it is?

8 MS. SEMAN: I believe it is, and I
9 think 112 is too. So --

10 MR. DURANT: Because I went through --

11 MS. SEMAN: -- 112. I mean, I can show
12 you --

13 MR. DURANT: When did I start my --
14 when did I start my just complete page redactions,
15 Your Honor, on that one?

16 THE COURT: Is this what you're talking
17 about? (Indicating)

18 MR. DURANT: Yes. Yes. Because after
19 awhile, like I said, I just -- I just was doing it
20 to show the context. And what is the date on
21 those?

22 THE COURT: 12/19.

23 MR. DURANT: Okay. That might include
24 111, too. 111, do you have --

25 MS. SEMAN: It's on there. This is the

1 copy that you gave me.

2 MR. DURANT: And, like I said,
3 basically -- and the reason I didn't do -- and the
4 reason I didn't redact on that one, because I had
5 them on this one. It didn't dawn on me there would
6 be an issue if this was admissible.

7 Now, the rest of them I did, because,
8 you know, there was a bunch of stuff in there about
9 buying dope and all this kind of stuff between the
10 two of them, and I would acknowledge that it wasn't
11 relevant.

12 But, like I said, the point of this
13 document is basically to show the relationship
14 between the parties.

15 THE COURT: Okay. So 110 and 111 are
16 contained in 114.

17 Noting all of your objections and my
18 previous redactions to 110 and 111, redact 114 to
19 conform to my rulings on 110 and 111. And I think
20 that you can have your investigator clearly say the
21 relationship begins on this date and this line, and
22 just use 114 as the entire document.

23 Again, noting your exceptions overall.
24 I think that doing it the way with 110 and 111 just
25 draws unnecessary attention and it becomes

1 cumulative.

2 MR. DURANT: And also -- let's see.

3 How come -- this is going to take me awhile, it
4 really is. I'm trying to -- I'm trying to -- I'm
5 trying to understand the --

6 THE COURT: If I may correct -- what I
7 understand is, you just printed a day off of 110.
8 And so there's a bunch of days in 114, and you just
9 printed out one day --

10 MR. DURANT: Well, let me take that
11 back because this is different. Okay. And the
12 reason this one is different is that this is the
13 timeline. This is the text message log. The
14 timeline includes text messages, phone calls, when
15 photographs were taken with that phone --

16 THE COURT: So 110 and 111 contain
17 different information than 114?

18 MR. DURANT: Right.

19 MS. SEMAN: 111 does not.

20 MR. DURANT: 111 does not, but 110
21 definitely does. And 110 puts the phone calls in
22 context with the text messages.

23 THE COURT: All right. But 111 is
24 contained 114.

25 MS. SEMAN: Yes.

1 THE COURT: My ruling as to 111 is the
2 same. So if it's contained in --

3 MR. DURANT: So if it's in 114, then we
4 don't need 111, too.

5 THE COURT: But what you have
6 indicated, the document of 110 contains more and is
7 more specific as to the day of the murder.

8 MR. DURANT: Right.

9 THE COURT: So that's in 114.

10 MR. DURANT: Right.

11 THE COURT: So I will allow 110 because
12 it is not cumulative, the same analysis that I used
13 to admit 114.

14 I understand your objection to my
15 ruling.

16 MS. SEMAN: Thank you, Judge.

17 THE COURT: So just make sure that you
18 have redacted as necessary 110, and then 114 to
19 conform with my ruling on 111.

20 MR. DURANT: Okay. And -- I think, I
21 did. I wanted to make sure that -- when we talk
22 about Exhibit 116 your objection is to the word
23 F-U-C-K. Is that correct?

24 MS. SEMAN: Yeah -- well, yeah. This
25 little text box. I don't think it needs to be

1 here. I mean, I'm going to object to the picture
2 too, but --

3 MR. DURANT: No. I deleted the word
4 F-U-C-K. And the reason that that is relevant is
5 because of him and Nautica Manigault.

6 MS. SEMAN: He's talking about being
7 drunk.

8 MR. DURANT: He's also sending her a
9 photograph that she uses as his photograph on her
10 contact page on the telephone.

11 MS. NORRIS: Let her testify to that.

12 MR. DURANT: Well, she's going to.

13 MS. SEMAN: Do you want this -- they're
14 talking about the photograph as well.

15 THE COURT: Which photograph?

16 MS. SEMAN: So the State is intending
17 to introduce a bunch of photographs that were taken
18 off of the phone dump. There are several that we
19 have objections to. The photograph that -- the
20 exhibit that we're talking to right now is State's
21 Exhibit 116.

22 Again, this is a picture, it looks like
23 it was sent December 3rd, 2016, at 6:23 p.m., about
24 20 days before. Again, the caption -- or the body
25 of the text says: I fucked up, baby.

1 And again, we would assert that
2 Mr. Brown is saying that he is intoxicated and that
3 it has no relevance to the crime whatsoever.

4 The State is going to be able to
5 establish a connection between Mr. Brown and the
6 phone in a lot of other ways. I think it's
7 cumulative. I think it's substantially more
8 prejudicial than probative to show a picture of him
9 drinking alcohol.

10 MR. DURANT: And that's because
11 drinking alcohol is illegal or immoral?

12 MS. SEMAN: For Mr. Brown who is under
13 21, certainly.

14 MR. DURANT: And the point -- there's
15 two reasons I'm introducing that photograph.
16 Number one, to show those shoes. Those are the
17 same shoes as the person running on that video,
18 same type of shoe.

19 MS. SEMAN: I got you.

20 MR. DURANT: Red Converse with white
21 top tips on them. Secondly, Nautica Manigault has
22 that same picture on her phone as with him -- with
23 him as the contact designated future husband, that
24 she uses that same picture on her phone. We have a
25 photograph of it --

1 THE COURT: How is that relevant?

2 MR. DURANT: Well, it's relevant to
3 show -- to show who the owner of that phone is,
4 Judge. And to show -- look, I've got --

5 THE COURT: To show that owner of whose
6 phone?

7 MR. DURANT: The owner of the iPhone.

8 THE COURT: But how is her putting his
9 picture on her phone --

10 MR. DURANT: Because I'm assuming that
11 she wouldn't be putting a picture of someone she
12 doesn't know as a contact on her phone. And it's
13 in her phone -- let me show you the picture.

14 This is from Nautica Manigault's phone.
15 That is that picture with him designated as future
16 husband. (Indicating)

17 THE COURT: Okay. So this is her
18 phone?

19 MR. DURANT: That is her phone.

20 THE COURT: And you're using it to
21 establish --

22 MR. DURANT: That the iPhone is his
23 phone because this is the number to his iPhone.

24 THE COURT: And which phone are we
25 talking about, the one that's in evidence?

1 MR. DURANT: The one that's in
2 evidence. The one that was dropped in the ditch.
3 And, Your Honor, what I'm trying to -- he has given
4 a statement saying that he's lost his phone. Okay.
5 I think I can show through these records that was
6 his phone, and that it was his phone all the way up
7 to the time this man was murdered.

8 Because he's communicating with Red,
9 he's communicating with Wifey, he's got phone --
10 he's got pictures in his phone that Wifey sent him.
11 She's got pictures in her phone that he sent her,
12 and it shows the relationship between them.

13 So, like I said, I've got to guard
14 against what he says regarding I lost that phone.

15 THE COURT: Okay. So which -- this is
16 his --

17 MR. DURANT: This is her phone.

18 THE COURT: But this is the phone
19 number of that phone?

20 MR. DURANT: Of that iPhone, yes,
21 ma'am.

22 THE COURT: And so when that phone
23 would ring, this picture would come up?

24 MR. DURANT: Right.

25 THE COURT: Which is this picture.

1 MR. DURANT: If he calls her, that
2 phone -- that would pop up.

3 THE COURT: You lost me on some
4 pronouns there. All right. Happy to hear from
5 you. And we're looking at -- this is not marked.

6 MS. SEMAN: That's my copy, I'm sorry,
7 Your Honor, but I believe it's part of State's 116.

8 MR. DURANT: Yes, it's part of 116.

9 THE COURT: Can I see 116? How does it
10 come --

11 MR. DURANT: It comes like this. It is
12 -- it is the message where it was sent with the
13 picture attached. And that shows that he sent that
14 message to -- the highlighted part, right there --
15 that he sent that picture to Nautica Manigault on
16 that date in that --

17 THE COURT: She's on the thumbnail of
18 pictures that were sent at a particular time frame.

19 MR. DURANT: Right. Right, this --

20 THE COURT: You have just then blown up
21 the picture from this one only?

22 MR. DURANT: Exactly. Yes, ma'am.

23 THE COURT: All right. So that's
24 State's 116, a two-page document, thumbnails of
25 enlarged photo, and then State's 54.

1 MR. DURANT: Yeah. I don't think she's
2 objecting to that. I was just using that to show
3 the relevance of that.

4 THE COURT: But we need -- I'm trying
5 to make the record as clear as I can.

6 MR. DURANT: Yes, ma'am.

7 THE COURT: So we're referring to
8 State's 54. Okay. Any other arguments.

9 MS. SEMAN: Your Honor, I would just
10 submit to Your Honor that how Ms. Manigault may
11 have Mr. Brown listed in her phone is not
12 particularly relevant. Again, the phone screen
13 itself shows a picture of Mr. Brown and Ms.
14 Manigault.

15 I think that's enough of a connection,
16 and I think based on that the State is going to be
17 able to show a connection, and I don't think that
18 this picture is relevant to prove anything. So we
19 would ask that you would find --

20 THE COURT: All right. Based upon the
21 contents of the photograph, I do find that the
22 material is relevant evidence based upon my review
23 of the photograph. Clearly, there were tennis
24 shoes and we have had testimony of red tennis shoes
25 with white tips, and the photograph matches the

1 photograph that is placed in -- they connected with
2 Exhibit 54, the phone that was found at the scene.

3 Noting your exception, I do find that
4 it is relevant. I do not find that the alcohol
5 contained -- or the finger gestures in the picture
6 attached on 116 is substantially -- that the
7 prejudice substantially outweighs the probative
8 value. I note your exception to my ruling.

9 MS. SEMAN: Thank you, Your Honor.
10 Now, looking at 117?

11 MR. DURANT: That's the next one I had
12 on my list, a series of three pictures.

13 MS. SEMAN: You may want to show her
14 your -- State's copy.

15 MR. DURANT: This is -- this is the
16 same thing, Your Honor. It is a multimedia message
17 from him to Wifey, Nautica Manigault, the same day
18 with these three pictures attached, all of them
19 showing him wearing those same red shoes.

20 THE COURT: So why do you need four
21 pictures of him wearing the same shoes?

22 MR. DURANT: I want to tie into as much
23 to those red shoes as I can, Your Honor, because we
24 didn't find them at his house.

25 THE COURT: Are these taken on the same

1 day?

2 MR. DURANT: Yes, ma'am.

3 THE COURT: All right.

4 MR. DURANT: According to the date on
5 them.

6 THE COURT: Do you have an objection?

7 MS. SEMAN: So we have an objection
8 to -- especially to these two photos, which we
9 believe show Mr. Brown using some gang signs. We
10 believe that according to *State v. Sobers*, which I
11 have the cite for you, Your Honor, if I can find
12 it, 404 S.C. 263, that those -- that those gang
13 signs are not relevant to this case.

14 There's no evidence of any sort of gang
15 connection with this crime. We think --

16 MR. DURANT: I don't think there's
17 going to be any testimony to any gang connection.
18 My intention of putting them in would be just to
19 comment on the red shoes.

20 MS. SEMAN: My argument would be that
21 those pictures are not sufficient to show that. So
22 the rest would -- I also believe are cumulative.

23 THE COURT: Anything further as to
24 these?

25 MR. DURANT: Your Honor, other than

1 what I said, I don't believe they're prejudicial.
2 I think they're relevant to show that he's the same
3 person seen in the Perez video.

4 THE COURT: Are these --

5 MR. DURANT: They're also sent on the
6 same day, about -- as I recall, it was a couple of
7 hours apart.

8 THE COURT: What is the purpose of
9 introducing --

10 MR. DURANT: -- from him to her.

11 THE COURT: The purpose of introducing
12 these photographs to tie him in as much with the
13 shoes and they were all taken on the same day, and
14 I think that one photograph -- and so we'll do the
15 first photograph. The other two -- do you want to
16 just take the two off of this exhibit?

17 MR. DURANT: I've got to get the
18 number. I will try to -- and now, I'm getting to
19 the point where --

20 THE COURT: We'll go ahead and -- this
21 will be our last one, then we'll take our lunch
22 break.

23 MR. DURANT: Well, my -- I just don't
24 want to -- because I'm having to make a lot of
25 edits here at the last minute.

1 THE COURT: All I'm asking you to do is
2 just take these two photographs off of this packet.

3 MR. DURANT: And I understand that and
4 also -- but I've also got them on a computer, and
5 I've got to do all that as well.

6 THE COURT: Okay. All right. So I'll
7 put the sticky on here and --

8 MR. DURANT: And the thumbnails are
9 still going to be on there. Do you need those
10 edited too, or can I leave those on?

11 THE COURT: I'm not sending a
12 magnifying glass back. I think that based upon
13 your argument, that the phone stamp is fine.

14 MS. SEMAN: And, Your Honor, if I may
15 just place on the record. Again, I understand your
16 ruling as to 116. This picture was also taken the
17 exact same day as the other three pictures and it
18 shows him with the red shoes.

19 So, again, I understand your ruling,
20 just would argue --

21 THE COURT: We had a location change.
22 I'm going to give Mr. Durant that.

23 MS. SEMAN: Sure.

24 MR. DURANT: And 119.

25 THE COURT: This is the last -- last

1 one of this --

2 MS. SEMAN: There's two more and then
3 several other photos.

4 THE COURT: Can I see them as -- I
5 think that also helps --

6 MS. SEMAN: Yes, ma'am.

7 THE COURT: -- for me to see them.

8 MS. SEMAN: They have my notes on them,
9 so I apologize.

10 THE COURT: So as to 118, let me see
11 your 118. Which witnesses are you getting these
12 in?

13 MR. DURANT: I'm going to put them in
14 in mass through my deputy that dumped it. I'm
15 going to go into the details and actually publish
16 through my investigator, Mr. Haupt.

17 MS. SEMAN: 118 is the picture of
18 the --

19 COURT REPORTER: I can't hear.

20 THE COURT: Let's go ahead -- we have
21 pushed into lunch too far. You may leave this
22 stuff right here. We're down until 2:00.

23 See y'all back at 2:00.

24 (A luncheon recess transpired.)

25 THE COURT: All right. All the jurors

1 are here. Do we need to finish this or could we do
2 that at the next break?

3 MS. SEMAN: Your Honor, I believe we
4 only have three additional groupings of photos --

5 THE COURT: Okay.

6 MS. SEMAN: -- if you want to get it
7 done. May I approach?

8 THE COURT: You may.

9 MS. SEMAN: Exhibits 118 and 119. 118,
10 Your Honor, is a picture of a gun taken from the
11 phone. We would argue conditional relevance and
12 403 as grounds for an exclusion.

13 THE COURT: All right.

14 MR. DURANT: Conditional relevance is
15 why it should be included, Your Honor. That
16 photograph was posted by the defendant, sent to
17 another number, and an MMS message was taken on
18 that phone.

19 That photograph is of sufficient
20 quality that you could make out the serial number
21 on that gun. That serial number, we did a trace,
22 ATF trace on it, and it is a Smith & Wesson MMP 9C
23 9-millimeter pistol. When this case first -- the
24 first load of stuff that went to SLED was the
25 projectile from the autopsy.

1 The firearms examiner came back and
2 said, it's a 9-millimeter, the rifling
3 characteristics are compatible with a Smith &
4 Wesson, which this is either a Ruger or a Fabrique
5 Nationale. Subsequent to that, we sent up the
6 9-millimeter Speer shell casing that was found in
7 the [REDACTED] East Thomas, at the crime scene.

8 And we asked the firearms examiner if
9 there was anything unusual about the firing pin
10 impression on that that would exclude any of the
11 other weapons that she noted could have fired the
12 weapon.

13 And she said, as a matter of fact,
14 there is, because this has a tear-shaped firing pin
15 impression on it, where Fabrique Nationale and
16 Ruger do not; some Glocks do.

17 So, basically, her opinion is that the
18 same weapon fired the projectile that fired the
19 shell casing would eliminate the Ruger and it would
20 eliminate the Fabrique Nationale.

21 In addition to that, you have him
22 posting pictures of this gun to one person on this
23 date, to another person on another date. You've
24 got the co-defendant, Trey Coleman, basically
25 texting him asking him to borrow the weapon the

1 night of December -- the early morning of
2 December 23rd, the day of the shooting.

3 And then at 1:30, you've got those
4 pictures of him in his American flag outfit posing
5 with the gun at his apartment complex, which we
6 believe to be the same gun. And the other picture
7 that she objects to, the one where -- the picture
8 of him doing kind of a selfie appears to be the
9 same thing as well.

10 MS. SEMAN: That's another picture that
11 we can discuss, but this is my copy of it. It's
12 not the actual exhibit.

13 THE COURT: Where is this? Is this on
14 another --

15 MS. SEMAN: It's on page 124.

16 MR. DURANT: 124 -- which one are you
17 talking about?

18 MS. SEMAN: 124, the picture that you
19 just mentioned.

20 MR. DURANT: Because I've only got it
21 through 123. 124, I think, is the one she's
22 talking about.

23 THE COURT: You may approach.

24 MR. DURANT: Do you have 124?

25 MS. NORRIS: (Indicating)

1 MR. DURANT: Yeah, that's the picture.
2 That's 124. I don't have the original exhibit here
3 for some reason.

4 THE COURT: Do you have 124?

5 MR. DURANT: There it is.

6 THE COURT: All right. So I have 118.
7 What's 119?

8 MS. SEMAN: 119 is very similar, Your
9 Honor. It's another picture. Again, we would
10 argue it's only relevant if the State can establish
11 this is, in fact, the gun --

12 THE COURT: Is it the same gun?

13 MR. DURANT: It is the same gun, same
14 serial number.

15 THE COURT: Why do we need two
16 pictures?

17 MR. DURANT: Just because in my -- it
18 is the State's position that that is the murder
19 weapon, and that he is basically sending pictures
20 of that murder weapon to people all over the place.

21 And, also, this would appear to be the
22 mattress -- the mattress that we found in the
23 bedroom, this appears to be the same mattress that
24 was in his bedroom. That's a picture --

25 THE COURT: When was this one taken; do

1 we know?

2 MR. DURANT: It should be -- I think
3 it's on December 15th, is that --

4 THE COURT: And when was that taken?

5 MS. SEMAN: December --

6 MS. NORRIS: I think they're both
7 December 15th.

8 MS. SEMAN: December 15th.

9 THE COURT: And we know that's the
10 mattress? We assume?

11 MR. DURANT: It is the same design as
12 the mattress.

13 MS. SEMAN: It appears to be the same.

14 THE COURT: But we don't know where
15 this was taken?

16 MR. DURANT: That appears to be taken
17 the same day that he is wearing these clothes,
18 right here, that you made me take out. He seems to
19 be wearing the same clothes right there.

20 MS. NORRIS: No. That's from
21 December 3rd.

22 MR. DURANT: And I'm not sure when this
23 one was. He seems to be wearing the same clothes
24 right there. (Indicating)

25 THE COURT: All right. Anything

1 further?

2 MS. SEMAN: No, Your Honor. I mean, we
3 believe it's also cumulative, but I think Your
4 Honor mentioned that.

5 THE COURT: So this is 119?

6 MR. DURANT: That is --

7 MS. SEMAN: Yes, Your Honor.

8 MR. DURANT: Yes, that's -- that's our
9 attachment to 119.

10 THE COURT: Let me have 119.

11 MR. DURANT: This is the --

12 THE COURT: All right. So you're
13 objecting to the enlargement, or objecting to all
14 of it, or both?

15 MS. SEMAN: No, Your Honor. I'm
16 objecting to relevance and 403 on both, conditional
17 relevance, 403 on both, and cumulative on one.

18 THE COURT: All right. Noting your
19 exceptions to my ruling, I'm allowing 118 and 119.

20 MS. SEMAN: Thank you. The second
21 grouping of photos is 121 to 123. We are also
22 objecting to relevance and prejudice, 401 and 403
23 on these photos as well. Again, the gang signs --

24 THE COURT: Are these just the photos?
25 We're not attaching --

1 MR. DURANT: No. Those are his photos.
2 Those were taken by his phone at around 1:30 a.m.
3 on the day of the shooting.

4 THE COURT: Okay. And what is the
5 purpose of introducing these?

6 MR. DURANT: There's two purposes;
7 number one, the shoes once again; number two, he
8 links the gun back to -- the pictures back to him
9 since -- when he gives his statement to the police,
10 he tells the police two or three times that -- or
11 two times, and then changes it two times, what he
12 was wearing on the day of the shooting that he lost
13 his phone.

14 And one of the outfits he described was
15 this American flag, the jacket and pants. And
16 plus --

17 THE COURT: That's what he was
18 wearing --

19 MR. DURANT: He describe -- there's two
20 times -- because you have to take this with a grain
21 of salt. Because he said he changed his clothing
22 four times that day. Okay.

23 He said, y'all could probably see me on
24 the body cam, I was there, I was wearing an
25 American flag outfit, and there's a top and bottom.

1 And then he went on to say, I was
2 wearing a Greene T-shirt and blue shorts; and then
3 he changed it back to the American flag outfit; and
4 then he changed it back to another outfit. Plus,
5 he's holding the gun in all of those pictures.

6 MS. SEMAN: So, Your Honor, we also
7 would object as cumulative, and also that there is
8 an alternative where he does not have any gang
9 signs. So we would ask that be admitted instead if
10 Your Honor is inclined to admit it.

11 Again, we would still argue the
12 relevance, substantially more prejudicial than
13 probative, and cumulative but --

14 THE COURT: It's a blurry picture and I
15 left it out on purpose, because you can't tell who
16 it is in that one. There was something wrong with
17 the focus on that one. And in each of these he is
18 holding the weapon. So that --

19 MR. DURANT: That is the weapon.

20 THE COURT: You are indicating the
21 weapon.

22 MR. DURANT: And that is the weapon
23 down there, and that is the weapon down there as
24 well. (Indicating) And those are taken basically
25 a matter of hours before the shooting.

1 THE COURT: All right. As to 121 and
2 122 and 123, I do find that they depict
3 substantially the same pose, outfit, and the
4 purpose of the red shoes. I will allow you to
5 admit 121, and 122 and 123 will not be admitted.

6 MR. DURANT: Your Honor, if I might,
7 this is probably the most difficult one to see the
8 pistol in. Would you consider allowing --

9 THE COURT: I have made -- out of the
10 three, that is the one that I have determined that
11 is admissible.

12 MS. SEMAN: And the final one is that
13 one. And I think you know what I'm going to argue,
14 again, relevance and prejudicial.

15 THE COURT: As to 124?

16 MR. DURANT: Same thing, Your Honor.

17 THE COURT: Okay.

18 MR. DURANT: Pistol in his hand.

19 MS. SEMAN: I think it's cumulative,
20 Your Honor. Your Honor has already decided to
21 admit other pictures showing the pistol. And I
22 think that picture, staring down the barrel, is
23 substantially more prejudicial.

24 THE COURT: I agree that this is
25 substantially -- the danger of unfair prejudice

1 substantially outweighs its probative value,
2 especially in the context of the others. I note
3 your exception to 124. Thank you. We'll be off
4 the record.

5 COURT REPORTER: Thank you, Judge.

6 (A recess transpired.)

7 THE COURT: All right. Thank you.
8 Anything before we bring in the jury?

9 MS. NORRIS: Nothing, Your Honor.

10 (Jury in, 2:27 p.m.)

11 THE COURT: Thank you. Please be
12 seated.

13 Ladies and gentlemen, if you have
14 followed my instructions since the lunch hour,
15 please raise your right hand.

16 THE JURY: (Raised hands)

17 THE COURT: Thank you. All 13 jurors
18 complied with the Court's instructions. Call your
19 next witness.

20 MR. DURANT: The State would call
21 Nautica Manigault.

22 NAUTICA MANIGAULT

23 being first duly sworn, testified as follows:

24 THE CLERK: We need you to speak into
25 that microphone so we can hear you. State your

1 full name for the record, and spell your last name
2 for us. Thank you, ma'am.

3 THE WITNESS: Nautica Manigault,
4 M-A-N-I-G-A-U-L-T.

5 DIRECT EXAMINATION

6 BY MR. DURANT:

7 Q. Ms. Manigault, I'd appreciate it if you
8 could speak up because the ladies and gentlemen of
9 the jury have to hear what you have to say, okay?

10 A. Yes, sir.

11 Q. How old are you?

12 A. 18.

13 Q. And where do you live?

14 A. Goose Creek.

15 Q. I understand you recently graduated
16 from high school?

17 A. Yes, sir.

18 Q. Where did you graduate from?

19 A. Stratford High School.

20 Q. And you are now finished; is that
21 correct?

22 A. Yes, sir.

23 Q. And do you have any post high school
24 plans?

25 A. I'm going to cosmetology school.

1 Q. Do you know when you're going to start
2 cosmetology school?

3 A. September.

4 Q. Pardon?

5 A. September.

6 Q. Can you see this table?

7 A. Yes, sir.

8 Q. Who is that in the Greene shirt?

9 A. Joe Joe.

10 Q. Pardon me?

11 A. Joseph.

12 Q. Can you --

13 A. Joseph.

14 Q. And you call him what?

15 A. Joe Joe.

16 Q. Okay. And what is Joe Joe's last name?

17 A. Brown.

18 Q. And so Joseph Brown that you referred
19 to is Joe Joe; is that correct?

20 A. Yes, sir.

21 Q. Who were you staying with around
22 Christmas of 2016?

23 A. My grandmother.

24 Q. Pardon?

25 A. My grandmother.

1 Q. And where did your grandmother live?

2 A. Abby Lane Townhouse.

3 Q. And where is Abby Lane Townhouses?

4 A. In Summerville.

5 Q. How did you get to know Joseph Brown?

6 A. He lived over there.

7 Q. He lived in the same apartment complex?

8 A. Yes, sir.

9 Q. Do you remember what apartment he lives
10 in?

11 A. No, sir.

12 Q. And how did you get to know Joseph
13 Brown from the apartment complex? Did you meet him
14 at a party, or how did you get to know him?

15 A. Like around the area and, like, you
16 know just -- just seeing him around over there.

17 Q. And would it be fair to say that the
18 two of y'all kind of hit it off?

19 A. Yes, sir.

20 Q. Y'all were boyfriend-girlfriend, right?

21 A. Yes, sir.

22 Q. And you were for awhile, correct?

23 A. Yes, sir.

24 Q. And you had him in the contacts of your
25 phone as your future husband?

1 A. Yes, sir.

2 Q. Pardon?

3 A. Yes, sir.

4 Q. And he had you in his contacts as
5 Wifey, correct?

6 A. Yes, sir.

7 Q. And do you recall when the police came
8 to visit you the day after Christmas, December 26th
9 of 2017 -- or, excuse me, 2016?

10 A. Yes, sir.

11 Q. And where did they come -- where were
12 you when they came to talk to you?

13 A. My grandmother's house.

14 Q. At Abby Lane Townhouses; is that
15 correct?

16 A. Yes, sir.

17 Q. And at that time they took a picture of
18 your phone; is that correct?

19 A. Yes, sir.

20 Q. And they showed you a picture of
21 another phone; is that correct?

22 A. Yes, sir.

23 MR. DURANT: Your Honor, at this time

24 --

25 BY MR. DURANT:

1 Q. And why did they come out to see you
2 that day?

3 A. Because they found his phone.

4 Q. They found what?

5 A. His phone and my picture was on it.

6 Q. And what kind of phone did he have?

7 A. An iPhone.

8 Q. And did his iPhone look like this
9 iPhone? (Indicating)

10 A. Yes, sir.

11 Q. This would be State's Exhibit Number
12 63. And did his iPhone have that picture on it?

13 A. Yes, sir.

14 Q. And that picture is you and him,
15 correct?

16 A. Yes, sir.

17 Q. And I'm assuming that you are Naughty
18 and he is Joe Joe?

19 A. Yes.

20 Q. But they didn't have the actual phone
21 when they came to see you and they showed you a
22 picture; is that correct?

23 A. Yes, sir.

24 MR. DURANT: And, Your Honor, we would
25 offer State's 52 into evidence, I believe without

1 objection.

2 MS. NORRIS: No objection.

3 THE COURT: State's 52 into evidence
4 without objection.

5 (STATE'S EXH. 52, Photograph, in
6 evidence.)

7 BY MR. DURANT:

8 Q. And that is the picture they showed
9 you, correct?

10 A. Yes, sir.

11 Q. And you told them who that was?

12 A. Yes.

13 Q. And it was your boyfriend Joseph Brown;
14 is that correct?

15 A. Yes, sir.

16 Q. They also tried to get the phone number
17 for that phone; is that correct?

18 A. Yes, sir.

19 Q. And did you have that phone number in
20 your contacts?

21 A. Yes, sir.

22 Q. And speaking of that picture, did you
23 also have that picture on your phone?

24 A. Yes, sir.

25 Q. What was it on your phone?

1 A. My locked screen.

2 Q. Your what?

3 A. My locked screen.

4 Q. Your lock screen.

5 MR. DURANT: Your Honor, we would offer
6 State's Exhibit 53 at this time, I believe without
7 objection.

8 MS. NORRIS: No objection.

9 THE COURT: State's 53 into evidence
10 without objection.

11 (STATE'S EXH. 53, Photograph, in
12 evidence.)

13 BY MR. DURANT:

14 Q. State's 53 is this one, which is yours,
15 which basically is the same photo, correct?

16 A. Yes, sir.

17 Q. And it's the same photo because why?
18 Where did that photo come from?

19 A. We took it.

20 Q. You took it?

21 A. Uh-huh.

22 THE COURT: Is that a yes?

23 THE WITNESS: Yes.

24 BY MR. DURANT:

25 Q. And you sent it to him, correct?

1 A. Yes, sir.

2 Q. Correct?

3 A. Yes, sir.

4 Q. And y'all both used it as your screen
5 savers or as the lock screen?

6 A. Uh-huh.

7 Q. And they asked to see your phone
8 regarding your contact with Joe Joe; is that
9 correct?

10 A. Yes, sir.

11 Q. State's 54.

12 MS. NORRIS: We would have a continuing
13 objection to that.

14 THE COURT: All right.

15 MR. DURANT: And we would offer 54.

16 THE COURT: State's 54 into evidence,
17 noting your objection.

18 (STATE'S EXH. 54, Photograph, in
19 evidence.)

20 BY MR. DURANT:

21 Q. And State's 54 is this one. And who is
22 future husband?

23 A. Joe Joe.

24 Q. Who?

25 A. Joseph.

1 Q. Or Joe Joe?

2 A. (Nodding head)

3 Q. And there's a picture back behind

4 there, who is that a picture of?

5 A. Joseph.

6 Q. And where did you get that picture?

7 A. He sent it to me.

8 Q. He sent it to you in a text message,

9 correct?

10 A. Yes, sir.

11 Q. And there are a couple of phone numbers

12 there. Which was the phone number to the iPhone?

13 A. The 557.

14 Q. The 557-3277?

15 A. Yes, sir.

16 Q. Now, how long did you and Mr. Brown

17 date?

18 A. Couple of weeks, a month.

19 Q. Pardon?

20 A. Like, a few weeks or a month.

21 Q. Okay. And during that few weeks or a

22 month, or however long it was, did you communicate

23 with him on that 557-3277 number?

24 A. Yes, sir.

25 Q. The whole time, correct?

1 A. Yes, sir.

2 Q. Where did that last number come into
3 play, that 6199 number?

4 A. His new number.

5 Q. Pardon me?

6 A. His new number?

7 Q. Yes. I guess it -- is it a new number?
8 Was it a new number?

9 A. Yes, sir.

10 Q. And why was it a new number?

11 A. Because he lost his phone.

12 Q. And when you say, he lost his phone,
13 you're talking about State's Exhibit 63, that
14 iPhone, correct?

15 A. Yes.

16 Q. Do you recall when he lost it?

17 A. No, sir.

18 Q. Did he tell you how he lost it?

19 A. Yes, sir.

20 Q. And what did he tell you?

21 A. He was coming home from work.

22 Q. And he was going to see who?

23 A. A friend.

24 Q. And who was the friend he was going to
25 see?

1 A. Red.

2 Q. Who?

3 A. Red.

4 Q. Red?

5 A. Uh-huh.

6 THE COURT: I'm going to need you to
7 speak up, please.

8 BY MR. DURANT:

9 Q. Okay. And you said he was actually
10 talking on the phone, right?

11 A. Yes, sir.

12 Q. And what did he hear when he was
13 talking on the phone?

14 A. A gunshot.

15 Q. And this was the same day that that guy
16 got killed, wasn't it?

17 A. Yes, sir.

18 Q. Pardon?

19 A. Yes, sir.

20 Q. Okay. He told you he heard gunshots?

21 A. Yes, sir.

22 Q. And then what did he say that he did?

23 A. He ran.

24 Q. And who did he run -- where did he run?

25 A. To Red's house.

1 Q. Do you know where Red lives?

2 A. No, sir.

3 Q. Okay. And what did he say happened
4 when he got to Red's house?

5 A. Red wasn't home.

6 Q. And so what did he do?

7 A. I guess he went home.

8 Q. And so he said sometime after he heard
9 those shots and after he went to Red's house was
10 when he lost the phone?

11 A. Yes, sir.

12 Q. And who is Red?

13 A. His friend.

14 Q. Do you know how close of a friend?

15 A. They hung out every day.

16 Q. Pardon me?

17 A. They, like, hung out every day.

18 Q. That he hung out every day?

19 A. Yes, sir.

20 Q. In fact, you told the police it was his
21 best friend?

22 A. Yes, sir.

23 Q. Now, at that time, did you know who Red
24 was?

25 A. No, sir.

1 Q. Did you discover later that you had
2 actually seen Red?

3 A. Yes, sir.

4 Q. How?

5 A. Y'all showed me a picture.

6 Q. From where?

7 A. Your office.

8 Q. From a picture on what?

9 A. On the computer.

10 Q. Okay. A Facebook picture?

11 A. I guess so.

12 Q. Pardon?

13 A. I guess so.

14 Q. And did you recognize the person we
15 showed you a picture of?

16 A. Yes, sir.

17 Q. And where had you seen him before?

18 A. Around Abby Lane.

19 Q. Where?

20 A. Around Abby Lane.

21 Q. And where had you seen -- who had you
22 seen him hanging out with around Abby Lane?

23 A. Joe Joe.

24 Q. And when we're talking about Red -- let
25 me --

1 MR. DURANT: Do you have any stickers
2 on this?

3 Your Honor, at this time I would offer
4 State's Exhibit 144, I believe without objection.

5 MS. NORRIS: No objection.

6 THE COURT: 144 into evidence without
7 objection.

8 (STATE'S EXH. 144, Photograph, in
9 evidence.)

10 BY MR. DURANT:

11 Q. Let me hand you what's been marked as
12 State's 144, and ask if you recognize that
13 photograph.

14 A. Yes, sir.

15 Q. And who is that a photograph of?

16 A. Red.

17 Q. Okay. And was your number back in
18 December of 2016, 557-3932?

19 A. Yes, sir.

20 MR. DURANT: Thank you very much, Ms.
21 Manigault. Please answer any questions that
22 defense counsel may have.

23 THE COURT: Ms. Norris?

24 CROSS-EXAMINATION

25 BY MS. NORRIS:

1 Q. Hey, Ms. Manigault. You said you dated
2 Joe Joe for a month or so?

3 A. Uh-huh.

4 Q. And in that time that you were dating,
5 that was up to and including December 23rd, right?

6 A. Yes, ma'am.

7 Q. And in that time period you never saw
8 him with dreadlocks?

9 A. No.

10 Q. His hair was never shoulder length?

11 A. No.

12 Q. Pretty similar to what it is now?

13 A. Yes, ma'am.

14 Q. And when he told you about losing the
15 phone -- and correct me if I'm wrong, didn't you
16 first tell Detective Goldstein that he heard the
17 shots and ran away from Red's house?

18 A. No.

19 Q. You didn't say that? Well, do you
20 recall that Detective Goldstein was recording that
21 conversation?

22 A. No.

23 Q. All right. Well, he was recording it,
24 and I've got the transcript.

25 MR. DURANT: Your Honor, I'd ask that

1 she play the tape.

2 THE COURT: Okay. Counsel, approach.

3 (Bench Conference)

4 THE COURT: Do y'all need a break?

5 Please remember my admonitions. Leave the notepads

6 where they are. Please rise for the jury.

7 (Jury out, 2:42 p.m.)

8 THE COURT: Thank you. Be seated. Are

9 you okay? Do you need a break?

10 THE WITNESS: No, ma'am.

11 MS. NORRIS: Do you want me to play it

12 now? That's the first one.

13 MR. DURANT: I would like to hear it,

14 yeah. I didn't hear anything right there.

15 (Audio being played in open court.)

16 MS. NORRIS: That's the first one, Your

17 Honor.

18 (Audio being played in open court.)

19 THE COURT: Okay. Are we good to go?

20 MS. NORRIS: I think we are, Your

21 Honor.

22 THE COURT: All right. Let's bring the

23 jury back in.

24 (Jury in, 2:50 p.m.)

25 THE BAILIFF: All jurors are present,

1 Your Honor.

2 THE COURT: Thank you. Ms. Norris?

3 BY MS. NORRIS:

4 Q. Ms. Manigault, now that we've gotten
5 the technical difficulties out of the way, while
6 the jury was gone we played a couple of clips. Did
7 you recognize your voice on that -- on the audio?

8 A. Yes.

9 Q. And do you recall who the detective was
10 that was questioning you?

11 A. No, ma'am.

12 Q. Would it be Detective Goldstein that's
13 sitting over there at the table?

14 A. Yes, ma'am, I guess.

15 Q. Okay.

16 MS. NORRIS: Your Honor, I would ask to
17 play the first clip.

18 (Audio being played in open court.)

19 BY MS. NORRIS:

20 Q. All right. So in that one you said
21 that he lost it running away from Red's house,
22 right?

23 A. Uh-huh.

24 Q. All right. Let's play the second clip.

25 (Audio being played in open court.)

1 All right. So in that one, a few minutes after the
2 first clip, you said that he was running away --
3 running to Red's, right?

4 A. Uh-huh.

5 Q. So the truth is, you don't know which
6 way he was running; you just know that he told you
7 he lost his phone, right?

8 A. Yes, ma'am.

9 Q. And it was in that neighborhood, right?
10 It was in the neighborhood around where Mr. Johnny
11 Pritchard was killed?

12 A. Yes.

13 MS. NORRIS: All right. I don't have
14 anything else, young lady.

15 MR. DURANT: I have nothing on
16 redirect, Your Honor.

17 THE COURT: You may step down. Thank
18 you. Call your next witness.

19 MR. DURANT: The State would call
20 Detective Kahn.

21 ZULFIQAR KAHN,

22 being first duly sworn, testified as follows:

23 THE CLERK: Detective, we need for you
24 to speak into that microphone so we can hear you.
25 State your full name for the record and spell your

1 last name for us. Thank you, sir.

2 THE WITNESS: Right. It's Detective
3 Zulfiqar Kahn.

4 THE COURT: Could you please spell your
5 first and last name?

6 THE WITNESS: I'm sorry,
7 Z-U-L-F-I-Q-A-R, last name is K-A-H-N.

8 THE COURT: Thank you.

9 DIRECT EXAMINATION

10 BY MR. DURANT:

11 Q. Good afternoon, Detective Kahn.

12 A. Good afternoon, sir.

13 Q. Could you tell our jury where you work.

14 A. Charleston County Sheriff's Office.

15 Q. And what do you do with the Charleston
16 County Sheriff's Office?

17 A. Currently, I'm assigned to the criminal
18 investigation division.

19 Q. And that is basically a detective,
20 right?

21 A. Yes, sir.

22 Q. How long have you been with the
23 sheriff's office?

24 A. 2002 -- approximately, about 17 years.

25 Q. Okay. And how long have you been in

1 the -- a detective with the sheriff's office?

2 A. About five years, sir.

3 Q. And is that what you were doing in
4 December of 2016, January of 2017?

5 A. Yes, sir.

6 Q. Detective, in that regard, did you have
7 the opportunity to participate in the investigation
8 involving the death of Johnny Pritchard?

9 A. Yes, sir.

10 Q. And, specifically, in January of 2017,
11 were you tasked with obtaining some surveillance
12 video from a liquor store and a Family Dollar store
13 in Summerville?

14 A. I was, sir.

15 Q. And who tasked you with obtaining that
16 surveillance video?

17 A. Detective Goldstein, the lead detective
18 on that case.

19 Q. And what were you looking for?

20 A. Through investigation, Mr. Goldstein
21 had found out that Trey Coleman may have gone up to
22 that store, and we were trying to confirm that.

23 Q. The stores and -- the information y'all
24 had was that he had gone to those stores with the
25 victim, correct?

1 A. Yes, sir.

2 Q. And y'all basically corroborated that
3 story?

4 A. Yes, sir. He was on that video.

5 Q. Okay. And where was the liquor store?

6 A. 110 -- I can't remember the exact name
7 of the street, but it's right behind the old --
8 Main Street.

9 Q. Okay. And that was actually in the
10 town of Summerville?

11 A. Yes, sir.

12 Q. Do you know roughly -- I know you
13 probably didn't check your odometer or anything,
14 but do you know, roughly, how far that area is from
15 where the victim was killed in this case?

16 A. It's not very far. Maybe two or three
17 miles, if that.

18 Q. Okay.

19 A. Maybe a little bit more.

20 Q. And did the liquor -- you went to the
21 liquor store first?

22 A. Yes.

23 Q. And did the liquor store have a
24 surveillance video system?

25 A. They did.

1 Q. Were they able to copy the video
2 footage that you were interested in?

3 A. Yes, sir.

4 Q. And you received it on what format?

5 A. It was provided to me on a DVD -- CD.

6 Q. And upon returning to the headquarters,
7 did you have a chance to review the video?

8 A. I did, sir.

9 Q. Okay. And were you able to locate Trey
10 Coleman on that video?

11 A. Yes, sir. He can be seen walking in, I
12 believe, ten something in the morning, I just don't
13 remember the exact time, and then he's in the store
14 for a short time, and he walks back out.

15 Q. And that would be on December 23rd of
16 2016?

17 A. Yes, sir.

18 Q. And I hand you what's previously been
19 marked as State's Exhibit Number 95, and ask if you
20 recognize that exhibit as being a copy of -- or a
21 portion of the video you obtained --

22 A. Yes.

23 Q. -- at the liquor store?

24 A. Yes.

25 Q. And how do you know?

1 A. It's my handwriting on there, sir. And
2 that's from your office and my initials on there as
3 well.

4 MR. DURANT: Do you have any objection
5 to State's 95?

6 MS. NORRIS: No objection.

7 THE COURT: State's 95 into evidence
8 without objection.

9 (STATE'S EXH. 95, DVD, in evidence.)

10 (Video played in open court.)

11 BY MR. DURANT:

12 Q. This is the person you identified as
13 Trey Coleman?

14 A. Yes, sir.

15 Q. And that's him entering the liquor
16 store, correct?

17 A. Yes, sir.

18 Q. State's 95, clip two --

19 MR. DURANT: Let's try that again.
20 Clip number three on State's 95.

21 (Video played in open court.)

22 BY MR. DURANT:

23 Q. Now, were you also successful in going
24 to the Family Dollar store?

25 A. I was, sir.

1 Q. And where was the Family Dollar store
2 located?

3 A. It's -- if I remember, it's 208 North
4 Main Street. It's up on Main Street in
5 Summerville.

6 Q. And they have a video surveillance
7 system as well?

8 A. They did, sir.

9 Q. And were they able to provide you with
10 some video footage of the -- regarding the relevant
11 time frame?

12 A. Yes, sir.

13 Q. And as in the last one, did you have a
14 chance to review the video upon getting back to
15 your office?

16 A. I did, sir.

17 Q. And were you able to determine whether
18 or not Trey Coleman appeared on that video as well?

19 A. Yes, sir, he's on the video.

20 Q. And I hand you what's been marked as
21 State's Exhibit 97, and ask if you recognize that
22 as being a portion of the video you obtained from
23 the Family Dollar.

24 A. Yes, sir. It has my handwriting and
25 initials.

1 MR. DURANT: Your Honor, we would offer
2 State's 97, if there's no objection.

3 MS. NORRIS: No objection.

4 THE COURT: State's 97 into evidence
5 without objection.

6 (STATE'S EXH. 97, DVD, in evidence.)

7 BY MR. DURANT:

8 Q. That appears to be Mr. Coleman entering
9 the store; is that correct?

10 A. Yes, sir.

11 Q. And this would appear to be some
12 30 minutes or so after the last video, if the time
13 is correct?

14 A. Yes, sir, roughly.

15 Q. On December 23rd, 2016?

16 A. Yes, sir.

17 (Video being played in open court.)

18 Q. That's State's 97, clip number three.

19 (Video being played in open court.)

20 And lastly, segment four. And that is
21 him leaving the store; is that correct?

22 A. Yes.

23 Q. And that is Trey Coleman?

24 A. Yes, sir.

25 MR. DURANT: Your Honor, at this time

1 we would offer 135, 136, 137, and 138.

2 MS. NORRIS: No objection.

3 THE COURT: 135, 136, 137, and 138 into
4 evidence without objection.

5 (STATE'S EXH. 135, Screen shot, in
6 evidence.)

7 (STATE'S EXH. 136, Screen shot, in
8 evidence.)

9 (STATE'S EXH. 137, Screen shot, in
10 evidence.)

11 (STATE'S EXH. 138, Screen shot, in
12 evidence.)

13 MR. DURANT: Thank you.

14 BY MR. DURANT:

15 Q. Which are basically just screen shots
16 from the video we just saw?

17 A. Yes, sir.

18 MR. DURANT: And I'm not going to
19 publish them at this point, Your Honor.

20 BY MR. DURANT:

21 Q. Now, moving ahead a little bit to
22 January 3rd of 2017. Did you have occasion to go
23 to [REDACTED] East Third North Street in Summerville,
24 South Carolina?

25 A. Yes, sir.

1 Q. And what is that location?

2 A. A set of apartments. We went there to
3 execute a search warrant.

4 Q. And those apartments are Abby Lane
5 apartments; is that correct?

6 A. Yes, sir.

7 Q. And whose apartment did y'all go to
8 search that day?

9 A. Joseph Brown's.

10 Q. And you participated in the search; is
11 that correct?

12 A. Yes, sir.

13 Q. And were you present when the
14 9-millimeter ammunition --

15 MS. NORRIS: Continuing objection.

16 THE COURT: Noted for the record.

17 BY MR. DURANT:

18 Q. Were you present when the 9-millimeter
19 ammunition was found at that location?

20 A. Yes, sir.

21 Q. Where was it found?

22 A. Upstairs bedroom to the right of the
23 stairs, underneath the mattress and box spring.

24 Q. Okay. Whose room is that?

25 A. Mr. Brown's.

1 MR. DURANT: Will you please answer any
2 questions that Ms. Norris has for you?

3 MS. NORRIS: No questions. Thank you.

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

6 Call your next witness.

7 MR. DURANT: The State would call Barry
8 Goldstein.

9 BARRY GOLDSTEIN,
10 being first duly sworn, testified as follows:

11 THE CLERK: Have a seat. Speak into
12 that microphone so we can hear you. State your
13 full name for the record and spell your last name.
14 Thank you, sir.

15 THE WITNESS: Barry Goldstein,
16 G-O-L-D-S-T-E-I-N.

17 DIRECT EXAMINATION

18 BY MR. DURANT:

19 Q. Good afternoon, Detective Goldstein.

20 A. Good afternoon.

21 Q. Could you tell our jury where you work?

22 A. I work with the -- work for the
23 Charleston County Sheriff's Office.

24 Q. Where, at the Charleston County
25 Sheriff's Office?

1 A. Charleston County Sheriff's Office.

2 Q. Okay. In what capacity?

3 A. I'm assigned to the detective office,
4 criminal investigations.

5 Q. And you've been doing that at the
6 sheriff's office for how long?

7 A. I've been at the sheriff's office for
8 six years.

9 Q. And before that you were a detective
10 somewhere else, weren't you?

11 A. Charleston -- Charleston City Police
12 Department.

13 Q. And you were a detective at the Charles
14 City Police Department for how long?

15 A. Thirty-five years.

16 Q. And so you've got over 40 years of law
17 enforcement?

18 A. Yes, sir.

19 Q. You must like it.

20 A. Excuse me?

21 Q. You must like it.

22 A. Yeah. I still do, yes, sir.

23 Q. What was your role in the investigation
24 of the death of Johnny Pritchard?

25 A. I was in charge of the investigation.

1 We were off that day and the call-out team, which
2 was myself, Detective Kahn, Detective Michael
3 Thompson, and Sergeant Shawn James, were called out
4 to respond to [REDACTED] East Thomas Street in
5 Lincolnville.

6 Q. Okay. And you're what's called the
7 case agent, I guess?

8 A. Yes.

9 Q. And what does the case agent do in the
10 case?

11 A. I'm responsible for managing the case,
12 interviewing the witnesses, and giving assignments
13 to my fellow detectives.

14 Q. Okay. And managing the file and all
15 that good stuff?

16 A. Yes, sir.

17 Q. Let's talk a little bit about
18 December 23rd of 2016. That was a Friday, I
19 believe; is that correct?

20 A. Yes, sir.

21 Q. And who contacted you in reference to
22 this matter?

23 A. I was called out by Sergeant Shawn
24 James who was the supervisor on call.

25 Q. And do you recall about what time you

1 received notification of this incident?

2 A. About 1:15 p.m.

3 Q. And as part of your -- and where did
4 you respond?

5 A. I went directly to [REDACTED] East Thomas
6 Street.

7 Q. And that's in Lincolnville?

8 A. Lincolnville, yes, sir.

9 Q. Did you -- as part of your
10 investigation, did you review the computer dispatch
11 record --

12 A. I did.

13 Q. -- in this case?

14 A. I put in a request to dispatch center
15 and they send me -- it's called the CADs. And it
16 shows time of the call and all of the users who
17 were assigned to it, and the dispatcher will type
18 in the verbiage, the communication between the
19 telephone operator, the radio transmission, and the
20 people on the other end, which would be the 911
21 caller, along with the radio calls.

22 Q. What time did y'all receive the 911
23 call?

24 A. 12:56 p.m.

25 Q. What time did the first deputy arrive

1 at that location?

2 A. According to the CADs, it's 13:03,
3 which is 1:03 p.m. I'm using the military time
4 from documentation that I read.

5 Q. So, basically, about seven minutes
6 between the actual 911 call and response --

7 A. Yes, sir.

8 Q. -- actual presence on the scene; is
9 that correct?

10 A. Yes, sir.

11 Q. What did you do upon arriving at the
12 scene?

13 A. I was briefed that we have one deceased
14 party at [REDACTED] East Thomas Street, and the first
15 person I met with would be Hugh Pritchard who was
16 related to the deceased.

17 Q. Okay. And Hugh Pritchard is the one
18 that, obviously, testified previously?

19 A. Yes, sir.

20 Q. And I believe you recorded the
21 statement from him?

22 A. I took an audio statement, yes.

23 Q. And I believe you may have already said
24 this, but he was present when the shooting
25 occurred?

1 A. Yes, sir.

2 Q. And who did you interview after you
3 talked to Mr. Pritchard?

4 A. After that, I learned about the cell
5 phone recovery down the street at [REDACTED] East Owens
6 Street. That would be Allen McBride and Celeste
7 McBride. So I walked down the street to meet with
8 both of them.

9 Q. Okay. Did you have the opportunity to
10 meet with Mr. McBride and Ms. McBride?

11 A. Yes, I did.

12 Q. Where is [REDACTED] East Owens in relation to
13 the crime scene?

14 A. Well, like I just said, it's walking
15 distance, but you have the -- the crime scene at
16 [REDACTED] East Thomas, and you walk down, it's like a
17 vacant lot, and then it's their house, [REDACTED] East
18 Owen Street.

19 You could see -- I could see -- from
20 [REDACTED] East Owens, I could see [REDACTED] East Thomas.

21 Q. Okay. About a hundred yards, does that
22 sound about right?

23 A. Approximately.

24 Q. And you were able to meet with Ms.
25 McBride and Mr. McBride. Did you obtain statements

1 from them as well?

2 A. They were separated; I spoke to them
3 individually. I spoke to Celeste McBride inside
4 the residence in the living room, and I spoke to
5 her father on the exterior of the house so the
6 statements would be independent.

7 Q. So were you shown the location where
8 the phone had been dropped?

9 A. Yes, Ms. McBride showed me. It was out
10 by the street in a little gully, and I used that
11 Greene telephone thing that was coming out of the
12 ground, it was parallel with that. That's what I
13 remember.

14 Q. And was the phone still present when
15 you were at that location?

16 A. No, sir.

17 Q. It had already been recovered by the
18 sheriff's office?

19 A. Yes.

20 Q. And what did you do at the McBride's
21 house?

22 A. I took statements. I also took some
23 pictures, not knowing what the forensics unit had
24 done at this time because they were processing the
25 crime scene at East Thomas Street. I went ahead --

1 the department issued me a small camera; I went and
2 took some pictures.

3 Q. Okay. And when you talked to Mr. Hugh
4 Pritchard earlier, he had given you a description,
5 right?

6 A. Yes.

7 Q. Do you remember generally what the
8 description was that he gave you of the suspect?

9 A. 20s, 30s, 5 foot 8, 5 foot 10, 170
10 pounds.

11 Q. Okay. Black male?

12 A. Black male, yes.

13 Q. Okay. Clothing?

14 A. Facial cover.

15 Q. What kind of clothing?

16 A. The clothing would be dark.

17 Q. Okay. He didn't mention anything about
18 him having dreads, did he?

19 A. No, sir.

20 Q. In fact, he told one of the deputies he
21 had short hair, correct?

22 A. Possibly, yes, sir.

23 MS. NORRIS: Objection.

24 THE COURT: What's the basis?

25 MS. NORRIS: Unless Detective Goldstein

1 was there, it's hearsay.

2 THE COURT: All right. Overruled.

3 BY MR. DURANT:

4 Q. And you also got a description from Ms.
5 McBride, correct?

6 A. I did.

7 Q. And did her description match
8 Mr. Pritchard's description?

9 A. She had dreads. Her's were dreads,
10 dark-colored blue jeans.

11 Q. Blue jeans or --

12 A. Or not blue jeans, stone-washed. They
13 were like black, but she was, you know, firm with
14 that.

15 Q. And how about height and weight, was it
16 medium?

17 A. She had 5 foot 8, to 5 foot 7 -- about
18 5 feet 8, to 6 feet tall.

19 Q. Now, did you have the occasion to talk
20 to another witness named Merit Williams?

21 A. I did.

22 Q. And how did you come in touch with a
23 fellow named Merit Williams -- or why did you get
24 in touch with him?

25 A. I -- Ms. McBride had described a

1 vehicle driving down East Owens Street away from
2 the crime scene. I was told that Trey Coleman had
3 been with the victim prior to this incident and he
4 lived at [REDACTED] Colpat, which is behind [REDACTED] East
5 Thomas.

6 So I walked up to [REDACTED] Colpat,
7 and I spoke to the mother of Trey Coleman.

8 Q. Do you recall what her name is, by the
9 way?

10 A. Not off the top of my head.

11 Q. Okay.

12 A. I asked her where her son was.

13 MS. NORRIS: Objection. I think we're
14 about to go into hearsay.

15 THE COURT: Well, let's wait because
16 that wasn't hearsay. So object if it becomes
17 hearsay.

18 BY MR. DURANT:

19 Q. I just wanted to know how you got in
20 touch with Merit Williams?

21 A. Merit Williams was standing there.

22 Q. Oh, Merit Williams was standing --

23 A. He was standing at [REDACTED] Colpat, and I
24 saw this Greene vehicle sitting in the driveway.

25 Q. Okay. And it was a Greene SUV?

1 A. Yes.

2 Q. Okay. And without -- without telling
3 you the details of what he told you, what
4 description did he provide?

5 A. He provided red tennis shoes, black
6 hoodie with number 23 on the back, black pants,
7 dark skin with dreads.

8 Q. Okay. He was kind of specific on the
9 tennis shoes, wasn't he?

10 A. He was. He used the terminology
11 Converse.

12 Q. Okay. And do you know why?

13 A. He used to sell sneakers, he told me.

14 Q. Okay. So he said red Converse. What
15 color were the pants?

16 A. Black pants.

17 Q. What color was the top?

18 A. A black hoodie with 23 on the back.

19 Q. Okay. And I believe he said the number
20 23 was kind of multicolored, right?

21 A. From what I recall.

22 Q. Okay. And he also described dreads,
23 correct?

24 A. He did.

25 Q. Sometime after that, did you have the

1 occasion to go to Brenda -- the end of Brenda B
2 Drive?

3 A. Yes.

4 Q. Why?

5 A. There was a video. Mr. Perez had come
6 up to the crime scene and let the deputies know
7 that he had video at the trailer. So other
8 deputies went to that location to retrieve it.

9 Q. And how did -- why -- how did you get
10 over there and why did you go over there?

11 A. Deputy Michael Thompson who was
12 assigned to the call-out team made me aware of it,
13 so I asked him to take me to Brenda B. And he
14 drove me over there.

15 Q. Okay. And when you got to Brenda B,
16 did you ever go into Mr. Perez's home?

17 A. I didn't, no.

18 Q. And why was that?

19 A. When we got out of the car, there was
20 an individual across the street at [REDACTED] Brenda B
21 standing out in the street with some other people.

22 Q. And what drew your attention to this
23 fellow standing across the street?

24 A. I looked over at him, he had dreads, he
25 had the number 23 on the back of his jacket, and he

1 had on red shoes.

2 Q. But not Converse, just red?

3 A. Just red shoes.

4 Q. Okay. So did that pique your interest
5 being a detective for 41 years?

6 A. Yes.

7 Q. And what did you do?

8 A. I told Detective Thompson we will
9 summon additional units to come down there to
10 approach this individual. The reason why I called
11 the other cars was for our safety due to the type
12 of incident we were investigating.

13 Q. Because you were investigating a murder
14 case?

15 A. Yes, sir.

16 Q. Now, he didn't completely match
17 Mr. Williams' description either, did he?

18 A. No.

19 Q. And why is that?

20 A. He had -- he had on a coat instead of
21 the hoodie --

22 Q. Which was primarily what color?

23 A. The coat was mostly red.

24 Q. Okay. And he was wearing what color
25 pants?

1 A. It should have been -- he was covered
2 in just about red, a lot of red.

3 Q. Okay. Let me show you State's 132 and
4 133 into evidence. Is that the fellow you're
5 talking about?

6 A. Yes. That's -- we were -- I was
7 talking to him, and that's the clothing he had on.

8 Q. Okay. Which is primarily red, correct?

9 A. Yes, sir.

10 Q. Now, he did have a 23 on the back,
11 correct?

12 A. He did.

13 Q. It's not a multicolored 23, but it was
14 a 23, correct?

15 A. A 23.

16 Q. And he had dreads?

17 A. Yes.

18 Q. But he didn't have Converse. He's got
19 basketball shoes, correct?

20 A. Yes, sir.

21 Q. And he's also got a red hoodie -- I
22 mean, a red stocking cap in his hand, correct?

23 A. Yes, sir.

24 Q. Now, let me ask you this. When you
25 were over at -- that guy's name, by the way, is

1 what?

2 A. What's that, sir?

3 Q. That guy's name is what? What --

4 A. David Felder.

5 Q. Okay. Did you go and talk to him at
6 the residence when you saw him?

7 A. I did.

8 Q. And did you tell him what you were
9 investigating?

10 A. Told him an incident. I didn't go into
11 detail because I didn't want to discuss anything
12 out on the street corner.

13 Q. Okay. And was he cooperative with you?

14 A. He was.

15 Q. Did he offer to go down to headquarters
16 with you to be interviewed?

17 A. Yes, he did.

18 Q. And as a matter of fact, that's where
19 these two pictures were taken, in the interview
20 room at the Charleston County Sheriff's Office
21 headquarters, correct?

22 A. Yes.

23 Q. Now, while you were out there, before
24 he went down there, was there some incident
25 involving a dog?

1 A. Yes.

2 Q. Tell me about that.

3 A. To my left is David Felder, Detective
4 Thompson. Deputy Charles Gillard, who was here
5 earlier, came up, he was standing to my right
6 within a foot. A dog came running out of the yard
7 running towards us, charging towards us.

8 Deputy Gillard pulled his firearm, and
9 he discharged it one time. The bullet hit the
10 ground and ricocheted striking the dog, and the dog
11 ran off.

12 Q. And what was your proximity to this
13 shooting?

14 A. Probably within inches to a foot.

15 MR. DURANT: The Court's indulgence for
16 a moment?

17 THE COURT: Take your time.

18 MR. DURANT: May we approach just
19 briefly, Your Honor?

20 THE COURT: Okay.

21 (Bench conference)

22 MR. DURANT: Your Honor, at this time,
23 I would have this marked as an exhibit and hope to
24 substitute exhibit --

25 THE COURT: You're going to substitute

1 which exhibit?

2 MR. DURANT: It hasn't been given a
3 number yet. I could give it a court's number right
4 now and then substitute it with one of my numbers,
5 or I can put my number and then substitute it with
6 another one that's got my number --

7 THE COURT: I didn't hear. You trailed
8 off when you said a number. Did you say 4?

9 MR. DURANT: No. It would be one -- I
10 haven't given it a number yet, so it'd be 145 which
11 is my next number.

12 THE COURT: Madam Court Reporter, is
13 that what you have.

14 THE COURT REPORTER: It will be 145.

15 (STATE'S EXH. 145, DVD, was marked for
16 identification.)

17 MR. DURANT: Your Honor, at this time,
18 we would offer Exhibit 145, I believe without
19 objection.

20 THE COURT: 145 into evidence without
21 objection.

22 (STATE'S EXH. 145 in evidence.)

23 (Video being played in open court.)

24 BY MR. DURANT:

25 Q. Who's the fellow there in the yellow

1 shirt?

2 A. That's me.

3 Q. Is that you cuffing Mr. Felder right
4 there?

5 A. Yes.

6 Q. Is that Mr. Felder right there?

7 A. Yes.

8 Q. So after that, Mr. Felder was taken
9 down to headquarters, correct?

10 A. Yes, sir.

11 Q. And did you obtain a statement from
12 him?

13 A. Yes, sir.

14 Q. And not going into whatever he said,
15 did he admit -- did he admit to killing
16 Mr. Pritchard?

17 A. No, sir.

18 Q. Were you provided with an alibi?

19 A. I was.

20 MS. NORRIS: Objection.

21 THE COURT: What's the basis?

22 MS. NORRIS: Hearsay.

23 THE COURT: Overruled.

24 BY MR. DURANT:

25 Q. And did you investigate that alibi?

1 A. I did.

2 Q. Were you provided with names of people
3 that had been with him?

4 A. Yes.

5 Q. And how many people were with him?

6 A. There were two people.

7 Q. And did you interview both of those
8 people?

9 A. I did.

10 Q. And did they confirm or not confirm his
11 alibi?

12 A. They did confirm it.

13 Q. Did you speak to those two people
14 individually?

15 A. Separately, yes, sir.

16 Q. And do you have any evidence whatsoever
17 that Mr. Felder was even in the area at the time
18 that Johnny Pritchard was shot?

19 A. No, sir.

20 Q. And he wasn't charged, was he?

21 A. No, sir.

22 Q. Because why?

23 A. Because he wasn't there. He's not
24 involved.

25 Q. Is he cleared?

1 A. Yes, sir.

2 Q. And other than his alibi witnesses,
3 there was other evidence that tended to clear him
4 too; is that correct?

5 A. Yes, sir.

6 Q. And number one would be the red
7 clothing that he was wearing, correct?

8 A. The what, sir?

9 Q. The red clothing.

10 A. Clothing, that's correct.

11 Q. Did any witness describe the suspect
12 running down East Owen as having red clothing?

13 A. No, sir.

14 Q. And y'all also had what from the end of
15 Brenda B Road?

16 A. The video camera from Mr. Perez.

17 Q. And the person seen running on that
18 video and the person that's picking up that person,
19 for that matter, certainly was not wearing red
20 clothing, correct?

21 A. No, sir.

22 Q. And didn't have dreads either?

23 A. No, sir.

24 Q. Did you make contact with Trey Coleman
25 that day?

1 A. I attempted to.

2 Q. And why were you trying to talk to Trey
3 Coleman?

4 A. Trey Coleman was with Mr. Pritchard
5 prior to him being shot.

6 Q. And you were aware that he had been at
7 the scene of the shooting afterwards, correct?

8 A. Yes.

9 Q. And you had information that he had
10 been where with the -- did you talk to him?

11 A. I spoke to him on his cell phone.

12 Q. Okay. And where was he when you spoke
13 to him on the cell phone?

14 MS. NORRIS: Objection.

15 THE COURT: What's the basis?

16 MS. NORRIS: It's hearsay.

17 THE COURT: Overruled. You may answer.

18 THE WITNESS: He said he was on the way
19 to Columbia. I asked him to return. He said, I'm
20 almost to Columbia.

21 BY MR. DURANT:

22 Q. Okay. Did he agree to meet with you
23 later?

24 A. Yes.

25 Q. Did he?

1 A. No, sir.

2 Q. Based upon this telephone conversation
3 you had with Mr. Trey Coleman, what did you ask
4 Detective Kahn to do?

5 A. To pick up the video from the two
6 stores. That's where I learned about where Trey
7 Coleman and Mr. Pritchard were prior to the
8 incident.

9 Q. Okay. And those are videos that we
10 just introduced --

11 A. I designated Detective Kahn to go to
12 those two locations and get the videos.

13 Q. Okay. And you saw the same video that
14 we just saw?

15 A. Yes, sir.

16 Q. And you were able to confirm that he
17 had been to both of those locations that day?

18 A. Yes, sir.

19 Q. Moving on to the next day, Christmas
20 Eve now, December 24th. Did you have an occasion
21 to look at the iPhone which had been dropped into
22 the ditch?

23 A. Yes.

24 Q. And that is the iPhone that we
25 previously introduced as State's Exhibit Number 63;

1 is that correct?

2 A. Yes, sir.

3 Q. And y'all couldn't get in the -- you
4 wanted to get into the iPhone, correct?

5 A. Yes, sir.

6 Q. And what did you do to kind of
7 facilitate that on Christmas Eve?

8 A. Sergeant Paul McManigal is employed
9 with the sheriff's department. He was in charge of
10 the forensics unit, and now he's in charge of
11 computers and cell phones. He does these forensics
12 examinations once we give him the proper
13 documentation to get into these.

14 Q. And what kind of proper documentation
15 do you need?

16 A. You need a search warrant to get in.
17 It's either a search warrant or a consent. I was
18 going to get a search warrant that day.

19 Q. Did you actually draft a search
20 warrant?

21 A. No, sir.

22 Q. Okay. And why did you not?

23 A. Sergeant McManigal told me he couldn't
24 get in because it was password protected.

25 Q. And he had no way to defeat that pass

1 code?

2 A. That's correct.

3 Q. Now, without getting into the phone,
4 there was a locked screen on the phone; is that
5 correct?

6 A. Yes.

7 Q. And that lock screen is depicted in
8 State's Exhibit Number 52; is that correct?

9 A. That's correct.

10 Q. So -- and as a matter of fact, I
11 believe that picture was actually taken
12 December 24th of 2016, the date that you looked at
13 the phone; is that correct?

14 A. Yes.

15 Q. Did y'all know who those two people
16 were?

17 A. I didn't know at that time.

18 Q. How were you -- were y'all able to find
19 out who those two people were?

20 A. Yes.

21 Q. How were you?

22 A. My immediate supervisor was Sergeant
23 Christine Moyer Smith. I sent her a copy of that
24 picture and asked her if she could research through
25 the computer, through the Internet, and see if she

1 could find out who they were.

2 Q. Was she able to determine the identity
3 of one of those people?

4 A. She did.

5 Q. And that was which one?

6 A. The female.

7 Q. The one on that -- designated as
8 Naughty; is that correct?

9 A. Naughty; Nautica Manigault.

10 Q. Okay. Were you able to determine where
11 Nautica Manigault was living at the time?

12 A. Yes.

13 Q. And where was she living?

14 A. The Abby Lane Townhouses in
15 Summerville.

16 Q. Okay. And where is the Abby Lane
17 Townhouses in relation to the crime scene?

18 A. Probably about a mile, no more than a
19 mile and a half, at the end of East Owens where the
20 county line, Charleston County -- Charleston County
21 becomes Dorchester County. The town homes are on
22 the right.

23 Q. And do you know where -- who she was
24 staying with at that location?

25 A. A family member.

1 Q. Now, moving on to the day after
2 Christmas, December the 26th.

3 A. Okay.

4 Q. Did you have occasion to interview
5 Nautica Manigault?

6 A. I did.

7 Q. Where at?

8 A. The residence of her relative.

9 Q. And that would be her grandmother.

10 A. Grandmother.

11 Q. And I believe you recorded that
12 interview with her as well, correct?

13 A. Yes.

14 Q. We heard a portion of it earlier when
15 she testified.

16 A. Yes.

17 Q. And was -- based upon your interview,
18 was she able to identify the male depicted in
19 State's Exhibit Number 52?

20 A. Yes.

21 Q. And who was he identified as?

22 A. Joseph Brown.

23 Q. And going by what name?

24 A. Joe Joe.

25 Q. Okay. And what was her relationship

1 with him?

2 A. Boyfriend-girlfriend.

3 Q. And were you able to examine her phone?

4 A. Yes.

5 Q. And what was the lock screen or
6 wallpaper on her phone?

7 A. It would be the same picture that we
8 had.

9 Q. And y'all took a picture of it at the
10 time; is that correct?

11 A. Yes.

12 Q. And that's on State's 53?

13 A. Yes.

14 Q. And she also had him in her contacts as
15 what?

16 A. Future husband.

17 Q. And did you also take a picture of that
18 screen off her phone?

19 A. Yes, sir.

20 Q. And that's depicted in State's Exhibit
21 Number 54?

22 A. Yes.

23 Q. And she told -- and future husband
24 referred to Joe Joe Brown?

25 A. Yes.

1 Q. And you found out what the number for
2 that iPhone was, didn't you?

3 A. Yes.

4 Q. And that would be the top number on
5 State's Exhibit Number 54, correct?

6 A. Yes.

7 Q. What did you do based upon your
8 interview with Ms. Nautica Manigault?

9 A. After learning the identity of Joseph
10 Brown, I went ahead and applied for arrest
11 warrants.

12 Q. And were you able to determine where
13 Mr. Brown lived?

14 A. In the Abby Lane Townhouses.

15 Q. And do you recall the apartment number
16 that he lived in?

17 A. I think it was building eight. I don't
18 recall the letter.

19 Q. And if you were to see the search
20 warrant, would that refresh your -- refresh your
21 recollection --

22 A. Yes, sir.

23 Q. -- as to what the address was?

24 A. Yes, sir.

25 Q. Let me see if I have it. I hand you a

1 search warrant, and just ask you if reference to
2 that would refresh your recollection as to the
3 exact apartment?

4 A. [REDACTED] East Third North Street, Apartment
5 8F, Summerville, South Carolina.

6 Q. And that is Abby Lane Townhouses?

7 A. It's the same.

8 Q. Okay. The same place y'all went to
9 talk to Nautica at, correct?

10 A. Yes, sir.

11 Q. Just a different apartment, correct?

12 A. Different building, yes, sir.

13 Q. And where did you obtain that address?
14 From where did you obtain that address?

15 A. It should be through Nautica.

16 Q. And didn't you have DMV records on him
17 as well?

18 A. Well, he -- his driver's license. We
19 reviewed his driver's license.

20 Q. His driver's license record --

21 A. Record.

22 Q. You didn't have his driver's license?

23 A. We didn't have his driver's license,
24 but through the record.

25 Q. But DMV did have a record of his

1 driver's license?

2 A. Yes.

3 Q. And did he meet the general description
4 of a person that you -- the person that you were
5 looking for?

6 A. Yes; height, weight, size, gender,
7 race.

8 Q. Okay. Now, moving ahead to January 3rd
9 of 2017, did you have the occasion to take
10 Mr. Brown into custody?

11 A. Yes, he was.

12 Q. And did you have the opportunity to
13 interview him?

14 A. Yes.

15 Q. Where?

16 A. The Charleston County Sheriff's Office.

17 Q. And did you advise him of his
18 constitutional rights under Miranda?

19 A. Yes, I did.

20 Q. Using what?

21 A. There's a form we use, a Miranda form,
22 and I read it to him right off the form. Asked him
23 if he understood it, and he acknowledged that he
24 did, and he -- I asked him for his signature.

25 Q. And I hand you what's been marked as

1 State's Exhibit Number 130 --

2 MR. DURANT: Which I would offer into
3 evidence, I believe without objection, Your Honor.

4 MS. NORRIS: No objection.

5 THE COURT: State's 130 into evidence
6 without objection.

7 (STATE'S EXH. 130, Copy of a search
8 warrant, in evidence.)

9 BY MR. DURANT:

10 Q. And is that a copy of the form you
11 actually used to advise Mr. Brown of his rights?

12 A. Yes.

13 Q. Did he appear to understand what you
14 were talking about?

15 A. Yes, he did.

16 Q. Okay. And was he willing to waive his
17 rights?

18 A. Yes.

19 Q. And was he willing to give you a
20 statement?

21 A. Yes.

22 Q. Did you provide -- promise him or
23 threaten him or anything of that nature for him to
24 give you a statement?

25 A. No, sir.

1 Q. Did you offer him any kind of reward?

2 A. Didn't offer him anything, no, sir.

3 Q. And what did he tell you in general
4 terms?

5 A. He admitted the -- I asked him about
6 the cell phone that we had. He admitted that the
7 cell phone that we had, the iPhone, was his. He
8 stated that he had lost it on the afternoon of the
9 incident of our crime, December 23rd, and he was up
10 there looking for it.

11 I then went into asking him to get into
12 a clothing description based on the fact that I had
13 various clothing descriptions from my witnesses,
14 and I got several clothing descriptions of what he
15 was wearing that day from an American flag outfit
16 to blue shorts to a Greene shirt --

17 Q. Okay. Was your interview with him
18 audio and video recorded?

19 A. Yes, it was.

20 Q. And does State's 101 contain a portion
21 of your interview with him?

22 A. Yes, sir.

23 MR. DURANT: Any objection to State's
24 Exhibit 101.

25 MS. NORRIS: No objection.

1 THE COURT: State's 101 into evidence
2 without objection.

3 (STATE'S EXH. 101 in evidence.)

4 (Playing video in open court.)

5 BY MR. DURANT:

6 Q. So if nothing else, it appears like he
7 had a difficult time remembering what he was
8 wearing that day?

9 A. Yes, sir.

10 Q. So that is the crux of what he told you
11 that day; is that correct?

12 A. Yes, sir.

13 Q. Did you believe him? Did you believe
14 him?

15 A. No, sir.

16 Q. Okay. Let's jump ahead to March 21st
17 of 2017. What did you do in reference to this case
18 that day?

19 A. Prepared a search warrant for this
20 iPhone.

21 Q. Well, why? Because you've already said
22 that y'all couldn't get in there?

23 A. Paul McManigal -- Sergeant McManigal
24 had contacted me and said that money had come
25 available through the Federal Bureau of

1 Investigation, the number being \$25,000, was
2 available for cell phone usage on criminal cases.

3 I told Sergeant McManigal this case
4 would be a good case to attempt to open up this
5 phone at any expense. And, at that time, I
6 prepared a search warrant.

7 Q. Okay. And, obviously, this technology
8 had changed somewhat between December of 2016 and
9 March of 2017, correct?

10 A. Yes, sir.

11 Q. Now, did you a get a search warrant for
12 the phone?

13 A. I did.

14 Q. And who did you deliver it to?

15 A. Sergeant McManigal. I turned my search
16 warrant over to him.

17 Q. Okay. And moving ahead a few weeks to
18 May of 2017, do you know whether or not Mr. --
19 Deputy McManigal was able to dump the phone?

20 A. He was able to dump it, yes, sir.

21 Q. And what did y'all learn from the dump
22 of the phone?

23 MS. NORRIS: Objection.

24 THE COURT: What's the basis?

25 MS. NORRIS: This witness did not do

1 the dump. That would be Detective McManigal.

2 THE COURT: Counsel, approach.

3 (Bench conference.)

4 THE COURT: Ms. Norris, I will give you
5 the opportunity outside the presence of the jury to
6 fully articulate your objection. I am overruling
7 your objection.

8 MS. NORRIS: Yes, Your Honor.

9 BY MR. DURANT:

10 Q. And I don't want the specifics, but
11 what in general terms did y'all learn from the dump
12 of this cell phone, specifically the text messages?

13 A. There was text messages between Joseph
14 Brown and an individual by the name of Red.

15 Q. And what were the subject matter of
16 those text messages?

17 MS. NORRIS: Continuing objection.

18 THE COURT: Noted for the record.

19 THE WITNESS: Planning a robbery
20 involving Mr. Pritchard.

21 BY MR. DURANT:

22 Q. And were y'all able to obtain a phone
23 number for this fellow named Red?

24 A. There was one available, yes.

25 Q. Because he was in there as a contact,

1 correct?

2 A. Yes, sir.

3 Q. Who did you suspect was Red?

4 A. Trey Coleman.

5 Q. Why?

6 A. Because he had been with Mr. Pritchard
7 prior to the robbery. They had been in the Family
8 Dollar; they had been to the liquor store;
9 Mr. Coleman was on body cam at [REDACTED] East Thomas
10 wearing all of the same clothes.

11 So we believed at that time Trey
12 Coleman to be the person Red.

13 Q. Okay. Because he had been with Mr. --
14 he had been with Mr. Pritchard, right?

15 A. Oh, yeah. Right up to, you know, what
16 happened.

17 Q. And the person that was texting with
18 Joe Joe was with Mr. Pritchard, wasn't he?

19 A. Yes.

20 Q. And I believe you've already mentioned
21 the clothes. He was wearing these clothes at the
22 Family Dollar store, correct?

23 A. Yes.

24 Q. That very distinctive striped shirt,
25 the red and black hat, and a real good picture of

1 him leaving the store; is that correct?

2 A. Yes, sir.

3 Q. Did you have any picture of him on the
4 body cam?

5 A. Yes.

6 Q. Wearing the same clothes --

7 A. Yes.

8 Q. -- correct? Right afterwards?

9 A. Yes, sir.

10 Q. True? That was within minutes of y'all
11 getting to the crime scene, correct?

12 A. Yes.

13 Q. And you went back and looked at the
14 person that had picked up Joseph Brown --

15 A. Yes.

16 Q. -- on the Perez video. And what
17 conclusion did you reach from that?

18 A. That the picture resembled Trey
19 Coleman.

20 Q. He exactly resembled Trey Coleman in
21 terms of the clothing that he was wearing?

22 A. Yes.

23 Q. Moving ahead to May 2 of 2017. Was
24 Trey Coleman taken into custody?

25 A. Yes.

1 Q. And were you also able to interview
2 him?

3 A. Yes.

4 Q. Where?

5 A. The Charleston County Sheriff's Office.

6 Q. And we won't go into the details of
7 that, that's for another day. But were you able to
8 ever determine whether or not the victim had
9 withdrawn any cash recently?

10 A. Yes.

11 Q. What did you discover and how did you
12 discover it?

13 A. Through bank records of --

14 MS. NORRIS: Objection, basis; unless
15 there's some foundation for this.

16 MR. DURANT: And I think he was about
17 to say that.

18 THE COURT: Overruled. You may answer.

19 THE WITNESS: December 20th, 2016, \$700
20 was withdrawn.

21 BY MR. DURANT:

22 Q. And that came from his bank records?

23 A. Yes.

24 Q. That was provided to you by his mother;
25 is that correct?

1 A. Yes.

2 MR. DURANT: Court's indulgence?

3 Could you please answer any questions
4 that Ms. Norris may have for you?

5 MS. NORRIS: Could we take a brief
6 comfort break?

7 THE COURT: We'll take a short comfort
8 break. We're going to end promptly at five. If
9 that's not sufficient time, please let the bailiff
10 know. Thank you.

11 Please rise for the jury.

12 (Jury out, 4:17)

13 THE COURT: Thank you. Be seated.
14 We'll take about five minutes.

15 MR. DURANT: Your Honor, can we
16 approach just briefly --

17 THE COURT: Let's take our comfort
18 break and then we'll come back.

19 (A recess transpired.)

20 THE COURT: Let me see y'all just for
21 scheduling.

22 (Jury in, 4:33 p.m.)

23 THE COURT: Thank you. Be seated.

24 Ms. Norris, your witness. And take all
25 the time you need, but we're ending at five.

1 MS. NORRIS: I promise we will.

2 Detective Goldstein and I get along fine.

3 THE WITNESS: We do.

4 CROSS-EXAMINATION

5 BY MS. NORRIS:

6 Q. All right. Detective, do you recall
7 what you were wearing eight days ago?

8 A. Eight days ago? Depending on what day;
9 work is a coat and tie and weekend is shorts.

10 Q. You can't say for certain what you were
11 wearing eight days ago?

12 A. No, ma'am.

13 Q. And now you learned in your
14 investigation, and we've had some testimony, but
15 you learned that Mr. Pritchard had come into some
16 money?

17 A. Yes.

18 Q. And basically everybody in the
19 neighborhood knew that, right?

20 A. I don't know who in the neighborhood
21 knew what.

22 Q. Okay. Now, as a case agent, I assume
23 that you reviewed all of the evidence?

24 A. Yes.

25 Q. So you reviewed the 911 call, for

1 example?

2 A. Yes.

3 Q. Okay. And in that do you recall that
4 Mr. Potter (SIC) said that he was unsure of the
5 race of the shooter?

6 A. Yes.

7 Q. And did you also review the body
8 cameras?

9 A. Yes.

10 Q. So you're aware that he told
11 Detective -- or Deputy Gillard that he didn't see
12 the shooter leave because he was in the kitchen.

13 A. Yes.

14 MR. DURANT: Your Honor, I have a
15 matter of law. I think the appropriate people that
16 she needs to ask these questions to have already
17 been on the stand. I would think she needs to
18 cross-examine them and not bring out testimony
19 through him.

20 THE COURT: Overruled.

21 BY MS. NORRIS:

22 Q. And he also told Detective -- or Deputy
23 Gillard that he thought that the shooter was black,
24 but his face was covered, right?

25 A. Yes.

1 Q. And to Deputy Hamill, and I believe
2 we've played this clip in court -- or maybe not.
3 I'll just ask you. He told Detective -- or Deputy
4 Hamill that he thinks the guy was in his mid 30s,
5 but he had his face covered?

6 A. Yes.

7 Q. And then he told Deputy Simlitch that
8 he didn't see a robbery, he just heard that cash
9 was taken, right?

10 A. I'm not familiar, you know, with that.
11 There was so many body cams and, you know, so many
12 people we spoke to.

13 Q. Well, basically my point is, would you
14 agree with me that Mr. Potter's statements were
15 sort of a moving target?

16 A. A lot of it was going -- a lot was
17 going on inside that house, yes, according to what
18 he gave me in my statement.

19 Q. And so, to your statement, he said that
20 the shooter was a black male?

21 A. Yes.

22 Q. In his late 20s or 30s?

23 A. Yes.

24 Q. He wasn't a teenager?

25 A. No.

1 Q. He did or didn't say it?

2 A. No, he didn't say. He said 20s to 30s.

3 Q. All right. All right, Detective --

4 MS. NORRIS: May I approach?

5 THE COURT: You may.

6 BY MS. NORRIS:

7 Q. Detective, I want to show you a
8 transcript that I had --

9 A. Thank you.

10 Q. Oh, I'm sorry that's a 911 call. I'm
11 sorry. Let me try that again. Now I will hand you
12 the right --

13 A. Thank you.

14 Q. I'm going to ask you to look at that
15 and see if that appears to be an accurate
16 transcript of the audio statement that you took.

17 A. Yes.

18 Q. And does that refresh your recollection
19 that he said specifically that the shooter was not
20 a teenager?

21 A. He was not -- he was not a teenager.
22 That's correct.

23 Q. And he told you that the shooter was
24 dressed in black?

25 A. Yes.

1 Q. And he also said that the shooter had a
2 hat on, right?

3 A. Yes.

4 Q. And then you talked with Celeste
5 McBride?

6 A. That's correct.

7 Q. And you got the cell phone, and you
8 talked with Allen McBride. Both of those have
9 testified for us.

10 A. Yes.

11 Q. And now, in your interview of Merit
12 Lafond Williams -- let me get that transcript back
13 from you.

14 A. Yes, ma'am.

15 Q. In your interview of Mr. Williams that
16 Mr. Durant asked you about his description, he also
17 said that the guy was wearing a skully cap,
18 correct?

19 A. I would have to look at that
20 transcript.

21 MR. DURANT: Your Honor, this calls for
22 hearsay for sure.

23 MS. NORRIS: Your Honor, Mr. Durant put
24 in virtually the entire statement. I --

25 THE COURT: That's not how the rules

1 work. So is there an exception to -- is this
2 hearsay and is there an exception?

3 MS. NORRIS: May we approach, Your
4 Honor.

5 THE COURT: You may.

6 (Bench conference)

7 THE COURT: You may -- you may answer
8 that question.

9 BY MS. NORRIS:

10 Q. Do you recall, or do you need --

11 A. What's that, ma'am?

12 Q. My question was: Did Mr. Williams also
13 tell you that the person he saw was wearing a
14 skully cap with writing on it?

15 A. I'm reading some notes to refresh my
16 memory. A cap with white writing on it.

17 Q. Okay. And he also told you that the
18 person he saw had dreads, right?

19 A. Yes.

20 Q. And now -- moving now to [REDACTED] Brenda B,
21 the home of David Felder. The solicitor played for
22 you the videotape from State's Exhibit 98 that
23 shows basically the shooting of the dog and what
24 was going on out there, correct?

25 A. Yes.

1 MS. NORRIS: Your Honor, there are also
2 screen shots that I would offer as a defense
3 exhibit, but I will need to substitute the actual
4 disk because they're on this disk.

5 THE COURT: All right.

6 MS. NORRIS: I would offer those --

7 THE COURT: Do we need to mark -- what
8 is that number?

9 MS. NORRIS: That will be Defense
10 Exhibit 2.

11 MR. DURANT: I have no objection. I
12 would ask, are those screen shots off of the clip
13 that we played --

14 MS. NORRIS: Yes.

15 MR. DURANT: -- from the clip that we
16 played? Okay.

17 THE COURT: That's State's 89?

18 MS. NORRIS: State's 80 -- 98.

19 MR. DURANT: I don't think that's
20 right. Are we talking about the dog
21 thing?

22 (Off-the-record conference.)

23 MR. DURANT: It's 145.

24 MS. NORRIS: 145.

25 THE COURT: So you're going to take

1 shots off of State's 125 (SIC) and make it
2 Defendant's 2?

3 MS. NORRIS: Yes, Your Honor.

4 THE COURT: And once she does that, is
5 there any objection?

6 MR. DURANT: Pardon me, Your Honor?

7 THE COURT: Any objection to Defense 2?

8 MR. DURANT: No. No.

9 THE COURT: Okay. And you are moving
10 that into evidence once you have --

11 MS. NORRIS: Yes, Your Honor.

12 THE COURT: Once you've completed that,
13 Defense 2 into evidence with no objection.

14 MS. NORRIS: I'm going to move in the
15 rest of State's 145 as Defendant's Exhibit 2.

16 THE COURT: We'll take this up outside
17 of the presence of the jury what you specifically
18 have as 2, but what do we need to do with this here
19 in front of the jury?

20 MS. NORRIS: I just need to play screen
21 shots Ms. Seman has on her computer.

22 THE COURT: All right.

23 BY MS. NORRIS:

24 Q. All right. And is that Deputy Gillard?

25 A. It looks like -- that guy has glasses.

1 It looks like Hamill.

2 Q. All right. So -- all right. Give us
3 the next screen shot please. And so that's you --

4 A. That's me.

5 Q. -- in the yellow shirt?

6 A. That's me right there.

7 Q. All right. And is your weapon drawn
8 there?

9 A. No, I'm just holding it. It's still in
10 the holster.

11 Q. Okay.

12 A. I just had the grip.

13 Q. All right. Next one, please?

14 A. Still too far way.

15 Q. It's moving in. All right. Next one.
16 And there's you and the dog?

17 A. Okay.

18 Q. Next one, please. Pretty close to the
19 dog. Next one. Next one, please. Next one. And
20 there is where you actually see the shoes?

21 A. The dog is coming.

22 Q. All right. Next one. And there -- are
23 those your pants legs that you see in the shot
24 there?

25 A. I would have to go back.

1 Q. Okay. Back it up, please.

2 A. All right. Those look like beige
3 pants. Those look beige.

4 Q. Okay. Next one?

5 A. Okay. Those are my shoes.

6 Q. Okay. Next one. And when that
7 happened, the other officer -- do you know who that
8 officer is?

9 A. That's Michael Thompson, detective.

10 Q. Looks like Mr. -- Detective Thompson
11 was already handcuffing Mr. Felder, correct?

12 A. Correct.

13 Q. All right. Next one. Just another
14 view. Next one. And then you move over, and
15 you're touching Mr. Felder's left arm?

16 A. After the shot goes off, yes.

17 Q. Are there any more of those? Two more.
18 All right. And there's just another view where
19 you're touching him. The next one. And then the
20 final screen shot.

21 A. Right.

22 Q. And all of those are accurate with your
23 recollection of what happened out there?

24 A. Yes.

25 Q. All right. And now you -- when you

1 interviewed David Felder and told us about his
2 alibi, his alibi was his girlfriend and her sister,
3 right?

4 A. Correct.

5 Q. And he told you that he had actually
6 been to court in Dorchester County?

7 A. Dorchester County, yes.

8 Q. And I assume you're aware that
9 Dorchester's courthouse was not holding court on
10 December 23rd?

11 A. Correct. On that day I took that, and
12 I had a follow-up with it and called the
13 courthouse.

14 Q. And showing you 132, State's
15 Exhibit 132. Is that Mr. David Felder?

16 A. Yes.

17 Q. And does he indeed have shoulder length
18 dreadlocks?

19 A. Yes, he has dreadlocks.

20 Q. And showing you 133. His clothing also
21 had 23 on the back, correct?

22 A. Yes.

23 Q. And you actually took those -- took
24 those clothing into custody, right?

25 A. Yes.

1 Q. All right. And you took his jacket?

2 A. I took all of his clothes.

3 Q. You took his jacket, his pants. And he
4 had a cap with writing on it, correct?

5 A. Yes.

6 Q. And did you send those off to SLED for
7 testing?

8 A. Yes.

9 Q. And when you took his clothing, were
10 you wearing evidence gloves basically to protect
11 the integrity of the evidence?

12 A. No.

13 Q. Are you sure about that?

14 A. Looking at this picture here, I don't
15 have gloves on there; and looking at this picture
16 here, I don't have gloves on there.

17 Q. Well, not in those pictures, but when
18 you actually touched his clothing when you took
19 them into evidence, were you wearing gloves?

20 A. I don't recall. I believe I was not.

21 Q. Would it assist you to see a screen
22 shot from the interview with David Felder?

23 A. Yes, that's fine. Yes, ma'am.

24 MS. NORRIS: I have a screen shot so he
25 will have the printout, but I offer that as Defense

1 Exhibit 3 I believe without objection.

2 MR. DURANT: No objection.

3 (STATE'S EXH. 3, Screen shot, in
4 evidence.)

5 BY MS. NORRIS:

6 Q. And can you see there that you are
7 wearing gloves?

8 A. Yes; in this picture I'm wearing a pair
9 of latex gloves.

10 Q. And that was shortly after you took his
11 clothes into evidence?

12 A. Yes.

13 Q. And you also did a GSR test on his
14 hands?

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

16 Q. And you sent all those off to SLED?

17 A. Yes.

18 MS. NORRIS: Give me just a second. I
19 don't have any further questions. Thank you,
20 Detective.

21 THE COURT: Mr. Durant?

22 MR. DURANT: Just a couple.

23 REDIRECT EXAMINATION

24 BY MR. DURANT:

25 Q. It's clear from what we saw that

1 happened at [REDACTED] Brenda B, that you weren't wearing
2 gloves there, right?

3 A. No, sir.

4 Q. And you were standing right next to the
5 officer that shot the dog?

6 A. Yes, sir.

7 Q. And you also had your hands on your
8 weapon, correct?

9 A. Yes.

10 Q. And then you had your hands all over
11 Mr. Felder?

12 A. Yes.

13 Q. And when you were being asked about the
14 description given to you by Mr. Williams, she
15 forgot to ask you about the part where he said it
16 was a young boy?

17 A. Yes.

18 Q. And that's what he told you, correct?

19 A. Yes.

20 MR. DURANT: I have nothing further.

21 MS. NORRIS: Nothing further, Your
22 Honor.

23 THE COURT: All right. Ladies and
24 gentlemen, I told you, you would be out by five.
25 So thank you to the attorneys for allowing you to

1 break promptly.

2 Ladies and gentlemen, please remember
3 all of my admonitions. Do not read or watch any
4 news accounts regarding this case; do not talk
5 about this case; do not do any independent
6 investigations.

7 If you'll leave your notepads right
8 where you are. Ladies and gentlemen, if you'll
9 report back at 9:30, 9:30. Have a wonderful
10 evening.

11 (Jury out, 5:05 p.m.)

12 THE COURT: Thank you. Please be
13 seated. Just for scheduling, what do you think the
14 plan is?

15 MR. DURANT: I think probably I should
16 rest around lunch tomorrow or right after.
17 Hopefully, right around there.

18 THE COURT: All right.

19 MR. DURANT: And pursuant to our
20 previous bench side conference, I think both
21 defense and prosecution would ask that if we close
22 out the evidence tomorrow, that we argue and charge
23 on Thursday morning, if the Court has no --

24 THE COURT: How many witnesses do you
25 believe you have?

1 MS. NORRIS: Your Honor, right now I
2 think I have the gunshot residue expert from SLED
3 who I'll ask to be here after lunch, and I have one
4 very short brief witness, Jennifer McBride, who is
5 the rest of the family that we've already seen.

6 THE COURT: All right. I'm going to go
7 ahead and advise your client of his right to
8 testify, and you'll have the evening hour and
9 tomorrow to talk to him about that.

10 Mr. Brown, if you would please stand.

11 JOSEPH BROWN,

12 being first duly sworn, testified as follows:

13 EXAMINATION

14 BY THE COURT:

15 Q. Mr. Brown, we're doing this a little
16 early, but I like to advise defendants of their
17 right to testify -- are you okay?

18 A. Yes, ma'am.

19 Q. I like to advise defendants of their
20 right to testify as early as I can so that you have
21 an opportunity to speak to your attorneys over the
22 evening hour and then possibly over the lunch hour
23 tomorrow. I'm not expecting an answer today. Do
24 you understand that?

25 A. Yes.

1 Q. Sometime tomorrow we will reach the
2 stage of the trial where you may present your
3 defense, assuming that the post-trial motions do
4 not go in your favor. You have the right to claim
5 the protections given to you by the Fifth Amendment
6 to the Constitution of the United States.

7 This amendment states in part that no
8 person shall be compelled in any criminal case to
9 be a witness against himself. This means that you
10 cannot be required to testify in this case. You
11 have the right to testify on your own behalf. No
12 one can make you testify. This is a personal right
13 and no one can waive this right except for you.

14 If you decide to testify, you will be
15 subject to the same rules that govern other
16 witnesses, and you may be examined and cross
17 examined on any relevant issue in this case.

18 In addition, if you have any
19 convictions involving dishonesty or false statement
20 or crimes punishable by imprisonment for more than
21 one year, and I determine the probative value of
22 admitting that evidence outweighs the prejudicial
23 effect to you, the solicitor will be able to
24 introduce your record to attack its credibility.

25 Does he have prior convictions that you

1 intend to use?

2 MR. DURANT: Yes, Your Honor. He has a
3 -- was originally charged with a couple of counts
4 of armed robbery -- or a count of armed robbery and
5 a couple maybe that he didn't get convicted of
6 that. He was convicted of A and B, first degree, I
7 believe two counts, and a strong armed robbery.

8 THE COURT: All right.

9 BY THE COURT:

10 Q. And if you decide to testify, this
11 decision on your part must be freely, voluntarily,
12 and intelligently made with the knowledge of the
13 protections given to you by the Fifth Amendment and
14 the consequences of your decision to testify.

15 If you decide not to testify, I will
16 instruct the jury that they cannot give the fact
17 that you did not testify any consideration
18 whatsoever, and there's to be absolutely no
19 prejudice to you because you did not testify. It
20 is left entirely up to you whether or not you
21 testify.

22 You may talk with your attorneys, your
23 friends, your family, or anyone else, but the final
24 decision will be left entirely up to you. Do you
25 understand what I'm explaining to you?

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

2 Q. Do you have any questions about what
3 I've explained to you?

4 A. Well, I do have a question, but it's
5 probably -- I mean, I -- honestly, on the
6 testifying part, I don't want to testify. I'm not
7 a lawyer; I don't know the law. But I would like
8 to have a chance to say something. And I don't
9 want to defend myself, but I want to say something.

10 I don't want to testify; I'm not a
11 lawyer. I don't know, I would like to say
12 something.

13 Q. So you want to speak directly to the
14 jury, is that what you're saying?

15 A. I would like Ms. Norris to defend me,
16 but I would like to get on the stand and testify.
17 When we close, will I be able to say something? I
18 don't want to testify. I'm just trying --

19 Q. So if you wish to address the jury,
20 you're going to have to do it from the witness
21 stand just like every other witness has said, and
22 that's what I just went over with you.

23 Ms. Norris can ask you the questions.
24 And, typically, on direct she'll say, then tell me
25 what's next. But Mr. Durant will have the

1 opportunity to cross examine you, and that's -- he
2 has significant leeway on the questions that he's
3 able to ask you, and you must answer those
4 questions.

5 Did that answer your question, Mr.
6 Brown?

7 A. Yes, ma'am.

8 Q. We just don't have that opportunity.
9 It's an adversarial system that we have, and so
10 that's -- that's how the system is going to work.
11 But assuming at some point, if it becomes
12 applicable, I would allow you to address the Court
13 directly. Do you understand?

14 A. Yes, ma'am.

15 Q. But it would be outside of the presence
16 of the jury.

17 A. Yes, ma'am.

18 Q. Any other questions?

19 A. No, ma'am.

20 Q. Have you --

21 A. Well, I have a question.

22 Q. Yes, sir.

23 A. When I get my verdict, and let's say
24 it's a hung jury, how does that happen with my
25 bond? Will you let me out? I would like to know.

1 Q. We'll address that issue. A lot of
2 things have to occur before we get to that stage.

3 A. Yes, ma'am. I don't have any further
4 questions, ma'am.

5 Q. Have you had an opportunity to discuss
6 with your lawyers whether or not you should
7 testify?

8 A. I mean, not since we started trial, but
9 we had talked before.

10 Q. In the past. So this is not a foreign
11 concept, you having the conversation in some
12 context?

13 A. Yes, ma'am.

14 Q. All right. And so, Mr. Brown, we're
15 going to break for the evening. And I don't know
16 what the schedule is of your attorneys, but I'm
17 sure before I ask you the final question, you're
18 going to have significant time to discuss this
19 issue with them.

20 A. Yes, ma'am.

21 Q. Thank you. You may have a seat.

22 THE COURT: Do we need to address -- do
23 you want to know -- do you want know the rulings on
24 his prior convictions, or do you want to do that --

25 MS. SEMAN: Your Honor, I guess

1 whatever is your preference. At this point -- I
2 can just take them up before he testifies, if
3 that's the case. If that's all right with the
4 Court.

5 THE COURT: That's fine with me. Thank
6 you.

7 MR. DURANT: And once again for
8 scheduling, Your Honor, I want to be sure before I
9 walk out of here that you are okay with us arguing
10 Thursday morning.

11 THE COURT: Thursday is fine.

12 MR. DURANT: Okay. Thank you.

13 MS. SEMAN: And, Judge, I do have an
14 exhibit that we're going to substitute as
15 Exhibit 3.

16 MS. NORRIS: It's the last screen shot.

17 THE COURT: If you'll make that
18 arrangement as well with the Court Reporter. Thank
19 you.

20 Don't leave, Mr. Falk.

21 MR. FALK: Yes, Your Honor.

22 THE COURT: So if there's any proposed
23 jury instructions that you think I need to --
24 because I'm going to wrap up the charges tonight.

25 MR. DURANT: I'm assuming -- I don't

1 really have anything that comes to mind with this
2 particular case. My concern was more regarding
3 Mr. Coleman's case, but we will be having -- have
4 an opportunity to look at your charge tomorrow
5 sometime.

6 THE COURT: Correct.

7 MS. SEMAN: Your Honor, I know we do
8 have at least one addition, but I will send it to
9 you by e-mail tonight.

10 THE COURT: Okay. All right. We'll be
11 at ease, we'll be back in this case at 9:30.

12 (These proceedings were recessed at
13 5:13 p.m., to be continued 6/13/18 at 9:30 a.m.)

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1 (The following proceedings were had
2 June 13, 2018, Charleston County General Sessions
3 Court, 10:27 a.m.)

4 THE COURT: Just for scheduling,
5 anything we need to talk about, Mr. Durant?

6 MR. DURANT: I don't believe so, Your
7 Honor.

8 THE COURT: Ms. Seman?

9 MS. SEMAN: No, Your Honor.

10 THE COURT: Anything before we begin?

11 MS. NORRIS: Nothing for scheduling,
12 Your Honor; just housekeeping. I have the disk of
13 the clips that were played of Nautica Manigault
14 yesterday that I want to mark as a court exhibit.

15 THE COURT: Okay.

16 (COURT'S EXH. 5, DVD, Nautica
17 Manigault, was marked for identification.)

18 MS. NORRIS: And just so our record is
19 clear, on the second clip on there, we stopped
20 playing before anything about dreads.

21 THE COURT: Okay.

22 MS. NORRIS: And I also have Defense
23 Exhibit 2, which was the series of screen shots
24 involving the dog.

25 (DFT. EXH. 2, Screen shots of dog, was

1 marked for identification.)

2 THE COURT: Anything else?

3 MR. DURANT: Nothing from the State,
4 Your Honor.

5 MS. NORRIS: No, Judge.

6 THE COURT: All right. Let's bring in
7 the jury.

8 (Jury in, 10:20 a.m.)

9 THE BAILIFF: All jurors present and
10 seated, Your Honor.

11 THE COURT: Thank you. Please be
12 seated.

13 Ladies and gentlemen, if you complied
14 with my instructions, raise your right hand.

15 THE JURY: (Raised hands)

16 THE COURT: Thank you. All jurors have
17 complied with the Court's instruction. Call your
18 next witness.

19 MR. DURANT: The State would call Paul
20 McManigal.

21 PAUL DAVID MCMANIGAL,

22 being first duly sworn, testified as follows:

23 THE CLERK: Please state your full name
24 for the record, spelling your last name for us.

25 THE WITNESS: Paul David McManigal,

1 M-C-M-A-N-I-G-A-L.

2 DIRECT EXAMINATION

3 BY MR. DURANT:

4 Q. Good afternoon, (sic) Deputy. Could
5 you please tell our jury where you're employed?

6 A. With the Charleston County Sheriff's
7 Office.

8 Q. And you've been with the sheriff's
9 office how long?

10 A. This July will be 30 years.

11 Q. And let's go through your history with
12 the sheriff's office a little bit. When did you
13 start with them and what did you do?

14 A. I started in 1988 as a patrol deputy, I
15 worked in patrol for nine years. In 1997, I
16 switched to the crime scene investigation unit. I
17 was a crime scene investigator for nine years
18 before I took over the unit, and I became the
19 forensic supervisor until 2015.

20 Q. Okay. And what is your current job
21 with the sheriff's office?

22 A. I'm a computer forensic examiner.

23 Q. And you are a master deputy; is that
24 correct?

25 A. That is correct.

1 Q. And what is a computer forensic
2 examiner?

3 A. Well, I process computers, laptops,
4 mobile devices to try to extract evidence for
5 investigations.

6 Q. Okay. And to what unit are you
7 currently assigned?

8 A. I'm currently assigned to the United
9 States Secret Service on their Electronic Crimes
10 Task Force.

11 Q. How long have you been a computer
12 forensic examiner with the task force?

13 A. I started in 2011, and went full-time
14 in 2015.

15 Q. And your job with the task force is as
16 you previously described, examining computers and
17 similar type components for potential evidence,
18 correct?

19 A. That's correct.

20 Q. What training have you had as a
21 forensic examiner?

22 A. Bear with me one moment, please.
23 Secret Service primarily uses the National Computer
24 Forensic Institute in Hoover, Alabama for their
25 training. So at the Computer Forensic Institute,

1 I've been trained in basic computer evidence
2 recovery, advanced computer forensics, black light
3 examiner, advanced mobile device examiner,
4 Cellebrite physical and logical examination, XRY
5 certification training.

6 And then from the National White Collar
7 Center, I've been trained in McIntosh triage and
8 imaging, Apple iDevice forensics; and then I've
9 also been trained by Cellebrite for advance J tag
10 extraction, and from Oxygen Forensics as an oxygen
11 forensics examiner.

12 Q. And I'm not going to go into all of
13 that with you, but it sounds pretty impressive. Do
14 you hold any certifications?

15 A. Yes, sir. Currently, I'm certified as
16 an Access Data Certified Examiner, Cellebrite
17 Certified Operator, Certified Black Light Examiner,
18 and I'm also certified in Cellebrite Advance JTAG
19 Extraction.

20 COURT REPORTER: Cellebrite what? Say
21 the last name, Cellebrite what?

22 THE WITNESS: Cellebrite JTAG, J-T-A-G.

23 BY MR. DURANT:

24 Q. And you've mentioned Cellebrite a
25 couple of times. Let's talk a little bit about

1 Cellebrite. What is Cellebrite?

2 A. Cellebrite is a global company that
3 focuses on mobile device forensics.

4 Q. And do they develop -- specifically, do
5 they -- do they specialize in any particular kind
6 of device?

7 A. They focus primarily on developing
8 hardware and software that is used by law
9 enforcement to extract data from mobile devices,
10 like cell phones.

11 Q. Cell phones and tablets, things of that
12 nature?

13 A. Yes, sir.

14 Q. And you have been certified by
15 Cellebrite in the use of their hardware and
16 software?

17 A. I have.

18 Q. And I believe you hold two different
19 certifications from them; is that correct?

20 A. Yes, sir.

21 Q. And you've been certified with them for
22 how long?

23 A. The first certification was in 2015.

24 Q. And if you would, what does their
25 software do -- their hardware and software do?

1 A. It will extract data from all devices,
2 like cell phones and tablets, and then it will
3 organize that data into categories and export it as
4 a report.

5 Q. Now, pursuant to the search warrant,
6 did you have the occasion to perform a Cellebrite
7 examination on an iPhone 5, Model 1429 related to
8 this case?

9 A. I did.

10 Q. And I hand you what's been marked as
11 State's Number 63, and ask if that is the phone you
12 examined.

13 A. It is.

14 Q. How do you know?

15 A. The IMEI number is on the back of the
16 phone, which is the same as my report and also the
17 other markings on the phone.

18 Q. And what is an IMEI number?

19 A. That is a number that identifies mobile
20 devices. It's used to identify them on the network
21 so that the network knows what device it's talking
22 to.

23 Q. And does every device have a different
24 IMEI number?

25 A. That is correct.

1 Q. It's kind of like a serial number --

2 A. Yes.

3 Q. -- on something else?

4 A. That's correct.

5 Q. Okay. And I believe you first did an
6 extraction on that phone in 2017; is that correct?

7 MS. SEMAN: Objection, Your Honor,
8 based on our pretrial.

9 MR. DURANT: You can answer -- I think?

10 THE COURT: Yes. That's noted for the
11 record. Yes.

12 THE WITNESS: That is correct.

13 BY MR. DURANT:

14 Q. And do you recall when?

15 A. One moment, please. The first time I
16 processed a phone was May 17th, 2017.

17 Q. Okay. And you were able to extract the
18 data from it and create a report; is that correct?

19 A. That is correct.

20 Q. And in that report, what times were
21 noted on your report, local time or UTC time?

22 A. In the first extraction, it was a UTC
23 time.

24 Q. And what is UTC?

25 A. UTC stands for Corrected Universal

1 Time. It is formally known as Greenwich Meantime.
2 Since the world is split up into time zones, UTC is
3 a time zone at zero degrees longitude. All other
4 time zones have to be corrected off of UTC.

5 Q. Okay. So with regard to your first
6 dump, all the times we got were in UTC time, which
7 was -- used to be called Greenwich Meantime,
8 correct?

9 A. That is correct.

10 Q. And the difference between Greenwich --
11 UTC time and local time varies depending on the
12 time of the year, correct?

13 A. That's correct; Daylight Savings Time
14 is different from Standard Time.

15 Q. And in December of the year, what is
16 the difference between UTC time and local time?

17 A. That will be minus five hours from UTC
18 time.

19 Q. And that's because in December there is
20 no Daylight Savings Time, correct?

21 A. That is correct. It would be Eastern
22 Standard Time.

23 Q. And when we are in Daylight Savings
24 Time, then there's a four-hour difference, correct?

25 A. That is correct.

1 Q. Okay. So because our office got tired
2 of doing the addition and subtraction, were you
3 asked to extract the phone again?

4 A. Yes, sir.

5 Q. And that was done when?

6 A. The second extraction was April 26th,
7 2018.

8 MS. SEMAN: Objection, Your Honor;
9 pretrial motion.

10 THE COURT: Noted for the record.

11 BY MR. DURANT:

12 Q. And in that extraction, were you asked
13 to have the Cellebrite software convert times to
14 local time?

15 A. That is correct.

16 Q. So you were able to perform a second
17 extraction?

18 A. That is correct.

19 Q. And that was provided to us on a DVD;
20 is that correct?

21 A. That is correct.

22 Q. And now at this point, I want to show
23 you some documents that were derived from your
24 phone dump and see if you can identify them for us
25 as being part of your phone dump from April of

1 2018.

2 MR. DURANT: Your Honor, we would offer
3 State's 108 at this time. I'm assuming that they
4 would have the same objection and that they would
5 like to preserve it.

6 MS. SEMAN: Yes, Your Honor, we are
7 renewing our objection.

8 THE COURT: State's Exhibit 108 into
9 evidence, noting your previous objection.

10 MS. SEMAN: Thank you.

11 (STATE'S EXH. 108, Phone extraction
12 report, in evidence.)

13 BY MR. DURANT:

14 Q. And, Deputy McManigal, I hand you
15 State's 108 and just ask you, what is that
16 document?

17 A. This is the summary from the first --
18 or the second extraction report I created.

19 Q. Okay. And what is the date of that
20 report?

21 A. April 26, 2018.

22 Q. And what is the time zone setting for
23 your report?

24 A. The time zone setting on this form is
25 ETC minus five, which would be Eastern Standard

1 Time.

2 Q. Okay. And what was the phone number
3 for the iPhone that you extracted the data from?

4 A. The device phone number is area code
5 843, 557-3277.

6 Q. And what was the model number of that
7 iPhone?

8 A. That is an iPhone 5, Model A-1429.

9 Q. And what is the IMEI number of that
10 iPhone?

11 A. The IMEI number is 990002882094137.

12 Q. And you've previously indicated that is
13 an identifier unique to that specific phone?

14 A. That's correct. It identifies the
15 phone on the network.

16 Q. Okay.

17 MR. DURANT: Your Honor, at this time
18 we would offer State's Exhibit 109.

19 MS. SEMAN: And we would renew our
20 objection, Your Honor.

21 THE COURT: State's 109 in evidence
22 noting the previous objection.

23 (STATE'S EXH. 109, Phone extraction
24 report, in evidence.)

25 MR. DURANT:

1 Q. And if you would, I'm handing you now
2 what's been marked as -- or State's 109 in
3 evidence, and ask you if you recognize that
4 document as being part of your report.

5 A. I do. This is a section from the
6 contact listing from the phone.

7 Q. Okay. And just in general, while we're
8 going through this, you note that some of the
9 information on State's 108 has been highlighted; is
10 that correct?

11 A. That's correct.

12 Q. That was done by us, not by you; is
13 that correct?

14 A. That's correct.

15 Q. And any redactions that may appear on
16 these -- any of these documents was done by us and
17 not by you; is that correct?

18 A. That is correct.

19 Q. And that is page 763 of your report; is
20 that correct?

21 A. That is correct.

22 Q. And who is the highlighted contact on
23 that report?

24 A. The name listed in the contact is Red,
25 R-E-D.

1 Q. And what is the telephone number
2 associated with Red in that report?

3 A. The telephone number is area code 843,
4 609-9577.

5 MR. DURANT: Okay. At this time, we
6 would offer State's 112 into evidence.

7 MS. SEMAN: Your Honor, we renew our
8 earlier objection and also add relevance. Thank
9 you.

10 THE COURT: State's 112 into evidence
11 noting your previous objection.

12 (STATE'S EXH. 112, Phone extraction
13 report, in evidence.)

14 BY MR. DURANT:

15 Q. Okay. And could you tell me if State's
16 112 is part of your report?

17 A. It is.

18 Q. And what is -- what is that? What part
19 of your report is that?

20 A. This is a section of the text messages
21 from the phone.

22 Q. Okay. Because Cellebrite will break it
23 down into a text message log --

24 A. That's correct.

25 Q. -- And a phone log and a multimedia

1 message log, and breaks it out like that; is that
2 correct?

3 A. Yes, sir. It separates everything into
4 categories for images and videos and text messages,
5 et cetera.

6 Q. Okay. And that is a text message dated
7 -- the highlighted text message on that page is
8 from what date?

9 A. December 15th, 2016.

10 Q. Okay. And that is a text message
11 basically between who and who?

12 A. This is a text message from the owner
13 of the phone and the contact listed as Red.

14 Q. Okay.

15 MR. DURANT: Your Honor, at this time
16 we would offer State's Exhibit Number 110.

17 MS. SEMAN: Your Honor, we renew our
18 earlier objection and 403.

19 THE COURT: State's 110 into evidence,
20 noting your objection.

21 (STATE'S EXH. 110, Phone extraction
22 report, in evidence.)

23 BY MR. DURANT:

24 Q. And I now hand you what's been
25 introduced as State's Exhibit Number 110 into

1 evidence, and ask if you recognize that as being a
2 portion of your report.

3 A. It is.

4 Q. And what part of your report does that
5 come from?

6 A. This is a section of the timeline.

7 Q. And what is a timeline?

8 A. The timeline takes everything in the
9 report, regardless of the category, and puts it in
10 chronological order.

11 Q. Okay. So -- and if you would, what
12 kind of things does it put into chronological
13 order?

14 A. Any event on a phone, whether it be
15 text messages or photographs or iMessages.

16 Q. Or phone calls?

17 A. Phone calls are included.

18 Q. Or the phone takes a picture?

19 A. That's correct.

20 Q. Or it gets an alert, or something like
21 that?

22 A. That is correct.

23 Q. So anything that happened with that
24 phone shows up on the timeline like that in
25 chronological order?

1 A. That's correct.

2 Q. And what date does State's Exhibit 110
3 cover?

4 A. December 23rd, 2016.

5 Q. And what are the highlighted portions
6 of that exhibit?

7 A. These appear to be primarily text
8 messages and phone calls between the owner of the
9 phone and the contact listed as Red.

10 Q. Okay. And what time frame does that
11 exhibit cover, on the 23rd of December 2016?

12 A. It covers from 12:55 a.m. to 12:47 p.m.

13 Q. I now hand you what's been marked as
14 State's Exhibit 113.

15 MR. DURANT: Which I would also offer
16 by the way, excuse me.

17 MS. SEMAN: And, Your Honor, I have a
18 continuing objection. Thank you.

19 THE COURT: Noting your objection,
20 State's Exhibit 113 into evidence.

21 (STATE'S EXH. 113, Call log, in
22 evidence.)

23 BY MR. DURANT:

24 Q. Okay. And what is State's Exhibit
25 Number 113?

1 A. This is the call log from the cell
2 phone.

3 Q. And what is the call log?

4 A. A call log lists all calls incoming and
5 outgoing on the phone.

6 Q. And what period of time does that call
7 log cover, date -- date wise?

8 A. November 7th, 2016 to December 23rd,
9 2016.

10 Q. Okay.

11 MR. DURANT: Your Honor, at this time
12 we would offer State's Exhibit 114.

13 MS. SEMAN: And, Your Honor, we renew
14 our earlier objection and relevance.

15 THE COURT: Noting your objection,
16 State's 114 is into evidence.

17 (STATE'S EXH. 114, Phone extraction
18 report, in evidence.)

19 BY MR. DURANT:

20 Q. Deputy McManigal, what is State's 114?

21 A. This is the text messages section of
22 the report, primarily the SMS messages.

23 Q. Okay. And that's from the text message
24 log on the phone; is that correct?

25 A. That is correct.

1 Q. And what dates does that text message
2 log cover?

3 A. November 7th, 2016 to December 23rd,
4 2016.

5 MR. DURANT: Your Honor, at this time,
6 we would offer State's Exhibit 115.

7 MS. SEMAN: Your Honor, the same
8 objection from pretrial and also relevance. Thank
9 you.

10 THE COURT: State's 115 into evidence,
11 noting your objection.

12 (STATE'S EXH. 115, Phone extraction
13 report, in evidence.)

14 BY MR. DURANT:

15 Q. And I hand you what's been marked as
16 State's Exhibit Number 115, and ask you if you
17 recognize where that comes from in your report.

18 A. This is a section of the multimedia
19 messages from the phone.

20 Q. And what is a multimedia message?

21 A. It's similar to a standard text message
22 except that there is some type of multimedia
23 attachment to it, such as a picture or an audio
24 recording.

25 Q. Okay. So if someone, like, sends

1 someone a picture via text message or receives a
2 picture via text message, would that show up as a
3 multimedia?

4 A. That would.

5 Q. Or as a text -- just a regular text
6 messages?

7 A. If it had a picture attached to it, it
8 would show up as a multimedia message instead of a
9 standard text message.

10 Q. Okay. And it doesn't necessarily have
11 to be a picture; it could be like a video or
12 something like that as well, correct?

13 A. That is correct.

14 Q. Okay. And what is the date of that
15 multimedia message?

16 A. This one is December the 12th, 2016.

17 Q. And who is the message from and who is
18 the message to?

19 A. It is an incoming message from a
20 contact listed as Wifey, W-I-F-E-Y, and it's to the
21 owner of the phone.

22 Q. Okay. And there's a photograph
23 attached to that; is that correct?

24 A. There is.

25 MR. DURANT: State's 116, I would offer

1 into evidence.

2 MS. SEMAN: Your Honor, we renew our
3 pretrial objection as relevance, 403, and
4 cumulative. Thank you.

5 THE COURT: 116 into evidence, noting
6 your objection.

7 (STATE'S EXH. 116, Phone extraction
8 report, in evidence.)

9 BY MR. DURANT:

10 Q. I hand you now what's 116 into evidence
11 and ask you what that is?

12 A. This is also a section of the
13 multimedia messages from the report.

14 Q. And what is the date of that message?

15 A. December 3rd, 2016.

16 Q. And that is you said a multimedia
17 message. So that is a message with some sort of
18 image attached?

19 A. That is correct; it's a photograph.

20 Q. And who is that message from and who is
21 that message to?

22 A. This is an outgoing message from the
23 owner of the iPhone to the contact listed as Wifey.

24 Q. Okay. And the photograph attached to
25 that message was taken by that iPhone?

1 A. That is correct.

2 MR. DURANT: State's Number 117 we
3 would offer into evidence.

4 MS. SEMAN: And we'll renew our
5 pretrial objection and also relevance. Thank you.

6 THE COURT: Noting your objections,
7 State's 117 into evidence.

8 (STATE'S EXH. 117, Phone extraction
9 report, in evidence.)

10 BY MR. DURANT:

11 Q. And, Deputy McManigal, what is 117?

12 A. This is another section from the
13 multimedia messages.

14 Q. And what is the date of that multimedia
15 message?

16 A. December 3rd, 2016.

17 Q. And from whom to whom?

18 A. This is an outgoing message from the
19 owner of the iPhone to the contact listed as Wifey.

20 Q. Okay. And there's a photograph
21 attached to that message too; is that correct?

22 A. There are.

23 Q. Okay. And there's a photograph -- and
24 that is one of the photographs attached to that
25 message?

1 A. That is correct.

2 Q. And that photograph was also taken by
3 the iPhone you examined?

4 A. That is correct.

5 MR. DURANT: Okay. Moving on to 118,
6 we would offer 118 into evidence.

7 MS. SEMAN: And we renew our earlier
8 objection, Your Honor, and relevance and 403.

9 THE COURT: Okay. 118 into evidence,
10 noting your objection.

11 (STATE'S EXH. 118, Phone extraction
12 report, in evidence.)

13 BY MR. DURANT:

14 Q. Deputy McManigal, what is 118?

15 A. 118 is another section from the
16 multimedia messages section of the report.

17 Q. And what is the date of that multimedia
18 message?

19 A. It is December 15th, 2016.

20 Q. And it is from whom to whom?

21 A. This is an outgoing message to a phone
22 number listed as (540) 204-7125.

23 Q. And there's also a photograph attached
24 to that exhibit; is that correct?

25 A. That is correct.

1 Q. And if the -- was the photograph
2 attached to that exhibit taken by that iPhone that
3 you dumped, State's Exhibit 63?

4 A. That is correct.

5 Q. Okay.

6 MR. DURANT: I'm moving on to State's
7 119, and we would offer that into evidence at this
8 time.

9 MS. SEMAN: And we renew our earlier
10 objection and add relevance and 403, Your Honor.
11 Thank you.

12 THE COURT: State's 119 into evidence,
13 noting your previous objection.

14 (STATE'S EXH. 119, Phone extraction
15 report, in evidence.)

16 BY MR. DURANT:

17 Q. Deputy McManigal, what is State's 119?

18 A. This is a section of the iMessages from
19 the iPhone log-in report.

20 Q. What is an iMessage?

21 A. An iMessage is similar to a text
22 message or a multimedia message, except it is
23 exclusive to Apple devices.

24 Q. And because Apple, like, has their own
25 server for messaging; is that correct?

1 A. That's correct.

2 Q. And if you text through their server
3 it's an iMessage, but you can send a text either
4 way, correct?

5 A. That is correct.

6 Q. Okay. But this is their -- the
7 messaging service proprietary to Apple?

8 A. That is correct.

9 Q. And what is the date of that iMessage?

10 A. This is December 15th, 2016.

11 Q. And it is an iMessage from whom to
12 whom?

13 A. From the owner of the phone, which is
14 listed as Joe Joe, and it's to a contact listed as
15 Big Bruh, B-R-U-H.

16 Q. And there is also a photograph attached
17 to that iMessage; is that correct?

18 A. That is correct.

19 Q. And once again, was that photograph
20 taken by that iPhone, State's Exhibit Number 63?

21 A. That's correct.

22 Q. Now, I just wanted to ask you about
23 images. You can certainly send images with a
24 phone, correct?

25 A. That is correct.

1 Q. Text them? But you don't have to?

2 A. That is correct.

3 Q. You take a picture with the phone, it
4 is stored on the phone?

5 A. It is.

6 Q. And it's stored where?

7 A. It's in the folder on the phone itself.

8 Q. Okay. An images file, correct?

9 A. That's correct.

10 Q. Or a folder. And I will now hand you
11 what's --

12 MR. DURANT: I would offer State's 120
13 and 121.

14 MS. SEMAN: And, Your Honor, we renew
15 our objection from pretrial, and we also add 401
16 and 403 and 121.

17 THE COURT: 120 and 121 into evidence,
18 noting your objection.

19 (STATE'S EXH. 120, Images from iPhone,
20 in evidence.)

21 (STATE'S EXH. 121, Images from iPhone,
22 in evidence.)

23 BY MR. DURANT:

24 Q. And I now hand you what's been marked
25 as 120 and 121 into evidence, and ask if you can

1 identify those as images taken by that iPhone.

2 A. These are.

3 MR. DURANT: Could you please answer
4 any questions defense counsel may have for you?

5 THE WITNESS: Yes, sir.

6 MS. SEMAN: Your Honor, I have no
7 questions for this witness.

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

10 THE WITNESS: Thank you, Your Honor.

11 MR. DURANT: Thank you, Deputy.

12 THE COURT: Ladies and gentlemen, we're
13 going to take a short comfort break. Please
14 remember all my admonitions, leave your notepads in
15 your chairs. Please rise for the jury.

16 (Jury out, 10:53 a.m.)

17 THE COURT: Thank you. Be seated.
18 Counsel, just for scheduling, please approach.

19 (A recess transpired.)

20 (Jury in, 11:08 a.m.)

21 THE BAILIFF: All jurors are present,
22 Your Honor.

23 THE COURT: Thank you. Please be
24 seated. Call your next witness.

25 MR. DURANT: The State would call Ray

1 Haupt.

2 RAYMOND HAUPT

3 being first duly sworn, testified as follows:

4 THE CLERK: Please state your full name
5 for the record, spelling your last. Thank you,
6 sir.

7 THE WITNESS: Raymond Haupt, H-A-U-P-T.

8 DIRECT EXAMINATION

9 BY MR. DURANT:

10 Q. Good afternoon, Ray -- or morning, I
11 should say.

12 A. Morning.

13 Q. Could you tell the jury where you work?

14 A. The Ninth Circuit Solicitor's Office.

15 Q. And what you do at the Ninth Circuit
16 Solicitor's Office?

17 A. I'm the chief investigator for the
18 Ninth Circuit Solicitor's Office. We -- I work for
19 you. Basically, whenever we're handed a case, I go
20 through it and read through the reports, witness
21 statements, watch the interviews, review all the
22 evidence, and see if there's anything else that
23 needs to be done in the case to prepare it for
24 resolution. In this case, it will be for a trial.

25 Q. Okay. And how long have you been with

1 our office now?

2 A. About three and a half years.

3 Q. And before that, what was your law
4 enforcement experience?

5 A. I was with the Mt. Pleasant Police
6 Department for 11 and a half years. There I was a
7 police officer, crime scene investigator, and
8 detective.

9 Q. As the chief investigator at our
10 office, did you have an opportunity to become
11 involved with this case involving the death of
12 Johnny Pritchard?

13 A. I did.

14 Q. And specifically directing your
15 attention to October the 13th of 2017, did you have
16 the occasion to search Facebook for an account in
17 the name of Moneybag Fly?

18 A. Yes, I did.

19 Q. And do you know why?

20 A. I do.

21 Q. Why?

22 A. At the time, it was, then, Chief
23 Investigator Jeff Osborn came to me, and I reviewed
24 some of the data from a phone dump of an iPhone in
25 which there was a text message between the owner of

1 the phone and an individual going by Red.

2 And in that message they asked for what
3 Red's Facebook name was, and the reply was Moneybag
4 Fly.

5 Q. Now, was there a phone number for the
6 contact named Red from the dump of the iPhone?

7 A. Yes.

8 Q. And do you know what that phone number
9 was?

10 A. It was (843) 609-9577.

11 Q. Were there any efforts to discover the
12 subscriber of that phone number to that phone
13 number from Verizon?

14 A. Yes.

15 Q. How was it determined that that was a
16 Verizon number?

17 A. We sent a subpoena to Verizon, which
18 they sent back subscriber information and call
19 detail records.

20 Q. Okay. And were these call detail
21 records and subscriber information any help in
22 identifying who Red was?

23 A. Yes, and no.

24 Q. What do you mean by that?

25 A. No, being that the subscriber

1 information didn't have a name.

2 Q. And why was that?

3 A. It was a prepaid Walmart phone or a
4 prepaid phone.

5 Q. And so there wasn't a subscriber
6 information?

7 A. There was not.

8 Q. So, then, why was it helpful at all?

9 A. In the actual numbers that were called
10 or received through the (843) 609-9557 number, I
11 was able to determine that there were known
12 affiliates and family members of Trey Coleman that
13 were calling and receiving calls from that number.

14 MR. DURANT: Beg the Court's
15 indulgence.

16 THE COURT: Take your time.

17 MR. DURANT: Your Honor, at this time,
18 we would offer State's Exhibit Number 68.

19 MS. SEMAN: We would just object on the
20 basis of relevance, Your Honor.

21 THE COURT: Okay. State's 68 into
22 evidence, noting your objection.

23 (STATE'S EXH. 68, Call records, in
24 evidence.)

25 BY MR. DURANT:

1 Q. What is State's 68, Investigator Haupt?

2 A. This is the response that we received
3 from Verizon when we sent the subpoena to them, and
4 it is a certificate of authenticity of the records
5 and the call detail records for the (843) 609-9577.

6 Q. And that is the number attributed to
7 Red from the phone number; is that correct?

8 A. Correct.

9 Q. And over what period of time are those
10 call detail records from, what dates?

11 A. This is going to be December 22nd, 2016
12 to December 24th, 2016.

13 Q. And how long was that number active?

14 A. I believe it was -- I don't have that
15 page, but I believe it was November 4th, 2016,
16 until December 23rd, 2016.

17 Q. Okay. Okay. Getting back to Facebook
18 a little bit. You said you were able to locate an
19 account in the name of Moneybag Fly?

20 A. I was.

21 Q. And whose name was in the URL of that
22 account for Moneybag Fly?

23 A. Trey Coleman.

24 Q. And whose profile picture was displayed
25 on the account for Moneybag Fly?

1 A. Trey Coleman.

2 Q. And so what was done with the
3 information that was obtained from the Facebook
4 search?

5 A. I took all the information from the
6 Facebook search and gathered a search warrant for
7 the records of that Facebook account.

8 Q. And that search warrant was served on
9 Facebook?

10 A. It was.

11 Q. And did Facebook comply with that
12 search warrant?

13 A. They did.

14 Q. And that is where those various
15 exhibits -- we will go through some exhibits in a
16 moment, but they did comply with that?

17 A. Yes.

18 Q. And when they complied with our search
19 warrant, did they provide a certificate of
20 authenticity for their -- with their records?

21 A. They did.

22 MR. DURANT: Your Honor, at this point
23 we would offer State's Exhibit Number 127, I
24 believe without objection.

25 MS. SEMAN: We just object to

1 relevance.

2 THE COURT: Okay. 127 into evidence,
3 and noting your objection.

4 (STATE'S EXH. 127, Facebook certificate
5 of authenticity, in evidence.)

6 BY MR. DURANT:

7 Q. And what is State's Exhibit Number 127?

8 A. It is the certificate of authenticity
9 for the records that we received from Facebook in
10 reference to the search warrant that we sent to
11 them.

12 Q. Okay. We did not get -- did you get
13 records from Facebook in paper form?

14 A. Yes -- well, they came digital first.

15 Q. Okay. And then certain pages of that
16 digital record were printed for this trial; is that
17 correct?

18 A. Correct.

19 MR. DURANT: Your Honor, at this time
20 we would offer State's Exhibits Numbers 79, 80, 88,
21 89, 90, 92, and 93.

22 MS. SEMAN: We object to the relevance,
23 Your Honor.

24 THE COURT: What were those numbers?

25 MR. DURANT: It's 79, 80, 88, 89, 90,

1 92, and 93.

2 THE COURT: Those exhibits into
3 evidence, noting your objection.

4 MS. SEMAN: Thank you.

5 (STATE'S EXH. 79, Facebook business
6 record, in evidence.)

7 (STATE'S EXH. 80, Facebook business
8 record, in evidence.)

9 (STATE'S EXH. 88, Facebook business
10 record, in evidence.)

11 (STATE'S EXH. 89, Facebook business
12 record, in evidence.)

13 (STATE'S EXH. 90, Facebook business
14 record, in evidence.)

15 (STATE'S EXH. 92, Facebook business
16 record, in evidence.)

17 (STATE'S EXH. 93, Facebook business
18 record, in evidence.)

19 BY MR. DURANT:

20 Q. Okay. If we could, let's start with
21 State's Exhibit Number 79, if you would, and tell
22 us what that is.

23 A. Page 1 of the Facebook business records
24 that we received whenever we request a copy of the
25 Facebook account from Facebook.

1 Q. And what is the name on that account?

2 A. Moneybag Fly.

3 Q. What is the old name on that account?

4 A. Trey Coleman.

5 Q. And what is the vanity name on that
6 account?

7 A. Trey.Coleman.73932.

8 Q. What is the registration date on that
9 account?

10 A. It's going to be November 27th, 2016.

11 Q. And that is the date the account was
12 created?

13 A. Correct.

14 Q. What is the verified cell number
15 associated with that account?

16 A. (843) 609-9577.

17 Q. Okay. And is that number familiar to
18 you?

19 A. It is.

20 Q. From where?

21 A. From the number listed as Red in the
22 phone dump.

23 Q. And what is meant by a verified phone
24 number?

25 A. When you sign up for a Facebook

1 account, it asks you to put in your phone number.
2 They then send you a verification, usually by text
3 message, in which you accept that you have created
4 that account.

5 So the user would then have to verify
6 it through their phone that they had created the
7 account.

8 Q. Okay. Moving on to State's Exhibit 80.
9 What is that?

10 A. Page 3 of the Facebook business record.

11 Q. And what is that -- part of the
12 business record is that?

13 A. The activity log.

14 Q. And what does the highlighted portion
15 on that exhibit indicate?

16 A. That on December 16th, 2016, Moneybag
17 Fly changed the phone number to (843) 609-9577, and
18 that would be the time that the cell phone was
19 verified.

20 Q. Okay. I think the next one is State's
21 Exhibit 88, 89, and 90. What are those three
22 documents?

23 A. They're all profile pictures from the
24 Facebook business records.

25 Q. This would be 88?

1 A. Correct.

2 Q. This would be 89?

3 A. That's correct.

4 Q. And this would be 90?

5 A. Yes.

6 Q. Okay. Then, just a couple of other
7 things there I want to ask you about. I think the
8 first one is 92. What is State's Exhibit 92?

9 A. State's 91 is a Facebook business
10 record. And this would be some of the status
11 updates for the account.

12 Q. What is a status update?

13 A. It's just a message or a post that you
14 can put on your Facebook timeline.

15 Q. Okay. And what is the significance of
16 that -- what is the significance of that particular
17 status update? What is the exhibit number for
18 that?

19 A. 92.

20 Q. And is that 92 on the screen there?

21 A. Yes.

22 Q. And what is the date of that -- that
23 status update posted?

24 A. December 7th, 2016.

25 Q. And obviously it says: Eight hours

1 down, four more to go. That was posted by the
2 owner of that account; is that correct?

3 A. Correct.

4 Q. And there is a response made by a user
5 named Barbara Ross?

6 A. Yes.

7 Q. Which says what?

8 A. Make that honest pay, son. (Reading)

9 Q. And who is Barbara Ross?

10 A. Trey Coleman's mother.

11 Q. And lastly, the last exhibit you have
12 is what, sir?

13 A. 93.

14 Q. And what is 93?

15 A. Page 47 of the Facebook business
16 record, and these are going to be individual
17 messages sent between parties.

18 Q. Okay. And this particular message
19 that's highlighted on State's Exhibit 92 -- or 93,
20 is between Moneybag Fly and who?

21 A. Romel Middleton.

22 Q. And this text message was sent when?
23 What was the date?

24 A. November 30th, 2016.

25 Q. And what is the significance of this

1 text?

2 A. At the end of that message it says:
3 Come on, Red, sounds like you trying to play me.

4 Q. So he refers to Moneybag Fly as Red?

5 A. Correct.

6 Q. In preparation for this trial,
7 Investigator Haupt, did you have an opportunity to
8 go through the data provided by Detective McManigal
9 -- McManigal in the phone dump of State's
10 Exhibit 63, the iPhone?

11 A. I did.

12 Q. At this point, I would like to go
13 through some of those exhibits and ask you some
14 questions.

15 MR. DURANT: May I relocate to my
16 computer, Your Honor?

17 THE COURT: You may.

18 MR. DURANT: Thank you.

19 BY MR. DURANT:

20 Q. Okay. Let's take a look at State's
21 Exhibit Number 108. And I believe this was
22 previously testified to by Deputy McManigal as
23 being the summary of his report?

24 A. Correct.

25 Q. What is the date on that report?

1 A. 4/30/2018.

2 Q. And what is the phone number for that
3 iPhone?

4 A. (843) 557-3277.

5 Q. Okay. And that is the same phone
6 number depicted in -- for him as a contact in Ms.
7 Nautica Manigault's phone, correct?

8 A. Correct.

9 Q. And it's also the same phone number
10 that Joseph Brown acknowledged was the number to
11 that iPhone?

12 A. That's correct.

13 Q. I don't have anything else I would like
14 to ask you about that one.

15 Let's move on to State's Exhibit 109.
16 And what is that?

17 A. It's Page 763 of the iPhone dump, and
18 it is the contact list -- or it's a partial from
19 the contact list.

20 Q. Okay. And Red is -- and who is the
21 contact listed?

22 A. Red.

23 Q. And how many times is he listed in the
24 contact page?

25 A. Four times.

1 Q. And what number is attributed to Red in
2 that contact listing at least three different
3 times?

4 A. 1/(843) 609-9577.

5 Q. Which is also the number used by
6 Moneybag Fly in the Facebook --

7 A. Correct.

8 Q. -- records; is that correct?

9 A. Correct.

10 Q. And when was that contact first
11 created, if you can tell?

12 A. November 5th, 2016.

13 Q. Okay. Let's move on to State's
14 Exhibit 110. And if you would, can you tell the
15 jury what this is?

16 A. 110 is going to be the timeline from
17 the iPhone dump.

18 Q. And what is your understanding of the
19 timeline?

20 A. It essentially shows everything as it
21 happens on the phone. So it can be phone calls,
22 text messages, MMS messages, calendar updates, log
23 entries, photos taken, anything that happens on the
24 phone.

25 Q. And what period of time does this

1 timeline cover?

2 A. Predominantly, it's going to be for
3 12/23/2016.

4 Q. Okay. And starting at -- and there are
5 a number of highlighted texts and phone calls in
6 that timeline; is that correct?

7 A. Correct.

8 Q. Who are those highlighted texts and
9 phone calls between?

10 A. The owner of the phone and Red.

11 Q. And what time do those texts and phone
12 calls begin on the early morning of December 23 of
13 2016?

14 A. 12:25 a.m. So it's just before
15 1:00 a.m.

16 Q. And go through the end of that calendar
17 day; is that correct?

18 A. Correct.

19 Q. Let's look at line 17071, 17071.

20 A. Okay.

21 Q. What is that? Is that a text message
22 or a phone call?

23 A. It's an SMS message, text message.

24 Q. From whom to whom?

25 A. It's from Red to the owner of the

1 phone.

2 Q. And what is the time of that text
3 message?

4 A. 1:10 a.m.

5 Q. And that would be on December 23rd,
6 correct?

7 A. Correct.

8 Q. And what is the substance of that text
9 message?

10 MS. SEMAN: Objection as to...

11 THE COURT: Overruled. You may answer.

12 THE WITNESS: Pardon my language:

13 Shit, period, period, period. Let me get that --
14 or get the tone.

15 BY MR. DURANT:

16 Q. And what is a tone?

17 MS. SEMAN: Objection.

18 THE COURT: What's the basis?

19 MS. SEMAN: Characterization, Your
20 Honor, and foundation.

21 THE COURT: If he knows, he may answer.

22 THE WITNESS: In the 15 years that I've
23 been in law enforcement, I've interviewed many
24 witnesses and victims, suspects, cooperating
25 co-defendants, and during that time I've come to

1 learn that a tone is street slang for a gun.

2 BY MR. DURANT:

3 Q. And what is the response by Joseph
4 Brown?

5 A. Bruh, you know I need my tone since
6 they're just been about to get robbed in front of
7 my door. I gotta stay on point, bruh. You know
8 that. (Reading)

9 Q. Okay. Let's move to these three right
10 here, and just ask you -- I'm not going to ask you
11 anything but other than, what do those represent?

12 A. Those are images that were taken from
13 the phone.

14 Q. And it says, images, over there on the
15 left column. I know the jury probably can't see
16 that, but --

17 A. Correct.

18 Q. -- is this an indication of what
19 happens every time that you take a picture with an
20 iPhone?

21 A. Correct.

22 Q. It records the date and time and all of
23 that regarding the picture and the file number,
24 correct?

25 A. Correct.

1 Q. Okay. So that was all late and early
2 morning the night before. Let's talk about the
3 next morning and the texts between the two of these
4 folks starting at 17116, and what is that?

5 A. It's an incoming SMS message, or text
6 message, from Red to the owner of the phone.

7 Q. Who is Joe Joe Brown?

8 A. Who is Joe Joe Brown.

9 Q. Okay. And it says what?

10 A. Where you? (Reading)

11 Q. And what does Brown reply?

12 A. My house. (Reading)

13 Q. And moving on down about three minutes
14 later at 17120 at 11:53:07, what is that?

15 A. It's an incoming text message from Red
16 to Joseph Brown.

17 Q. And what does it say?

18 A. Man, you gonna rob dude today, period,
19 period, period. I'm with him now. (Reading)

20 Q. And what does Brown respond at 17121?

21 A. Pull up to my hood right now. I don't
22 give a fuck, pull up. I'm gonna rob him now.
23 (Reading)

24 Q. And he -- Brown responds again at
25 17122. What does he say on -- at that time?

1 A. Pull up with him, blood, FRFR.

2 (Reading)

3 Q. Do you know what FRFR means?

4 A. For real, for real.

5 Q. And then what is 17123 and 124?

6 A. It's call log entries, and both of them
7 were calls --

8 Q. Appeared to be an attempted call,
9 correct?

10 A. Attempted calls made to Red from Joseph
11 Brown.

12 Q. Because there's no duration, correct?

13 A. Correct.

14 Q. Okay. So we pick back up at 17125, at
15 this time it's 11:54. Who's this text from?

16 A. From Red to Joseph Brown.

17 Q. And what does that text say?

18 A. Excuse my language: Nigger, we can't
19 do it like that, period, period, period. And then
20 he gonna know I set him up.

21 Q. And what does Brown respond during
22 11:55?

23 A. Man, bruh, just act like you pulling up
24 to get one of your peoples and I'm gonna rob both
25 of y'all to make it look real Christmas bumming. I

1 don't got shut -- or shut from my peoples. I'm
2 gonna make it look like I'm robbing both of y'all.

3 (Reading)

4 Q. And he texted Red again at 11:56. What
5 does he say?

6 A. I'm just goin bum from around the
7 building. (Reading)

8 Q. And again at 11:58, what does Brown
9 text to Red?

10 A. Where you at? At your house. I look
11 like you my homeboy and rob you in the yard cause
12 he ain't gonna think you set him up then because I
13 came to your yard. I'm telling you, bruh, it's now
14 or never. What's up? Let me eat, bruh. (Reading)

15 Q. Okay. So he originally wanted him to
16 come to his house and he would rob him?

17 A. Correct.

18 Q. And that was obviously too apparent, so
19 now he wants to go to rob him at Trey Coleman's
20 house?

21 A. Correct.

22 Q. And what does Trey Coleman or Red
23 respond at 17129 at 12:00 p.m.?

24 A. Not my house, TF, or the fuck, just
25 wait 'til we get to his house and come in then.

1 And, bruh, don't try and shit me. We split 50/50.

2 (Reading)

3 Q. And at 17130, Brown texted him back at
4 12:01 and says?

5 A. Yeah, nigger, you know that. When
6 y'all gonna be to his house, and you want me to
7 just knock on his door. (Reading)

8 Q. And Red responds at 12:05, what?

9 A. I'll let you know when I get there.
10 I'm gonna be home when you do it, just do it, and
11 go to the back of Bell Street or to the circle by
12 Smokey and them's house. You bum me and I bum get
13 you from there. (Reading)

14 Q. Okay. And where is Smokey and them's
15 house?

16 A. It's at the back of Brenda B Drive.

17 Q. And Smokey is the nickname for who?

18 A. David Felder.

19 Q. And David Felder lives right across the
20 street from who?

21 A. Martin Perez.

22 Q. Okay. Moving on to 17132, Brown texted
23 Red what?

24 A. Is this a white man or black? And who
25 all in the house? (Reading)

1 Q. And what does Red text back at 17136 at
2 12:00 p.m.?

3 A. His fat ass brother and him. The
4 skinny one, got the money though. I want you to
5 run his pockets and take his wallet and all. The
6 fat one ain't got nothing, but do whatever to take
7 it. So take his pants -- or, hell, take his pants
8 off of him and take his phone too. (Reading)

9 Q. And then Brown responds at 12:19, what?

10 A. Hey, ball me. (Reading)

11 Q. And then moving to 17142, at this point
12 we're 12:20 in the afternoon, what does Red text to
13 Joseph Brown?

14 A. We bumming down Royal Road.

15 Q. Okay. Where's Royal Road?

16 A. It's in Summerville.

17 Q. And it runs from where to where?

18 A. 17A area towards closer to 78.

19 Q. Highway 78?

20 A. Highway 78.

21 Q. And that's the road that Johnny
22 Pritchard's trailer was -- that he was going to
23 move into was on; correct?

24 A. Correct, the new trailer.

25 Q. Okay. So moving down to 17146, this is

1 a text from whom to whom?

2 A. It's from Joseph Brown to Red.

3 Q. And it's 12:23 p.m.?

4 A. Correct.

5 Q. And he says what?

6 A. So you want me to go in there when they
7 both in there.

8 Q. And what does Red respond at 12:25?

9 A. They packing cause he about to move.
10 They some pussies, ain't no gun in the house.

11 Q. Brown texts him, Red, at 12:27 and says
12 what?

13 A. Where y'all at?

14 Q. And what is the next entry at 17160?

15 A. It is an incoming call from Red to
16 Joseph Brown.

17 Q. And it lasts for how long?

18 A. A minute and 48 seconds.

19 Q. And then at 17162, we're now at the
20 time 12:40 p.m. And this is from whom to whom?

21 A. From Red to Joseph Brown.

22 Q. And what does Red tell Joseph Brown?

23 A. Hold on. He out there talking to my
24 people in my yard. I'll let you know when he
25 leaves my house.

1 Q. 17164, Brown responds what at 12:41?

2 A. Where his brother?

3 Q. At 12:41 Red responds what?

4 A. In his house.

5 Q. And what is the next entry at 17167?

6 A. It's an incoming call from Red to

7 Joseph Brown.

8 Q. And it lasts how long?

9 A. Three minutes and 32 seconds.

10 Q. And then the last highlighted entry at
11 17170, what is that?

12 A. It's an incoming call from Red to
13 Joseph Brown for 48 seconds.

14 Q. And was there -- that is basically at
15 what time?

16 A. 12:47 p.m.

17 Q. So that was about six minutes before
18 the 911 call is made in this case; is that correct?

19 A. That's correct.

20 Q. And was there any activity not coming
21 into that phone, but going out of that phone after
22 that phone call at 12:47?

23 A. No.

24 Q. Okay. I would like to go through just
25 a couple other of those documents from Facebook.

1 And let's go to our phone dump, and that's State's
2 Exhibit 112. And what is the date and time of that
3 text and what is its significance, the highlighted
4 portion?

5 A. December 15th, 2016. It's a message
6 from Red to Joseph Brown for nine -- or line 9:34.
7 And then --

8 Q. And, actually, the one --

9 A. Yeah, they're upside down. The one --

10 Q. -- closer in time is the one below that
11 at 9:35?

12 A. 9:35 came first. It was to Red from
13 Joseph Brown on December 15th, 2016, and it says --

14 Q. Go ahead.

15 A. It says: hey, what yo name on the
16 book? And Red replies: Moneybag Fly.

17 Q. Okay. And that's how we got to
18 Facebook in this case; is that correct?

19 A. Correct.

20 Q. State's 114, what is that?

21 A. It's the SMS message log for the iPhone
22 dump of Joseph Brown.

23 Q. Okay. And what is the SMS message log?

24 A. Text messages.

25 Q. And that's not the complete log, but

1 that's -- the portion we have introduced shows
2 highlighted text messages; is that correct?

3 A. Correct.

4 Q. Or some of them are highlighted?

5 A. Right.

6 Q. Between who and who?

7 A. A contact known as Red and Joseph
8 Brown.

9 Q. Okay. And it's -- extends back how
10 long?

11 A. The last page -- November 7th, 2016,
12 was the first message, and the last was
13 December 23rd, 2016.

14 Q. The one we just talked about not too
15 long ago, correct?

16 A. Correct.

17 Q. How many texts were there between the
18 two of them over that period of time?

19 A. I believe there were 262.

20 Q. And with regard to -- is this 114?

21 A. Yes.

22 Q. I want to move down to page 1013, 9579
23 and 580.

24 A. Okay.

25 Q. 580 is a text from whom to whom on what

1 date?

2 A. It starts from Red to Joseph Brown, and
3 then from Joseph Brown to Red.

4 Q. And what does Red ask Joseph Brown at
5 8:42 p.m.?

6 A. Let me hold tone while you at work.

7 Q. And what does Brown respond?

8 A. My peoples tone got it. That's why I
9 ain't been toting. When you pull up, I gotta get
10 that back ASAP. (Reading)

11 Q. Okay. And that's Exhibit 114; is that
12 correct? Did I miss 113?

13 A. Yes.

14 Q. What is 113?

15 A. It's the call log from the phone dump.

16 Q. Showing the calls between who and who?

17 A. The highlighted one is between a
18 contact known as Red and Joseph Brown.

19 Q. And over what period of time?

20 A. November 7th, 2016 to December 23rd,
21 2016.

22 Q. And over that period of time, how many
23 phone calls were there between -- or attempted
24 phone calls were there between the two of them?

25 A. I counted 253.

1 Q. Okay. So they've known each other for
2 awhile?

3 A. Correct.

4 Q. Let's move on to State's Exhibit 115.
5 And what is State's Exhibit 115?

6 A. The highlighted portion is going to be
7 an MMS message sent from Wifey to Joseph Brown.

8 Q. Okay. And that's a multimedia message,
9 is that correct?

10 A. Correct.

11 Q. And a photograph attached to it,
12 correct?

13 A. Correct.

14 Q. And when was that photograph sent?

15 A. December 12th, 2016.

16 Q. And it was sent by whom?

17 A. Wifey.

18 Q. To whom?

19 A. To Joseph Brown.

20 Q. And is that the photo that's attached
21 to that MMS message?

22 A. That's correct.

23 Q. And who is Wifey?

24 A. Nautica Manigault.

25 Q. And that is the photograph that ended

1 up being wallpaper on both of their phones,
2 correct?

3 A. Correct.

4 Q. Okay. Let's move on to State's 116.
5 What is State's 116?

6 A. The highlighted portion is going to be,
7 again, a multimedia message --

8 Q. And --

9 A. -- sent to Wifey from Joseph Brown.

10 Q. Okay. So this is a photo sent by
11 Joseph Brown to Wifey?

12 A. Correct.

13 Q. And when is the date on that?

14 A. December 3rd, 2016.

15 Q. Okay. And the photograph attached to
16 that is this photograph?

17 A. Correct.

18 Q. And what is the significance of that
19 photograph, sir?

20 A. The picture of the contact for Joseph
21 Brown on Nautica Manigault's phone utilized this
22 photo.

23 Q. Okay. And anything distinctive about
24 the footwear he's using in that particular picture?

25 A. Yes.

1 Q. What is that? Why is that of interest?

2 A. The shoes that are pictured are a red
3 Converse style shoe with a white toe, which matches
4 part of the clothing that was worn by the subject
5 running by Martin Perez's house on Brenda B Drive.

6 Q. That was captured on Mr. Perez's video
7 surveillance system, correct?

8 A. Correct.

9 Q. And this is the image that ended up in
10 Nautica Manigault's contacts for him as her future
11 husband?

12 A. Correct.

13 Q. That the jury has seen the picture of
14 previously?

15 A. Correct.

16 Q. Okay. Let's move on to 117. What is
17 that?

18 A. Again, this is going to be a multimedia
19 message sent to Wifey from Joseph Brown.

20 Q. And this was sent when?

21 A. December 3rd, 2016.

22 Q. Okay. And this is the picture
23 attached?

24 A. It is.

25 Q. Okay. And that is Joseph Brown wearing

1 the same clothes?

2 A. Yes, same red shoes with the white toe.

3 Q. Okay. Let's move on to State's Exhibit
4 118. What is that highlighted in number five?

5 A. It is a multimedia message sent from
6 Joseph Brown to -- just has a number listed in
7 here. It's 1(540)204-7125.

8 Q. Okay. And there was a photograph
9 attached to that one?

10 A. Correct.

11 Q. And that's a photograph that Deputy
12 McManigal testified was taken with that iPhone,
13 State's Exhibit 63; is that correct?

14 A. That's correct.

15 Q. And is that photograph attached to that
16 multimedia message?

17 A. It is.

18 Q. And what is that?

19 A. It's a black in color Smith & Wesson
20 semiautomatic handgun.

21 Q. Okay. It is actually a picture of
22 sufficient quality where you can determine what the
23 serial number is for it, right?

24 A. Correct.

25 Q. Which is?

1 A. HPL 6641.

2 Q. And with regard to the clothing being
3 worn by that person, appears to be substantially
4 similar to the clothing worn in this picture,
5 correct?

6 A. That is correct. The black shirt and
7 the pants with the holes in them.

8 Q. Now, did you request an ATF trace on
9 that particular pistol?

10 A. I did.

11 Q. And did they comply?

12 A. They did.

13 MR. DURANT: Your Honor, at this time
14 we would offer State's Exhibit Number 134 into
15 evidence.

16 MS. SEMAN: And, Your Honor, I will
17 object based on relevance, 403, and 404(b).

18 THE COURT: State's 134 into evidence,
19 noting your objection.

20 (STATE'S EXH. 134, ATF Trace Summary,
21 in evidence.)

22 BY MR. DURANT:

23 Q. I now hand you what's been marked as
24 State's 134 into evidence and ask you if you
25 recognize that document.

1 A. I do.

2 Q. And what is that?

3 A. It is the ATF e-trace that I requested.

4 Q. For the photograph depicted in State's
5 Exhibit Number 118; is that correct?

6 A. That's correct; the black Smith &
7 Wesson semiautomatic handgun with serial number
8 HPL.

9 Q. And where --

10 A. -- 6641.

11 Q. I'm sorry. Where was that gun
12 purchased?

13 A. The ATP Gun Shop and Range in
14 Summerville, South Carolina.

15 Q. And when was it purchased?

16 A. February 21st, 2014.

17 Q. And it was not purchased by Mr. Brown;
18 is that correct?

19 A. That's correct, it was not.

20 Q. It was purchased by somebody named
21 Joshua William?

22 A. Correct.

23 Q. And it matches the serial number on the
24 picture, correct?

25 A. Correct.

1 Q. And what is the make and model of that
2 pistol?

3 A. Smith and Wesson MMP 9C, 9-millimeter
4 handgun.

5 Q. Okay. Let's move on to State's
6 Exhibit 119, which was previously testified as
7 being an iMessage; is that correct?

8 A. That's correct.

9 Q. And moving on to the highlighted
10 portion, item number eight, that is an iMessage
11 from whom to whom?

12 A. From Joseph Brown to Big Bruh.

13 Q. And the date on that?

14 A. December 15th, 2016.

15 Q. And the message attached to that?

16 A. Hey, Big Bruh, I just finished this
17 nine. That bitch clap work.

18 Q. What does clap mean?

19 A. Shoot.

20 MS. SEMAN: Objection -- earlier
21 objection.

22 THE COURT: All right. Overruled.

23 BY MR. DURANT:

24 Q. And there was a photograph attached to
25 that text, too, correct?

1 A. Correct.

2 Q. Which would be this photograph?

3 A. That's correct.

4 Q. And is that the same weapon depicted in
5 State's Exhibit -- the previous exhibit, which I
6 believe was 118; is that correct?

7 A. Yes, 118.

8 Q. Okay.

9 A. Yes, it's the same.

10 Q. It's the same because the serial number
11 is the same, correct?

12 A. That's correct.

13 Q. And with regard to the location in that
14 photograph appears to be taken, did you notice
15 anything?

16 A. I did.

17 Q. And what was that?

18 A. The color and design on the mattress
19 that the gun is laying on appears to match the same
20 mattress that was at the address -- the search
21 warrant when Deputy Hershel McElroy found
22 ammunition underneath the mattress.

23 Q. And that would be this mattress that
24 you're referring to?

25 A. That's correct. You can see the same

1 color of the mattress and then the different color
2 of the print that's on the mattress.

3 Q. Okay. The last thing I wanted to talk
4 to you about regarding the phone dump was just a
5 couple of images that are State's Exhibits 120 and
6 121. And this is State's 120. What's the
7 significance of that photo?

8 A. That's the same clothing that we saw in
9 the previous photo; the same shoes, the Converse
10 style and the white tip, and then the pants, or
11 shorts, with the holes in it, and black shirt.

12 Q. And 121?

13 A. This picture was -- or appears to be
14 outside of the Abby Lane Town Homes.

15 Q. Why do you think that?

16 A. I have been out there. I've seen the
17 layout of the town homes. The same brick front,
18 and they have the low bushes that are there. You
19 can drive in there right now and it's the same as
20 what that picture depicts.

21 Q. And what is he wearing?

22 A. The American flag jogger suit.

23 Q. That he kind of describes off and on in
24 his statement to Detective Goldstein?

25 A. That is correct.

1 Q. And he is wearing what on his feet?

2 A. The same red and white Converse style
3 shoes.

4 Q. And he is holding what in his hand?

5 A. A handgun.

6 Q. And when was that photo taken?

7 A. 12/23/2016, I believe, it was 1:30 in
8 the morning.

9 Q. And it was taken by his iPhone?

10 A. That's correct.

11 Q. And just very briefly, I wanted to ask
12 you about one other exhibit.

13 MR. DURANT: Your Honor, we would -- at
14 this point, we would offer State's Exhibit Number
15 129 --

16 MS. SEMAN: And --

17 MR. DURANT: I believe there's a
18 relevance objection.

19 MS. SEMAN: Yes, Your Honor.

20 THE COURT: You're objecting as to
21 relevance only?

22 MS. SEMAN: Yes, Your Honor. May I see
23 that one more time, Mr. Durant? Yes. My objection
24 is relevance.

25 THE COURT: 129 into evidence, noting

1 your objection.

2 (STATE'S EXH. 129, Verizon summary, in
3 evidence.)

4 BY MR. DURANT:

5 Q. And just for the jury's edification,
6 what is State's Exhibit 129?

7 A. It is a section of the call detail
8 records that we received from Verizon for
9 (843) 609-9577, in which I have gone through and
10 changed some of the colors of the lines and added
11 in who some of the contacts are.

12 MR. DURANT: Could I get this back up
13 for just a moment, please?

14 BY MR. DURANT:

15 Q. And we're not going to spend a lot of
16 time on this, but this is from the -- Red's phone;
17 is that correct?

18 A. That's correct.

19 Q. And the brownish or tannish phone calls
20 indicate calls to or from whom?

21 A. Joseph Brown.

22 Q. Okay. The Greene calls represent who?

23 A. Barbara Ross.

24 Q. And the blue calls represent who?

25 A. LaQuisha Curtis.

1 Q. And LaQuisha Curtis is who?

2 A. Trey Coleman's girlfriend.

3 Q. So that goes to substantiate once again
4 that that phone number belonged to Trey Coleman.

5 A. That is correct.

6 MR. DURANT: Could you please answer
7 any questions that defense counsel may have.

8 THE WITNESS: Sure.

9 MS. SEMAN: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. SEMAN:

12 Q. Good afternoon, Investigator.

13 A. Good afternoon.

14 Q. I don't have a lot of questions for
15 you, I'm sure everyone is ready for lunch, but I do
16 want to talk with you about these text messages
17 that you told us about on direct.

18 A. Okay.

19 Q. Okay. Specifically, I want to focus
20 your attention on the text sent by Red --

21 A. Okay.

22 Q. -- by the contact named Red. I'm sure
23 that you've spent a lot of time with these text
24 messages, as I have.

25 A. Yes.

1 Q. And I believe that any questions that I
2 ask you will be covered by Exhibit 110, if you need
3 me to refer to that, and I think you have that up
4 there with you; is that right?

5 A. I do.

6 Q. Okay. So we're going to State's
7 Exhibit 110. The discussion that day was initiated
8 by that contact named Red?

9 A. Yes, that's correct.

10 Q. And Red started talking about a
11 robbery, right?

12 A. Correct.

13 Q. And Red said he was currently with the
14 victim, right?

15 A. Yes. Later on in the day.

16 Q. Specifically, I'm referring to line
17 17120.

18 A. Okay.

19 Q. I'm with him now?

20 A. That's correct.

21 Q. And you knew from your investigation
22 that Red did have a preexisting relationship with
23 Mr. Pritchard; is that true?

24 A. Yes. Yes, that's correct.

25 Q. And Red says in the exchange that he

1 set Mr. Pritchard up; isn't that right? And I'm
2 specifically referring to -- I apologize --

3 A. I think it's a little bit later.

4 Q. He says: We can't do it like that,
5 then he gone know I set him up. Is that right?

6 A. I'm trying to find it. Yes, I remember
7 that.

8 Q. Okay. And in these text messages Red
9 is giving directions to the other person, right?

10 A. No, it's mutual.

11 Q. He says: I'll let you know when I get
12 there. I'm gonna be home when you do it. Just do
13 it and go to the back of Bell Street or to the
14 circle by Smokey and them's house. Right?

15 A. He says that, yes.

16 Q. And Red also told the person when to do
17 it, right?

18 A. It was going back and forth. It wasn't
19 just Red.

20 Q. He said: Hold on. He out here talking
21 to my people in my yard. I'll let you know when he
22 leaves my house. He said that, right?

23 A. That's correct.

24 Q. Specifically, Red told the person to
25 wait because the victim, presumably Mr. Pritchard,

1 was in Red's yard, right?

2 A. That's correct.

3 Q. According to those text messages? He
4 also said where to do it, right? And he said: Not
5 my house. Just wait 'til we get to his house and
6 you come in then. Right?

7 A. Yes, but that's also after Joseph Brown
8 tried to get Red to bring Mr. Pritchard to him.

9 Q. I understand that. That wasn't my
10 question, though. Red does say: Don't do it at my
11 house, right? In those text messages, he says not
12 my house?

13 A. That's correct.

14 Q. Red also said how to do it, right? He
15 says: I want you to run his pockets and take his
16 wallet and all, but do whatever to take it. Hell,
17 take his pants off of him and take his phone, too.

18 A. Yes, he said that.

19 Q. And Red said where he would pick the
20 person up after, right?

21 A. That's correct.

22 Q. By Smokey's house?

23 A. Correct.

24 Q. And in the exchange between Red and
25 that other contact the morning of December 23rd,

1 the exchange that was planning this robbery, did
2 either person mention that either person would have
3 a gun?

4 A. I believe that Red told Joseph Brown
5 that Mr. Pritchard -- or Mr. Johnny Pritchard and
6 Mr. Hugh Pritchard would not have a gun.

7 Q. Right. But no mention of either Red or
8 the other contact having a gun?

9 A. Earlier that day they did.

10 Q. That morning --

11 A. You're correct.

12 Q. Right?

13 A. That's correct.

14 Q. No mention of a knife, right?

15 A. No.

16 Q. No mention of a baseball bat?

17 A. No.

18 Q. No mention of any other weapon?

19 A. No.

20 MS. SEMAN: I beg the Court's
21 indulgence.

22 THE COURT: Take your time.

23 BY MS. SEMAN:

24 Q. Just a couple more questions. And,
25 again, in this exchange there's no mention of

1 anyone getting hurt, right?

2 A. No.

3 Q. No mention of violence, right?

4 A. Well, I would say that a robbery is a
5 violent event.

6 Q. Okay. In fact, though, those text
7 messages show that Red was worried that
8 Mr. Pritchard might know it was him that set him
9 up, right?

10 A. Correct.

11 Q. Red said he didn't want this to happen
12 at his house because Mr. Pritchard would know that
13 he set him up, right?

14 A. Correct.

15 Q. And there could be consequences for Red
16 afterwards, right?

17 A. I don't recall that.

18 MS. SEMAN: I have no further questions
19 for this witness, Your Honor.

20 THE COURT: Redirect?

21 MR. DURANT: Just a couple -- or just
22 one actually.

23 REDIRECT EXAMINATION

24 BY MR. DURANT:

25 Q. Any question that Red knew Joe Joe had

1 a gun from those text messages?

2 A. No, he knew.

3 Q. He asked to borrow it twice, right?

4 A. That is correct.

5 Q. Clearly, the night -- the morning of
6 this robbery?

7 A. That's correct. From 1 -- around
8 1:30 a.m.

9 MR. DURANT: Thank you.

10 THE COURT: Recross?

11 MS. SEMAN: No, thank you, ma'am.

12 THE COURT: You may step down. Thank
13 you. Call your next witness.

14 MR. DURANT: I'm trying to think who
15 that is, Your Honor. Beg the Court's indulgence.

16 The State would call Michelle
17 Eichenmiller.

18 MICHELLE EICHENMILLER,
19 being first duly sworn, testified as follows:

20 THE CLERK: Please speak into the
21 microphone so we can hear you. State your full
22 name for the record, spelling your last name.

23 Thank you, ma'am.

24 THE WITNESS: Michelle Eichenmiller,
25 E-I-C-H-E-N-M-I-L-L-E-R.

1 DIRECT EXAMINATION

2 BY MR. DURANT:

3 Q. Good afternoon, Ms. Eichenmiller. How
4 are you?

5 A. Fine.

6 Q. Could you tell our jury what you do for
7 a living?8 A. I work at the South Carolina Law
9 Enforcement Division at the forensic lab. I work
10 in the firearms department.11 Q. Okay. And what is your role in the
12 firearms department? What do you do with them?13 A. I'm a forensic firearms examiner. My
14 job entails examining any evidence that's submitted
15 to the lab in regards to firearms.16 Q. And how long have you been with SLED
17 now?

18 A. About 12 years.

19 Q. And what does the field of firearms
20 identification consist of? What do y'all do in the
21 firearms lab?22 A. We examine any evidence related to
23 firearms. So we examine the firearms themselves or
24 examine any fired ammunition, so bullets, cartridge
25 cases. We also do tool mark examinations on

1 occasion, and then other duties as assigned, like
2 serial number restoration.

3 Q. And what is your educational
4 background?

5 A. I have a bachelor's degree in biology
6 and a master's in forensic science.

7 Q. And what specialized training have you
8 had in the area of firearms identification?

9 A. In order to be a firearms examiner
10 there's no school you can go to. You have to do
11 like an apprentice like program. So once I was
12 hired at SLED, I completed the SLED in-house
13 training program, which is a three- to four-year
14 program where I followed the examiners that are
15 already trained.

16 I did a lot of reading and examinations
17 on my own, and at the end of the course of study I
18 take a test, and then they deem me competent to do
19 casework on my own.

20 Q. Okay. And you're authorized by SLED to
21 conduct firearms identifications analysis?

22 A. I am.

23 Q. And how long have you been so
24 authorized?

25 A. Approximately, eight years.

1 Q. Are you a member of any professional
2 organizations related to this field?

3 A. I'm a member of the Association of
4 Firearm and Toolmark Examiners, which is an
5 international organization.

6 Q. Have you been qualified as an expert in
7 the area of firearms identification?

8 A. I have.

9 Q. How many times?

10 A. Approximately, 70.

11 Q. Approximately, how many?

12 A. Seventy.

13 Q. Oh, okay. And in what courts? In what
14 court --

15 A. South -- the courts of South Carolina.

16 Q. Okay. Circuit court?

17 A. Correct.

18 Q. Magistrate court?

19 A. Yes.

20 Q. And all kinds of courts, right?

21 A. (Nodding)

22 MR. DURANT: Your Honor, at this time,
23 we would offer Ms. Eichenmiller as an expert in the
24 field of firearms identification.

25 THE COURT: Any objection?

1 MS. Norris: No, Your Honor.

2 THE COURT: Ladies and gentlemen,
3 normally a person cannot give opinion testimony.
4 Typically, when they testify they must testify as
5 to what they heard or saw or sensed by smell or
6 something of that nature.

7 There is an exception in our law.
8 Someone is qualified because of their education and
9 experience, they are permitted to give their
10 opinion in certain areas. This witness will be
11 qualified in the area of firearm identification to
12 give opinion testimony in that area.

13 That does mean that you must accept the
14 opinion. It is simply evidence for you to use in
15 any way that you see fit and give it the weight and
16 credibility that you deem appropriate.

17 MR. DURANT: Thank you, Your Honor.

18 BY MR. DURANT:

19 Q. With regard to our case, your lab
20 number L1700010, did you happen to come into
21 possession of some evidence submitted by the
22 Charleston County Sheriff's Office?

23 A. I did.

24 Q. And what did you receive initially in
25 this case?

1 A. The first item I received was a fired
2 bullet.

3 Q. And I hand you what's marked as State's
4 Exhibit Number 65 in evidence, and ask you to take
5 a look at that and see if that -- or see if you can
6 tell whether or not that is the bullet you
7 examined?

8 A. It is the bullet I examined. Whenever
9 I receive evidence in a case, I will mark it with
10 my initials, the item number, and the lab number.
11 In addition, it's also still in my heat-sealed pack
12 with my initials and the date.

13 Q. Okay. At the request of the sheriff's
14 office, did you perform an examination of that
15 projectile?

16 A. I did.

17 Q. And what kind of examination did you
18 perform? Because that's all you had at that time,
19 right?

20 A. Correct. In the absence of a firearm,
21 if we were to receive bullets or cartridge cases,
22 we do a general examination, taking down general
23 characteristics like the number of lands and
24 grooves, diameter, how much it weighs.

25 I'll look at it microscopically to see

1 if it has any marks that I could use later to
2 identify to a firearm. In the case of a bullet, we
3 have a database, that once I count the lands and
4 grooves and then measure them, I can put those
5 numbers into the database and it will give me a
6 list of firearms that have been made by different
7 manufacturers that could have fired that bullet.

8 Q. Okay. And based upon your physical
9 examination, including the measuring and weighing,
10 did you have an opinion as to what the caliber of
11 that bullet was?

12 A. Based on the physical examination, I
13 determined it was a 9-millimeter Ruger caliber
14 bullet.

15 Q. And with regard to your examination of
16 the lands and grooves on that case, were you able
17 to determine a list of potential firearms
18 manufacturers which could have fired that bullet?

19 A. I was.

20 Q. And what manufacturers were those?

21 A. It was Fabrique Nationale, Ruger, or
22 Smith & Wesson.

23 Q. And Fabrique Nationale, I believe, is a
24 Belgium -- a Belgium manufacturer, correct?

25 A. Correct.

1 Q. Where is Ruger located, if you know?

2 A. New England.

3 Q. Okay. And Smith & Wesson is a -- been
4 an American brand forever, correct?

5 A. Massachusetts; yes, sir.

6 Q. Now, sometime after that did you
7 receive a shell casing from the sheriff's office?

8 A. I did.

9 Q. I hand you what's been marked as
10 State's Exhibit Number 64, and as if you can
11 identify that as the shell casing that you
12 examined?

13 A. This one is marked with the item number
14 and the lab number and my initials and is still in
15 the heat-sealed pouch with my initials and dates.

16 Q. Okay. And with regard to State's
17 Exhibit 64, what kind of examination did you
18 perform with that?

19 A. A cartridge case without a firearm is
20 generally the same thing. I'll look at it
21 physically and microscopically. I wrote down any
22 information like the make, the caliber, then I
23 looked at it under the microscope to see if there
24 were any marks I could use if I were to receive a
25 gun later.

1 Q. And, first of all, is -- caliber-wise
2 is the cartridge case, 64, consistent with the
3 projectile you examined?

4 A. The cartridge case is also a
5 9-millimeter Ruger.

6 Q. Okay. And the cartridge case that you
7 examined is what make?

8 A. Let me check my notes real quick. It's
9 Speer brand.

10 Q. And that's S-P-E-E-R, correct?

11 A. Correct.

12 Q. And with regard to the -- we'll get
13 back to that in a minute. Did you perform a
14 microscopic examination of the firing pin
15 impression on State's Exhibit Number 64?

16 A. I did.

17 Q. And was there anything unusual about
18 the firing pin impression on State's Exhibit 64
19 that would separate it from having been made by
20 other manufacturers?

21 A. I just wrote down the general
22 characteristics of everything on the cartridge
23 case, and in this case the firing pin impression
24 was teardrop shape. Sometimes we see circles,
25 sometimes we see rectangles. So in this case it

1 was teardrop shaped.

2 Q. Okay. So this had a teardrop shape
3 firing pin impression; is that correct?

4 A. Correct.

5 Q. Do Fabrique Nationale and Ruger make a
6 weapon that have teardrop shaped firing pins?

7 A. Not to my knowledge.

8 Q. Does a Smith & Wesson MMP 9C
9 9-millimeter pistol have a tear-shaped impression
10 firing pin?

11 A. In my experience, that's what I've
12 seen.

13 Q. And I believe you told us previously
14 the only other manufacturer you know that uses that
15 teardrop shaped impression is some Glocks, correct?

16 A. Correct. More in modern Glocks though,
17 ES1.

18 Q. Okay. I knew I had it here somewhere.
19 Let me show you State's Exhibit 118. Were you
20 previously provided with a picture of that
21 photograph -- I mean, a photograph?

22 A. I was.

23 Q. Of that particular pistol?

24 A. Correct.

25 Q. And based upon the ATF trace, that is

1 what model pistol?

2 A. It is a Smith & Wesson MMP, Model 9C.

3 Q. Which is a 9-millimeter pistol,
4 correct?

5 A. Correct.

6 Q. Okay. And assuming the same pistol
7 fired State's Exhibit 64 and 65, would it be
8 consistent with having been fired by this weapon?

9 A. It would have been fired by a Smith &
10 Wesson MMP, which is -- an example of that is in
11 the picture.

12 Q. Would it be consistent with being fired
13 by a Fabrique Nationale or a Ruger pistol?

14 A. Not in my experience.

15 Q. Okay. I've removed or had my
16 investigator remove a round from State's Exhibit
17 Number 66, which I will give to you and ask you
18 what that is?

19 A. It's a 9-millimeter Ruger with a Speer
20 headstamp cartridge.

21 Q. And is that ammunition live round
22 consistent with State's Exhibit 64 and 65?

23 A. Yes. State's Exhibit 65 is a jacket
24 hollow point bullet, and it appears to be the same
25 as this one, and the cartridge case has the same

1 markings as this one.

2 MR. DURANT: Thank you. Could you
3 please answer any questions defense counsel may
4 have for you?

5 MS. NORRIS: May it please the Court.

6 CROSS-EXAMINATION

7 BY MS. NORRIS:

8 Q. Is your official title agent or do you
9 have a rank?

10 A. I'm an agent.

11 Q. Agent. All right. Agent Eichenmiller,
12 the database that you talked about that you input
13 information, I want to talk with you a little bit
14 about that. Is it true that newer models, newer
15 manufacturers may not, in fact, be in that
16 database?

17 A. That's true.

18 Q. So if a gun manufacturer makes a new
19 weapon, there's no law that requires them to
20 provide information to law enforcement to help
21 identify that weapon?

22 A. Correct. The database is kept up by
23 firearms examiners. Whenever we see a new firearm
24 that's not in the database, we report it and then
25 we get it added to the database.

1 Q. And so that is why in your report that
2 you listed that it could be those three
3 manufacturers, but the list is not all inclusive.
4 You can't say for certainty that it was only one of
5 those three manufacturers?

6 A. Correct.

7 Q. Okay. And now, the 9-millimeter Luger
8 projectile that you examined, could that, in fact,
9 have been fired by a 40-caliber pistol?

10 A. Some 9-millimeter could be fired in a
11 40. It's not traditionally what you could do, but
12 depending on the firearm and ammunition, it could
13 happen.

14 Q. It's not recommended?

15 A. Correct.

16 Q. But it can happen. All right. And the
17 specific information that you provide to the
18 database to get your list back, is one of those
19 characteristics the rifling on a barrel?

20 A. The rifling on the bullet is what I
21 provide to the database.

22 Q. I apologize. Yes. And I believe you
23 listed that it comes -- that it was most likely a
24 conventional rifled barrel?

25 A. It was conventionally rifled.

1 Q. And is conventional by far the most
2 common type of rifling?

3 A. It's the most common that we see.

4 Q. All right. And you also -- is one of
5 the characteristics the grooves that you see?

6 A. Correct. The number of lands and
7 grooves is dependent on the manufacturer. That's
8 another item that I put in the database to help
9 narrow it down.

10 Q. And tell the jury just briefly what
11 lands and grooves are.

12 A. Lands and grooves are the rifling that
13 are put in the barrel by the manufacturer when they
14 make the barrel. They can pick whatever number
15 they want. I've seen from three up to about 16 or
16 more.

17 And then they can also pick other
18 characteristics, like how wide they want them to
19 be, how skinny they want them to be.

20 Q. And, in this case, you found five
21 grooves?

22 A. Yes.

23 Q. And is it true that that five or six
24 are the majority of rifling characteristics that
25 you see?

1 A. Generally, yes.

2 Q. So, again, very common?

3 A. Correct.

4 Q. And, then, is one of the
5 characteristics the way that it twists, the
6 direction that it twists?

7 A. Correct; it's either a left or right
8 twist.

9 Q. And isn't it true that right is by far
10 the most common?

11 A. Right is more common than left in my
12 experience.

13 Q. And in this particular case it was a
14 right twist?

15 A. Correct.

16 Q. And in terms of the actual
17 manufacturers, Smith & Wesson is one of the most
18 popular brands in the country, right?

19 A. It's probably in the top five.

20 Q. They've been making weapons since
21 before the American Civil War?

22 A. Yes.

23 Q. And Ruger is also a very popular brand?

24 A. Right.

25 Q. And 9-millimeter itself is a very

1 common brand?

2 A. It's one of the top calibers that we
3 usually see in the lab.

4 Q. And the cartridge case that you
5 examined -- and you said was a Speer 9-millimeter?

6 A. Correct.

7 Q. Okay. In terms of ammunition, showing
8 you from State's Exhibit 67, that would be
9 ammunition, correct?

10 A. Yes.

11 Q. The bullets themselves. And Speer is a
12 very popular brand of ammunition as well, isn't it?

13 A. Yes.

14 Q. So I could go to Walmart today, or any
15 gun shop that sells ammunition, and get Speer
16 9-millimeter ammunition?

17 A. I don't think they're at all the gun
18 shops, but you could go to several and probably
19 find it there.

20 Q. Now, in terms of the firing pin
21 impression that you talked about, the teardrop
22 shape, while it is consistent with a Smith & Wesson
23 MMP, that's not the only kind of weapon that has a
24 teardrop shape, is it?

25 A. Correct.

1 Q. And the M -- Smith & Wesson MMP itself,
2 they're actually lots of MMP models, are there not?

3 A. There are MMPs in different calibers,
4 yes.

5 Q. And even -- even within the one model,
6 say 9C, there is a full size, a compact size, and a
7 subcompact?

8 A. I believe the C stands for compact in
9 this case, so that's a kind, but there are full
10 size which would just be MMP 9 and then subcompact,
11 I believe.

12 Q. Now, the picture that the solicitor
13 showed you of this particular weapon, in the
14 science department that you do -- and this is
15 State's Exhibit 118. In the science department
16 that you do, it makes absolutely no difference what
17 pictures people show you, right?

18 A. Correct.

19 Q. Okay. You test the object, you give an
20 opinion?

21 A. Correct.

22 Q. So to be clear, this particular pistol
23 you cannot say was involved in this crime?

24 A. I never received a firearm in this
25 case, no.

1 Q. So the best you can say is it could
2 have been that pistol?

3 A. Correct.

4 Q. Or it could have been a thousand other
5 pistols in Charleston County?

6 A. Any other pistol that has the rifling
7 that the bullet had or the teardrop shape firing
8 pin, yes, ma'am.

9 MS. NORRIS: I don't have anything
10 else. Thank you.

11 MR. DURANT: I have nothing else.

12 THE COURT: You may step down. Thank
13 you.

14 All right. Ladies and gentlemen, your
15 lunch has arrived so we're going to go ahead and
16 take our lunch break. Please leave your notepads
17 in your chairs and we'll see you back in the
18 courtroom.

19 So we call this a working lunch; it's
20 going to be shorter. And, again, just remember all
21 my admonitions; do not discuss this case amongst
22 yourselves or begin to decide any of the issues.
23 Please rise for the jury.

24 (Jury out, 12:30 p.m.)

25 THE COURT: Thank you. Please be

1 seated.

2 (A luncheon recess transpired.)

3 MR. DURANT: I would like you to look
4 at the autopsy photographs, and they will be these
5 two which -- and I don't think they have any
6 problem.

7 MS. NORRIS: No, I don't have
8 objections to those.

9 THE COURT: Okay. You have an
10 objection to State's 58 and 57; is that correct?

11 MS. NORRIS: Yes.

12 THE COURT: And just place it on the
13 record.

14 MS. NORRIS: My objection is that the
15 probative value is outweighed by the prejudice and
16 that it shows a close-up of the shot. The medical
17 examiner can testify to that. He can point, on me,
18 on her, wherever the shot was.

19 And the other one, the head is shaved
20 and it shows lacerations. She can testify to that.
21 These are unnecessary.

22 THE COURT: Okay. Noting your
23 objection, I do find that State's 57 and 58 are
24 more probative than prejudicial. I do not find
25 that what is contained in those two photographs is

1 designed to inflame the jury's passions. I note
2 your exception to the ruling.

3 MR. DURANT: Thank you, Your Honor.

4 THE COURT: Anything else, Mr. Durant?

5 MR. DURANT: No, Your Honor. We're
6 ready to proceed.

7 THE COURT: Ms. Norris?

8 MS. NORRIS: Yes, Your Honor.

9 THE COURT: Anything before we bring in
10 the jury?

11 MS. NORRIS: No.

12 THE COURT: All right.

13 (Jury in, 1:33 p.m.)

14 THE COURT: Please be seated.

15 Mr. Durant, call your next witness.

16 MR. DURANT: The State would call
17 Angelina Phillips, please.

18 ANGELINA PHILLIPS

19 being first duly sworn, testified as follows:

20 THE CLERK: You need to speak into that
21 microphone and state your full name for the record,
22 spelling your last name.

23 THE WITNESS: Angelina Phillips,
24 P-H-I-L-L-I-P-S.

25 DIRECT EXAMINATION

1 BY MR. DURANT:

2 Q. Good Afternoon, Dr. Phillips.

3 A. Good afternoon.

4 Q. Did you enjoy your trip?

5 A. I did. I'm a little tired.

6 Q. It's good to have you back.

7 A. Thank you.

8 Q. Could you please tell our jury what
9 your occupation is?

10 A. I'm a forensic pathologist.

11 Q. And how long have you been a forensic
12 pathologist?

13 A. Three years, one is training and two
14 practicing.

15 Q. Okay. And you, of course, are a
16 licensed physician in South Carolina?

17 A. Yes.

18 Q. And you've been practicing medicine for
19 how long?

20 A. Seven years.

21 Q. Where did you receive your medical
22 training?

23 A. I received my medical training, my
24 medical degree Suny Upstate Medical Center in
25 Syracuse, New York and residency training in

1 Massachusetts.

2 Q. Okay. And obviously your area of
3 specialty or expertise is?

4 A. Forensics.

5 Q. And forensic pathology, specifically?

6 A. Pathology, yes.

7 Q. And in general terms, could you just
8 let our jury know what forensic pathology is.

9 A. Forensic pathology is a subsection of
10 the field of pathology. It is involving forensic
11 autopsies, which is an examination of the body for
12 the purpose of determining cause and manner of
13 death.

14 Q. And you've been affiliated with the
15 Medical University for how long now?

16 A. Three years.

17 Q. And in that capacity have you had the
18 opportunity to perform autopsies?

19 A. Yes.

20 Q. And how many autopsies have you
21 performed during your career?

22 A. Approximately, 700.

23 Q. Are you board certified in the area of
24 forensic pathologist?

25 A. Yes.

1 Q. And what are the requirements for a
2 certification in forensic pathology?

3 A. You have to have completed your
4 residency training in pathology, be board
5 certificated in anatomical and clinical pathology,
6 complete a year of training in forensics performing
7 autopsies and taking an examination, and then you
8 become board certified in forensic pathology.

9 Q. And that is a national certification,
10 correct?

11 A. Yes.

12 Q. And you, of course, are affiliated with
13 MUSC. Do you have any teaching responsibilities in
14 this area?

15 A. Yes. I'm an assistant professor at the
16 university.

17 Q. And are you a member of any specialized
18 groups or associations related to the field of
19 forensic pathology?

20 A. Yes.

21 Q. What are those?

22 A. The American Association of Forensic
23 Scientists and the National Association of Medical
24 Examiners.

25 Q. And have you previously been qualified

1 as an expert witness in the area of forensic
2 pathology?

3 A. Yes.

4 Q. On how many occasions?

5 A. Four.

6 Q. And in what courts?

7 A. Charleston, Berkeley, Jasper, and
8 Charleston again.

9 Q. Okay.

10 MR. DURANT: Your Honor, at this time
11 we would offer Dr. Phillips as an expert in the
12 field of forensic pathology.

13 MS. NORRIS: No objection.

14 THE COURT: You will be so qualified.

15 BY MR. DURANT:

16 Q. Okay. Let's talk about the case that
17 brings us here today. As part of your affiliation
18 with MUSC, did you have the occasion to perform an
19 autopsy on a Johnny Pritchard?

20 A. I did.

21 Q. And when was that?

22 A. That was performed on the 24th of
23 December 2016.

24 Q. And what was Mr. Pritchard's age?

25 A. He was 46.

1 Q. And what was his height?

2 A. I would have to refer to the report, if
3 I may.

4 Q. If that would refresh your
5 recollection, please feel free.

6 A. He was 71 inches.

7 Q. And what was his weight?

8 A. He was 152 pounds.

9 Q. And were Mr. Pritchard's clothing and
10 personal effects also transported to the autopsy?

11 A. Yes.

12 Q. Do you recall whether he had any money
13 on him?

14 A. He did.

15 Q. How much?

16 A. Two quarters and one dime.

17 Q. Was there any wallet?

18 A. I believe there was. I would have to
19 double check --

20 Q. Okay. Please do.

21 A. -- to verify that. Actually, there was
22 not.

23 Q. Okay. Now, as part of your autopsy
24 were photographs taken which depict the location of
25 the laceration and gunshot wound suffered by the

1 victim in this case?

2 A. Yes.

3 Q. As well as some clothing that he was
4 wearing and some evidence that you recovered?

5 A. Yes.

6 MR. DURANT: Your Honor, at this time
7 we would offer State's 55, 56, 57, 58, 59, and 60.

8 THE COURT: Any objection?

9 MS. NORRIS: Continuing objection to 57
10 and 58.

11 THE COURT: State's 55 through 60 into
12 evidence, noting your objection to 57 and
13 58.

14 (STATE'S EXH. 55 - 60, Autopsy
15 photographs, in evidence.)

16 BY MR. DURANT:

17 Q. Okay. And would -- you've seen these
18 photographs before, correct?

19 A. Yes.

20 Q. And would reference to these
21 photographs assist you in explaining your findings
22 to the jury in this case?

23 A. Yes, it would.

24 Q. Okay. And I'm going to put them up on
25 the screen for you, how about that? As part of

1 your autopsy, did you perform an external
2 examination of the body?

3 A. Yes.

4 Q. And what evidence of recent injury did
5 you observe from your external examination of
6 Mr. Pritchard in this case?

7 A. Mr. Pritchard had a gunshot wound to
8 the neck and a laceration to the back of his head.

9 Q. And let's start with the gunshot wound
10 to the neck. Was it an -- I'm assuming it was an
11 entrance wound?

12 A. Yes.

13 Q. Was there an exit wound?

14 A. No.

15 Q. So I'm assuming you were able to
16 recover a projectile?

17 A. I did recover a projectile.

18 Q. And where was the entrance wound?

19 A. It was on the right side of his neck.

20 Q. And could we refer you to State's
21 Exhibit 57, please?

22 MR. DURANT: Beg the Court's
23 indulgence, sorry?

24 BY MR. DURANT:

25 Q. Referring to State's Exhibit Number 57,

1 this is the gunshot wound that you were talking
2 about, correct?

3 A. Yes.

4 Q. I noticed in your autopsy report you
5 noted a circumferential abrasion border at the 9
6 and 3:00 position. What does that mean?

7 A. That is referring to the abrasions that
8 are on the edges of the wound. An abrasion on a
9 gunshot wound is one of the features we look at to
10 identify an entrance gunshot wound.

11 Q. Okay. And those abrasion borders are
12 caused by the bullet's friction on the skin, is --

13 A. Correct.

14 Q. Does that generally indicate that a
15 bullet went in at an angle, as opposed to going in
16 straight?

17 A. It's possible that it could indicate
18 that, yes.

19 Q. And because -- and I asked that just
20 because it seems like that one appears to be a bit
21 elongated?

22 A. Yes.

23 Q. And when you say 3 and 9:00 borders, is
24 that with disorientation?

25 A. It is in a clock face orientation with

1 the body in a standard position.

2 Q. Your report further notes that there
3 was no soot or stippling on the skin. What is soot
4 and stippling?

5 A. Soot and stippling are products of
6 combustions coming out of the end of a gun. And we
7 look to see if that is on the skin or around the
8 wound to identify, if we can, a range.

9 Q. Okay. Because, obviously, if a gun is
10 held close and a bullet pulled, it can burn the
11 skin around the wound and things of that nature?

12 A. Correct.

13 Q. But, in this case, there was indication
14 that he was shot through clothing; is that correct?

15 A. Yes.

16 Q. And in that event would there be
17 stippling or soot on the wound?

18 A. You would not expect it to be on the
19 wound itself.

20 Q. Okay. Could you please describe to our
21 jury the pathway and the damage caused by this
22 bullet?

23 A. Okay. And I'll refer to my report so I
24 get everything correct. The bullet projectile went
25 through the skin and subcutaneous tissues on the

1 right side of the neck.

2 And it went through the
3 sternocleidomastoid muscle, which is the large
4 muscle in the neck; then through strap muscles,
5 which are again smaller muscles in the neck; the
6 right lobe of the thyroid gland which sits in the
7 neck; and the thyroid cartilage, which is the area
8 of the Adam's apple; and it also disrupted the 6th
9 cervical vertebra, so that is a vertebral body in
10 the neck; the soft tissues and muscles on the left
11 side of the neck; also, the left subclavian artery,
12 that's this artery that runs along the region going
13 into the arm; the left first rib, left clavicle,
14 and the left scapula. Which is a bone near the
15 shoulder blades; and the soft tissues in the
16 posterior aspects of the shoulder, the left
17 shoulder, which is where the projectile was
18 recovered from.

19 Q. Okay. And what were the significant
20 injuries caused by that gunshot wound? Of the ones
21 that you described, which are the ones that were
22 most likely the lethal component?

23 A. The most lethal injury would have been
24 to the artery and the cervical vertebrae.

25 Q. Okay. And obvious -- did it severe the

1 artery?

2 A. It did.

3 Q. So I'm assuming from that, did he bleed
4 out?

5 A. Yes.

6 Q. Obviously, the cervical vertebra -- and
7 you also mentioned an Adam's apple. Could that be
8 potentially fatal as well?

9 A. It could be, yes.

10 Q. And what was the trajectory of the
11 bullet?

12 A. It was right to left, so going in on
13 the right side of the neck and ending up in the
14 left -- downward, up in the neck, into the shoulder
15 and slightly backwards.

16 Q. Okay. And you said you did recover a
17 projectile; is that correct?

18 A. Yes.

19 Q. And that projectile would be what's now
20 State's Exhibit 65 into evidence?

21 A. Yes, sir.

22 Q. Which was subsequently turned over to
23 the Charleston County Sheriff's Office, correct?

24 A. Correct.

25 Q. Okay. You also -- your report also

1 noted that the victim had sustained a laceration to
2 the back of his head. Where on the back of his
3 head?

4 A. That was to the left posterior aspect.

5 Q. And could we see State's 58, please?

6 And is this the wound of which you speak?

7 (Indicating?)

8 A. Yes.

9 Q. How big was that laceration?

10 A. That was, I believe, a half of an inch.

11 Q. And could you tell whether or not that
12 -- a laceration of that nature, was that caused by
13 some sort of sharp object, or what would be the
14 mostly cause of a laceration like that?

15 A. By definition, lacerations are a blunt
16 injury and they fall into the category of
17 blunt-type injuries with contusions or bruising.
18 Lacerations are basically a tear in the skin
19 occurring from a blunt injury as opposed to a sharp
20 injury, a cut. So it's from blunt injury.

21 Q. Okay. And I've got to go back a little
22 bit. Can we show 59 and 60? You said you removed
23 -- you removed a bullet, and this is 59, and the
24 next one is 60. Those appear -- are the bullets
25 that you removed in this case; is that correct?

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

J. C. Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOSEPH LAMAR BROWN, JR.

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Amended Record on Appeal in the above-referenced case has been served upon Caroline M. Scrantom, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), which is cscrantom@scag.gov, this 8th day of June, 2020.

s/Susan B. Hackett

Susan B. Hackett
Appellate Defender