

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Feb 02 2023

SC Court of Appeals

Appeal from Sumter County

Honorable R. Ferrell Cothran, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES L. GINTHER,

APPELLANT

APPELLATE CASE NO. 2019-000672

RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ATTORNEY FOR APPELLANT

J. ANTHONY MABRY
Senior Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-6305

HON. ERNEST A. FINNEY, III
Solicitor, Third Judicial Circuit
(803) 436-2185

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED APRIL 8-12, 2019 (VOLUME NO. 1 OF 5)	1
JACKSON V. DENNO MOTIONS	22
RULING OF THE COURT	31
OPENING STATEMENT BY MR. FINNEY	52
OPENING STATEMENT BY MR. BRIDGES	58
TESTIMONY	
WILLIAM PARKER	
Direct Examination by Mr. Finney	61
Cross Examination by Mr. Bridges.....	90
Redirect Examination by Mr. Finney.....	100
CAMERON PRESCOTT	
Direct Examination by Mr. Finney	107
Cross Examination by Mr. Bridges.....	121
TRIAL TRANSCRIPT DATED APRIL 8-12, 2019 (VOLUME NO. 2 OF 5)	130
TESTIMONY	
AMY YARBOROUGH	
Direct Examination by Mr. Finney	133
SUSAN AYCOCK	
Direct Examination by Mr. Finney	142
Cross Examination by Mr. Bridges.....	151
MICHAEL MCCAULEY	
Direct Examination by Mr. Finney	153
Cross Examination by Mr. Bridges.....	160
Redirect Examination by Mr. Finney.....	164
Re-Cross Examination by Mr. Bridges.....	166
DONALD VICKERS	
Direct Examination by Mr. Finney	167
Cross Examination by Mr. Bridges.....	190

WARREN DUNDERO	
Direct Examination by Mr. Finney	197
Cross Examination by Mr. Bridges.....	216
Redirect Examination by Mr. Finney.....	222
JOHN BATES	
Direct Examination by Mr. Finney	224
MARK SJOLUND	
Direct Examination by Mr. Finney	240
Cross Examination by Mr. Bridges.....	246
DAVID GAYLE	
Direct Examination by Mr. Finney	247
Cross Examination by Mr. Bridges.....	273
Redirect Examination by Mr. Finney.....	283
RANDALL STEWART	
Direct Examination by Mr. Finney	287
TRIAL TRANSCRIPT DATED APRIL 8-12, 2019 (VOLUME NO. 3 OF 5)	
309	
TESTIMONY	
RANDALL STEWART	
Further Direct Examination by Mr. Finney	314
Cross Examination by Mr. Bridges.....	319
(REMAINDER OF TESTIMONY NOT INCLUDED)	325
RANDALL HILLIARD (TESTIMONY NOT INCLUDED)	
326	
KRISTINA GAINEY (TESTIMONY NOT INCLUDED)	
326	
RACHAEL SALAK	
Direct Examination (TESTIMONY NOT INCLUDED).....	327
Cross Examination by Mr. Bridges.....	328
Redirect Examination by Mr. Finney.....	353
Re-Cross Examination by Mr. Bridges	358
KIMBERLY COLLINS	
Direct Examination by Mr. Finney	359
Cross Examination by Mr. Bridges.....	373
Redirect Examination by Mr. Finney.....	380
NICHOLAS SPROUSE	

Direct Examination by Mr. Finney	381
Cross Examination by Mr. Bridges.....	390
MOTION REGARDING BALLISTIC REPORTS	392
RULING OF THE COURT	394
TESTIMONY	
RANDALL STEWART	
Direct Examination by Mr. Finney	396
Cross Examination by Mr. Bridges.....	404
DERON SOLOMON	
Direct Examination by Mr. Finney	406
CHAD SMITH	
Direct Examination by Mr. Finney	411
Cross Examination by Mr. Bridges.....	426
Redirect Examination by Mr. Finney.....	433
Re-Cross Examination by Mr. Bridges.....	434
SAMUEL STEWART	
Direct Examination by Mr. Finney	435
Cross Examination by Mr. Bridges.....	446
Redirect Examination by Mr. Finney.....	450
Re-Cross Examination by Mr. Bridges.....	451
TRIAL TRANSCRIPT DATED APRIL 8-12, 2019 (VOLUME NO. 4 OF 5)	455
TESTIMONY	
ERIC GARBISKI	
Direct Examination by Mr. Finney	463
Cross Examination by Mr. Bridges.....	493
Redirect Examination by Mr. Finney.....	503
Re-Cross Examination by Mr. Bridges.....	505
DERON SOLOMAN	
Direct Examination by Mr. Finney	506
CHASE BARNETT	
Direct Examination by Mr. Finney	508
Cross Examination by Mr. Bridges.....	515
JEFFERY BISHOP	

Direct Examination by Mr. Finney	516
Cross Examination by Mr. Bridges.....	527
Redirect Examination by Mr. Finney.....	534
JACOB VETO	
Direct Examination by Mr. Finney	535
Cross Examination by Mr. Bridges.....	546
RANDALL STEWART	
Direct Examination by Mr. Finney	548
Cross Examination by Mr. Bridges.....	560
COLLOQUY WITH THE DEFENDANT REGARDING HIS RIGHT TO TESTIFY	574
THE STATE RESTS	577
MOTION FOR DIRECTED VERDICT.....	582
RULING OF THE COURT	586
TRIAL TRANSCRIPT DATED APRIL 8-12, 2019 (VOLUME NO. 5 OF 5)	592
CLOSING ARGUMENT BY MR. FINNEY	598
CLOSING ARGUMENT BY MS. BRIDGES	626
REBUTTAL CLOSING ARGUMENT BY MR. FINNEY	643
CHARGE ON THE LAW	648
VERDICT	661
SENTENCING	672
INDICTMENT AND SENTENCE SHEET	674
STIPULATION.....	677
CERTIFICATE OF COUNSEL	682

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT #60 (911 RECORDING); STATE’S EXHIBIT #61 (BODY CAM
VIDEO); STATE’S EXHIBIT #62 (BODY CAM VIDEO); STATE’S EXHIBIT #64
(VIDEO CD); STATE’S EXHIBITS #66, #67 (STILL PHOTOS OF VEHICLE); STATE’S
EXHIBIT #75 (CD/ LEXINGTON, KY); and STATE’S EXHIBIT #76 (PHOTO)**

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF SUMTER) 2018-GS-43-00206

STATE OF SOUTH CAROLINA)
) PLAINTIFF)
) vs.) TRANSCRIPT OF RECORD
))
 JAMES L. GINTHER)
) DEFENDANT)
)

April 8-12, 2019
 Sumter, South Carolina
 Volume No. 1 of 5

B E F O R E:

THE HONORABLE R. FERRELL COTHRAN, JUDGE; and a jury.

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

ERNEST A. FINNEY III, DEPUTY SOLICITOR
 Attorney for the State

JASON E. BRIDGES, PUBLIC DEFENDER
 Attorney for the Defendant

ALLEN J. BARNES, PUBLIC DEFENDER
 Attorney for the Defendant

BILLY PARKER,
 CAMERON PRESCOTT,
 AMY YARBOROUGH,
 SUSAN AYCOCK,
 MICHAEL MCCAULEY,
 DONALD VICKERS,

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

WARREN DUNDERO,
JOHN BATES,
MARK SJOLUND,
DAVID GAYLE,
RANDALL STEWART,
KRISTINA GAINNEY,
RACHAEL SALAK,
RANDALL HILLIARD,
KIM COLLINS,
NICHOLAS SPROUSE,
DARREN SOLOMAN,
CHAD SMITH,
SAMUEL STEWART,
ERIC GRABISKI,
DARON SOLOMON,
CHASE BARNETT,
JEFF BISHOP,
JACOB VETO,

HATTIE O. GORDON
Circuit Court Reporter

MASTER INDEX

VOLUME 01: MONDAY, MAY 08, 2019

Voir Dire of the Jury	15
Selection of the Jury	21
Colloquy	29
Opening Statement by Mr. Finney	70
Opening Statement by Mr. Bridges	76

WILLIAM PARKER

Direct By Mr. Finney	79
Cross By Mr. Bridges	108
Redirect By Mr. Finney	118

CAMERON PRESCOTT

Direct By Mr. Finney	125
Cross By Mr. Bridges	139
Colloquy	142
Certificate of Reporter	147

VOLUME 02: TUESDAY, MAY 09, 2019

Colloquy	150

AMY YARBOROUGH

Direct By Mr. Finney	151

SUSAN AYCOCK

Direct By Mr. Finney	160
Cross By Mr. Bridges	169

MICHAEL MCCAULEY

1	Direct By Mr. Finney	171
2	Cross By Mr. Bridges	178
3	Redirect By Mr.. Finney	182
4	Recross By Mr. Bridges	184
5	DONALD VICKERS	
6	Direct By Mr. Finney	185
7	Cross By Mr. Bridges	208
8	WARREN DUNDERO	
9	Direct By Mr. Finney	215
10	Cross By Mr. Bridges	234
11	Redirect By Mr. Finney	240
12	JOHN BATES	
13	Direct By Mr. Finney	242
14	Colloquy	256
15	MARK SJOLUND	
16	Direct By Mr. Finney	258
17	Cross By Mr. Bridges	264
18	DAVID GAYLE	
19	Direct By Mr. Finney	265
20	Cross By Mr. Barnes	291
21	Redirect By Mr. Finney	301
22	Colloquy	303
23	RANDALL STEWART	
24	Direct By Mr. Finney	305
25	Colloquy	324

1	Certificate of Reporter	326
2		
3	VOLUME 03: WEDNESDAY, MAY 10, 2019	
4	Colloquy	329
5	Further Direct By Mr. Finney	332
6	Cross By Mr. Bridges	337
7	RANDALL HILLIARD	
8	KRISTINA GAINES	
9	RACHAEL SALAK	
10	Cross By Mr. Bridges	346
11	Redirect By Mr. Finney	371
12	Recross By Mr. Bridges	376
13	KIMBERLY COLLINS	
14	Direct By Mr. Finney	377
15	Cross By Mr. Barnes	391
16	Redirect By Mr. Finney	398
17	NICHOLAS SPROUSE	
18	Direct By Mr. Finney	399
19	Cross By Mr. Bridges	408
20	Colloquy	410
21	RANDALL STEWART	
22	Direct By Mr. Finney	414
23	Cross By Mr. Bridges	422
24	DERON SOLOMON	
25	Direct By Mr. Finney	424

1	CHAD SMITH	
2	Direct By Mr. Finney	429
3	Cross By Mr. Bridges	444
4	Redirect By Mr. Finney	451
5	Recross By Mr. Bridges	452
6	SAMUEL STEWART	
7	Direct By Mr. Finney	453
8	Cross By Mr. Bridges	464
9	Redirect By Mr. Finney	468
10	Recross By Mr. Bridges	469
11	Colloquy	470
12	Certificate of Reporter	472
13		
14	VOLUME 04: THURSDAY, MAY 11, 2019	
15	Colloquy	475
16	ERIC GRABISKI	
17	Direct By Mr. Finney	481
18	Cross By Mr. Bridges	511
19	Redirect By Mr. Finney	521
20	Recross By Mr. Bridges	523
21	DERON SOLLOMON	
22	Direct By Mr. Finney	524
23	CHASE BARNETT	
24	Direct By Mr. Finney	526
25	Cross By Mr. Bridges	533

1	JEFFERY BISHOP	
2	Direct By Mr. Finney	534
3	Cross By Mr. Bridges	545
4	Redirect By Mr. Finney	552
5	JACOB VETO	
6	Direct By Mr. Finney	553
7	Cross By Mr. Bridges	564
8	RANDALL STEWART	
9	Direct By Mr. Finney	566
10	Cross By Mr. Bridges	578
11	Colloquy	592
12	JAMES GINTHER	
13	Certificate of Reporter	609
14		
15	VOLUME 05: FRIDAY, MAY 12, 2019	
16	Colloquy	612
17	Closing Statement by Mr. Finney	616
18	Closing Statement by Mr. Bridges	644
19	Closing Statement by Mr. Finney	661
20	Charge of the Court	666
21	Colloquy	678
22	Verdict of the Jury	679
23	Polling of the Jury	681
24	Colloquy	682
25	Sentence of the Court	683

1	Certificate of Reporter	691
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	STATE'S EXHIBITS			
2	<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
3	1	Photo	61	65
4	2	Photo	61	65
5	3	Photo	61	65
6	4	Photo	61	65
7	5	Photo	61	65
8	6	Photo	61	65
9	7	Photo	61	65
10	8	Photo	61	65
11	9	Photo	61	65
12	10	Photo	61	65
13	11	Photo	61	65
14	12	Photo	61	65
15	13	Photo	61	65
16	14	Photo	61	65
17	15	Photo	61	65
18	16	Photo	61	65
19	17	Photo	61	65
20	18	Photo	61	65
21	19	Photo	61	65
22	20	Photo	61	65
23	21	Photo	61	65
24	22	Photo	61	65
25	23	Photo	61	65

1	24	Photo	61	65
2	25	Photo	61	65
3	26	Photo	61	65
4	27	Photo	61	65
5	28	Photo	61	65
6	29	Photo	61	65
7	30	Photo	61	65
8	31	Photo	61	65
9	32	Photo	61	65
10	33	Photo	61	65
11	34	Photo	61	65
12	35	Photo	61	65
13	36	Photo	61	65
14	37	Photo	61	65
15	38	Photo	61	65
16	39	Photo	61	65
17	40	Photo	61	65
18	41	Photo	61	65
19	42	Photo	61	65
20	43	Photo	61	65
21	44	Photo	61	65
22	45	Photo	61	65
23	46	Photo	61	65
24	47	Photo	61	65
25	48	Photo	61	65

1	49	Photo	61	65
2	50	Photo	61	65
3	51	Photo	61	65
4	52	Photo	61	65
5	53	Photo	61	65
6	54	Photo	61	65
7	55	Photo	61	65
8	56	Calendar	61	65
9	57	Map	61	65
10	58	Map	61	65
11	59	Map	61	65
12	60	911 Recording	61	65
13	61	Video	61	262
14	62	Video	61	
15	63	School Records	329	335
16	64	Video CD	329	333
17	65	D.N.A. Consent	329	333
18	66	Photo	344	344
19	67	Photo	344	344
20	68	Gun	428	
21	69	Magazine	428	
22	70	Holster	428	
23	71	Bullet Fragments	428	431
24	72	Shell Casing	428	431
25	73	CD of Phone Records	428	486

1	74	Glove	525	525
2	75	CD/Lexington KY	526	531
3	76	Photo	553	561
4	77	Atlas	553	558
5	78	Notebook	553	563
6	79	Receipts/Walmart	553	562
7	80	Receipts/CVS	553	562
8	81	Receipt/Dollar General	553	562
9	82	Bullets (5)	553	559
10	83	Hand Sanitizer	553	559
11	84	Pocket Knife	553	559
12	85	Fire Starter	553	559
13	86	Clip for 380	553	559
14	87	Bullets (17)	553	560
15	88	Bullets (Bag)	553	572

16

17

18

19

20

21

22

23

24

25

DEFENDANT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Medical Report	257	
2	Message Log No. 01	257	370
3	Message Log No. 02	257	370
4	Map	329	515
5	Map	329	517
6	Map	329	
7	Map	329	517
8	Map	329	515
9	C.D.	329	
10	C.D.	329	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COURT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Defendant's Voir Dire.	36	36
2	Redactions to State's No. 62		

1 THE COURT: From the Defense?

2 MR. BRIDGES: None from the Defense, Your Honor.

3 THE COURT: Okay. Ladies and gentlemen, who were not
4 selected to serve on this case I'm going to ask you to go
5 to Courtroom A which is down the hall. Judge Curtis is
6 there and she will select another jury for another trial.
7 Thank you.

8 (WHEREUPON, the jury pool was excused from courtroom
9 at 12:03 p.m.)

10 THE COURT: I'm going to give you instructions later.
11 Go to the jury room and let me talk to them about the
12 schedule and I'll bring you back out and decide when we're
13 going to lunch. Okay.

14 (WHEREUPON, the jury panel was excused from the
15 courtroom at 12:04 p.m.)

16 COLLOQUY

17 THE COURT: Tell me a little bit about the
18 scheduling, now. Do y'all have any motions?

19 MR. BRIDGES: Yes, Your Honor. There will be two --
20 there are two separate incidents where law enforcement
21 questioned Mr. Ginther. Those are the subject of two
22 Jackson v. Denno hearings. And then maybe a motion about
23 the scope of the expert's report, the ballistics report,
24 and then everything else would be a standard motions to
25 sequester the witnesses.

1 THE COURT: Okay. I have been provided a copy of the
2 statement that law enforcement took of your client. So I
3 have listened. It's about two hours. I have listened to
4 that entire statement. And so as far as that's concerned
5 that won't take that long, I'm assuming. But, you know,
6 I've already done that. So the other statement, how long
7 is that.

8 MR. BRIDGES: It's very short. It's body cam footage
9 of the officers then they -- when Mr. Ginther's car got in
10 a car accident, and they arrived on scene. It's their
11 body cam footage, and it's about, probably -- one is 15
12 minutes and one is 5 minutes. So it's very brief.

13 THE COURT: Is there -- every part of the interaction
14 that he had where statements are involved are they all on
15 body camera?

16 MR. BRIDGES: That I don't know. That first
17 officer -- I was provided with two different body cameras.
18 One from Officer Bishop, one from Officer Franklyn. I
19 don't know if that first officer had body camera or not.
20 Those interactions that are documented they do ask my
21 client questions. He responds. I think there is a
22 question about ---

23 THE COURT: Is that all on body camera? What I'm
24 trying to find out is whether I can listen to the body
25 camera tapes and gleam everything I need to know or do I

1 need live testimony?

2 MR. BRIDGES: I think all those interactions are on
3 body camera. And once they determined he had a warrant
4 out of South Carolina they say explicitly that they're not
5 going to ask him any more questions, so.

6 THE COURT: I can technically listen to that without
7 live testimony?

8 MR. BRIDGES: Yes. And if you feel, when the day
9 comes that they testify, that you want to rehear from them
10 I'm fine. But I'm fine to giving it without because I
11 understand.

12 THE COURT: Okay. So is there going to be any live
13 testimony on the first day? That was conducted by Sumter
14 County that I heard?

15 MR. FINNEY: That would be up to the Court. We are
16 prepared to put up Investigator Stewart.

17 THE COURT: But is there anything that is not on the
18 tape? If he testifies, assuming I let it in and he
19 testified in trial, is there any other statement that
20 allegedly the defendant made not on that tape that would
21 have been an issue in this case? So everything is on that
22 tape?

23 MR. FINNEY: Yes, sir.

24 THE COURT: Is the only objection that you have on
25 the tape a Jackson v. Denno issue.

1 MR. BRIDGES: No, Your Honor. There is material that
2 would be improper, I believe, improper character evidence
3 to relevant statements. Statements about Family Court
4 proceedings. Statements about other proceedings that
5 would be outside the scope of this trial. When we have
6 the hearing I can give you a breakdown of what I would be
7 concerned with. If you would like me to do that now I
8 can.

9 THE COURT: No. I'm -- this is something with the
10 jury. I'm trying to decide whether we're going to take
11 testimony this afternoon or do opening statements simply
12 because, you know, we can be through with those hearings
13 in 30 minutes, sounds like.

14 MR. BRIDGES: I just don't know. If they play the
15 video in its entirety I certainly have an objection to
16 certain subject matter on that video.

17 THE COURT: I mean I heard the video. We don't have
18 to play it again this afternoon. All you have to do is
19 tell me what parts you object to and I can rule on that.
20 I'm just trying to get a timeframe.

21 MR. BRIDGES: Yeah, I know. If that's the only
22 interaction was what the documented, I don't know if we
23 need to cross-examination Investigator Stewart again.

24 THE COURT: Okay. So if I send them to lunch now and
25 came back at 1:30 -- well, we need some time. If I

1 brought them back at 2:30 and we came back at 1:30
2 couldn't we start at 2:30? Don't you think we can hear
3 this in an hour?

4 MR. BRIDGES: I guess that's ---

5 THE COURT: The only reason -- if I'm not going to
6 hear any testimony other than I can listen to Kentucky,
7 the tape, if I'm not going to hear two hours of testimony
8 and all we're going to do is argument what's admissible
9 and what's not admissible we ought to be able to do that
10 in an hour. Don't you all agree? There is no need for
11 live testimony is what I'm trying to get to.

12 MR. FINNEY: I do not know of any need for live
13 testimony.

14 THE COURT: Okay. You know of any?

15 MR. BRIDGES: No. My only concern would be if they
16 intend on playing the tape today. I mean I certainly want
17 to have my objections on the record before ---

18 THE COURT: Oh, I'm going to let you object to the
19 tape.

20 MR. BRIDGES: Yeah.

21 THE COURT: Anything before they play the tape?

22 MR. BRIDGES: Yeah.

23 THE COURT: What I'm trying to see is how long the
24 motion hearing would last.

25 MR. BRIDGES: Since you've already seen the entirety

1 of that tape I should be relatively small. I will just
2 highlight the Jackson v. Denno concerns and then my other
3 concerning subject matter on the tape.

4 THE COURT: Sure. And I can rule -- and the problem
5 is if I rule in your favor on parts of the tape and it's
6 redacted do y'all have the ability to redact it and get
7 it -- are you planning on playing it today?

8 MR. FINNEY: No, sir, not today.

9 THE COURT: Okay.

10 MR. BRIDGES: And we might be able to resolve that by
11 skipping that portion of the video. I understand that
12 there are technical implications, but if there is a way to
13 skip past the parts I have objections to.

14 THE COURT: Okay. I'll give you a chance to do that.
15 So I'm going to bring the jury in. I will not swear them.
16 I will send them to lunch and bring them back at 2:30.

17 MR. FINNEY: Yes, sir.

18 THE COURT: And that ought to give us a chance to
19 resolve all this.

20 MR. FINNEY: Yes, sir.

21 THE COURT: And then we can at least do opening
22 statements and get as far as we can.

23 MR. FINNEY: Yes, sir.

24 THE COURT: Okay. Bring the jury in.

25 (WHEREUPON, the jury panel enters the courtroom at

1 12:13 p.m.)

2 THE COURT: Okay, ladies and gentlemen, I am going to
3 send you to lunch before we actual start this case. I've
4 got some legal matters that I've got to deal with and it
5 doesn't make any sense for you to be sitting back there in
6 the jury room. So I'm going to send you to lunch. I will
7 deal with all the legal matters and ask you to be back at
8 2:30.

9 So, now, I need everyone of you to be back. When you
10 come back you go straight to the jury room. If you have
11 an emergency over lunch you need to call the Clerk's
12 Office or call the Sheriff's Office or somebody and let
13 them know that you had an emergency cause if I don't hear
14 from you I can't get started until all 14 of you show up.

15 So if I'm missing one or two I'm going to send the
16 deputies to try to find you. If you have an emergency
17 call us. If you don't I expect you back at 2:30.

18 Don't discuss this case. Don't allow anybody to
19 discuss this case with you. Don't Google anybody. Don't
20 do any research. Everything you know about this case I
21 need you to learn in the courtroom. All right. Thank you
22 so much. If you go back there they will show you where to
23 return, and they are going to give you some parking
24 instructions. When you come back you will know where to
25 park. Okay.

1 (WHEREUPON, the jury panel was excused from the
2 courtroom at 12:14 p.m.)

3 THE COURT: Okay.

4 MR. BRIDGES: Your Honor, may I have my voir dire
5 motion back. I'd like to make it a Court's Exhibit.

6 THE COURT: Sure.

7 (WHEREUPON, Court's Exhibit No. 1 was marked for
8 identification and received into evidence.)

9 THE COURT: Okay. Tell me about your motions.

10 MR. BRIDGES: Yes, sir. I -- it is two Jackson v.
11 Denno motions. First pertains to the interview with
12 Investigator Stewart at Mr. Ginther's house on
13 November 18th. That's the video you viewed. From the
14 video there was a lengthy -- there was almost two hours of
15 questions until Investigator Stewart decides to Mirandize
16 James. I believe it's at the hour, 53 minute mark in that
17 video.

18 The time like -- the entire the before that there
19 were no -- there were no Miranda warnings issued. It's
20 not really made clear if James is free to go or not. But
21 certainly it becomes a custodial, I would argue in Mr.
22 Stewart's mind, because he issued Miranda warnings at that
23 point.

24 And as you can tell from seeing the video at first
25 it's kind of unclear the nature of these questions. Some

1 of these he asking concern about his welfare, about the
2 children's welfare, about other parts that are not
3 directly related to the investigation. But then there is
4 a point where he separates the sol and Mr. Ginther and
5 that continues for a while before he is Mirandized.

6 So I would just say that because Miranda was not
7 issued until the very end all of those other parts, I
8 think, would require Miranda warning because he,
9 Investigator Stewart, clearly is treating it as a
10 custodial interrogation because he decided to initiate
11 Miranda warning towards the end of that interview.

12 THE COURT: Okay.

13 MR. BRIDGES: And that goes to Jackson v. Denno issue
14 of it in that, you know, there shouldn't be -- he was not
15 advised of his rights during the first hour and 50 minutes
16 of that interview. And, again, was, but I do not know if
17 he could have intelligently waived his rights if he was
18 not made aware of them.

19 THE COURT: Okay.

20 MR. BRIDGES: And when it comes to the -- we don't
21 have the computer set up, but we have a body cam video,
22 illegal body cam ---

23 THE COURT: Wait a minute. Let me deal with this.
24 So your objection is that you think it was an in custodial
25 interrogation? It was in his den, right? And if he

1 was -- my understanding of the facts that I saw the
2 officer came in and questioned him. He did separate him
3 from I don't know if it was his girlfriend or his wife at
4 one point. And he did read him his rights about an hour
5 and 53 minutes into it.

6 But after the officer left he was not in custody.
7 You agree he did not arrest him that day cause nothing I
8 saw he was arrested. The officer and the S.L.E.D. agent
9 left. I mean he was still there; is that correct.

10 MR. BRIDGES: That is correct, but I would just say
11 the circumstances because Investigator Stewart himself
12 brought it upon himself to advise him of his Miranda
13 rights. The timing of that should have been at the
14 beginning of the conversation. Not much, much later.

15 THE COURT: Okay. Is there any other, outside of the
16 reading of Miranda rights at the time he read them, do you
17 have anything else?

18 MR. BRIDGES: Is this just about Jackson v. Denno?

19 THE COURT: Yeah, I know. That he coerced him or
20 duress or I mean any other circumstances? You know, I had
21 the advantage of it all being on camera versus audio or
22 even written. So do you have anything else that might
23 suggest you think he was under duress or when he gave any
24 of the statements?

25 MR. BRIDGES: There are some. At 1:47 in the video

1 Stewart says, "I'm worried about the state you are in. I
2 wouldn't want you to hurt yourself because of your grief
3 state."

4 THE COURT: Right.

5 MR. BRIDGES: He expresses concern throughout the
6 time that he's extremely upset and agitated. Mr. Ginther
7 is extremely upset and agitated and that perhaps he needs
8 to seek counseling or something to that effect. So it
9 does indicate that Investigator Stewart is concerned with
10 his mental state.

11 Now, again, it would be totality of the circumstances
12 based on the video, but I would say that Investigator
13 Stewart does reference that multiple times throughout the
14 interview.

15 THE COURT: All right. Anything else?

16 MR. BRIDGES: In terms of Jackson v. Denno, for that
17 video, no, Your Honor.

18 THE COURT: Okay. You want to respond to that,
19 Solicitor?

20 MR. FINNEY: Please the Court, Your Honor. I'd like
21 to give the Court a calendar. It just -- you're going to
22 need this as we go through the trial. This is November
23 2017. It's just a breakdown because we have several days
24 of events.

25 Just by way of background, Your Honor, just for the

1 purpose of this hearing, on Thursday, the 16th of
2 November, the victim's normal routine was to leave her
3 residence in the Cherryvale section of Sumter County at
4 about 4:00 a.m. an drive alone to Columbia, South Carolina
5 where she was the opening manager of the Pet Smart Food
6 Store for dogs and cats.

7 She did not arrive at work at five o'clock to open
8 the door. Her coworkers were waiting for her, and it lead
9 to them being very concerned about her safety. As a
10 result of that the investigation began. And also on the
11 16th by 7:00 a.m. her car, her minivan, her Chrysler
12 Minivan, had been located in her subdivision in Cherryvale
13 about an hour from her house.

14 THE COURT: And that was on the 16th.

15 MR. FINNEY: Yes, sir.

16 THE COURT: Okay.

17 MR. FINNEY: Calls were made to law enforcement. Law
18 enforcement tried to contact Mr. Ginther because the
19 vehicle was registered to him. They reached his fiancée in
20 Columbia, and as a result of all that about two hours
21 later the victim's boyfriend, Mr. Billy Parker, filed a
22 missing person's report on the 16th.

23 Fast forward to the evening of the 16th, the victim's
24 body was found buried in the Manchester Forest Area of
25 Sumter County in a shallow grave by a hunter. That hunter

1 called law enforcement right away. So by five o'clock,
2 six o'clock on the evening of the 16th they had located
3 their missing person and located her van.

4 As a result of further investigation and, of course,
5 the autopsy and other things, Investigator Stewart found
6 himself in Columbia on his way back from the autopsy on
7 Saturday, the 18th. And after lunch in Columbia with the
8 S.L.E.D. agent he and the S.L.E.D. agent decided that they
9 were a very short distance away from Mr. Ginther's house,
10 since he was the owner of the car and ex-husband of the
11 victim, they went by to meet him, talk to him and discover
12 what they could. And that's how they happen to be at Mr.
13 Ginther's house on Saturday. And that's the video that
14 you saw pretrial.

15 We don't think that there is anything coercive or
16 anything that would lead the Court to feel that he was in
17 custodial interrogation. He certainly was being asked for
18 information in terms of background so that a suspect could
19 be developed. And as you have seen from the long
20 interview Mr. -- Investigator Stewart was very concerned
21 about the man cause he knew he just lost a family member.
22 And he tried to be as delicate as possible. Tried to be
23 as sensitive as possible.

24 When the details were turning towards sensitive stuff
25 Mr. Stewart got the S.L.E.D. agent to take the fiance out

1 to the porch where they could talk, and they just talked
2 to Mr. Ginther one on one so to speak.

3 At some point during this interview right aro8und the
4 time that the rights were read we believe Mr. Stewart,
5 Investigator, was responding to the fact that the
6 Defendant was found to have a loaded pistol on his person
7 throughout the whole interview which as you know you just
8 said an hour and 53 minutes that they had talked in the
9 living room without him mentioning that or even becoming
10 aware of that fact by the investigator.

11 At that point they thought that they might want to
12 change to focus and get the gun away from him and they
13 also felt that that might be, in learning of what kind of
14 gun it was, and that it was the same caliber gun that they
15 had found at the autopsy regarding her death that they
16 ought to ask some more point questions and they gave the
17 rights at that time.

18 THE COURT: Okay.

19 MR. FINNEY: At no time did he take any property. If
20 you will remember on several occasions he asked the
21 inter -- the person he was interrogating to please help
22 him clear him of any involvement in terms of D.N.A,
23 ballistics and cell phone records. He wanted to be able
24 to show -- because that he already knew, the investigator
25 already knew, that the last person, one of the last people

1 on her cell phone that the victim talked to, was Mr. James
2 Ginther on Wednesday night, the 15th?

3 THE COURT: Okay. And?

4 MR. FINNEY: The State's position would be that this
5 was an investigatory investigation in terms of trying to
6 find background information and not custodial
7 interrogation and Miranda does not attach.

8 THE COURT: Okay. You want to respond to that in any
9 way?

10 MR. BRIDGES: Just that the timing of the warnings
11 came -- that is initiated by Investigator Stewart, and I
12 think that's important, cause it shows that James probably
13 wasn't aware of what type of situation he was in. And
14 after an hour and 52 minutes that was initiated by
15 Investigator Stewart we think that you could say that
16 James was not aware that what he was saying could
17 potentially be used against him because he was not advised
18 of his Miranda rights.

19 And the firearm, it was secured. It wasn't taken or
20 anything like that. I don't think -- they asked him a
21 question about whether or not he was armed until maybe
22 that far in the conversation.

23 THE COURT: My recollection of the conversation on
24 the tape was that he wanted to look at his cell phone
25 which was upstairs. And then he was going to go upstairs

1 to get the cell phone, and he simply asked him for their
2 own protection whether there were any guns upstairs. And
3 at that point he voluntarily said he was armed and that he
4 had the gun down in front of his pants that was concealed
5 and Office Stewart put on black gloves to handle the gun
6 at that time to secure the situation to make sure nobody
7 was sitting there with a loaded gun.

8 At that point he read him his rights, and many times
9 in a police interview when the interview gets to the point
10 that the police realize that this person has confessed or
11 has committed a crime and they are not going to let them
12 leave; they understand at that point they are going to
13 arrest him then they will read him his rights.

14 At this point he was overly cautious and gave him his
15 rights, but he was not against the law for him to have a
16 gun within his own home. The police officer acknowledged
17 that he had done nothing in the police officer's presence
18 to cause the police officer to take him into custody.

19 Matter of fact in this whole interview, my entire
20 time which in 40 something years I guess being in criminal
21 court and being on this bench, I've ever heard an
22 interview any better from a police officer as far as
23 protecting a defendant's rights. He did an excellent job
24 in that interview in assuring his rights were taken care
25 of and the way he asked the questions and the way he dealt

1 with him he showed concern for his well being. And I
2 found on duress, no coercion, nothing from this police
3 officer that would put any person, this defendant or
4 anybody else under the impression that they were under
5 arrest for any crime at that time of the interview.

6 I think that under Jackson v. Denno it was not a
7 custodial interrogation. At no time did he take him into
8 custody and at no time do I feel a normal person would
9 believe they were in custody. He clearly discussed
10 sensitive information with him and issues as far as this
11 crime is concerned.

12 So as far as Jackson v. Denno, I deny your motion. I
13 think it was a non-in custodial interrogation; that he
14 read him his rights because the gun was presented but he
15 did not arrest him. And I'll put him under -- matter of
16 fact he let him -- they went upstairs to get the phone.
17 He unloaded the gun. He went to the gun. He put it back
18 in the closet. He left the gun with your client as well
19 as the two other guns that were there.

20 So as far as Jackson v. Denno is concerned I find no
21 violations and that it was free and voluntarily given.
22 Okay.

23 MR. BRIDGES: Now, Your Honor, would you like me to
24 discuss the objection on material I have on that same
25 tape?

1 THE COURT: That way -- let's finish this tape before
2 we go because I hadn't heard a Kentucky tape. I need to
3 listen to that over lunch.

4 MR. BRIDGES: Thank you, Your Honor..

5 THE COURT: Tell me what else you want to talk about.

6 MR. BRIDGES: Okay. So during the interview at --
7 starting at 2400 Investigator Stewart asked James, "Is
8 there any association between Billy Parker and you?" And
9 Ginther begins to reference a time that -- a past incident
10 that I believe would not be relevant and would be
11 prejudicial if it came in. And that goes from 24.

12 And then until about 26 they asked James -- James
13 mentions that he was evicted by Suzie's mom. Again,
14 that's something that I think is prejudicial and also not
15 relevant. He references a Family Court eviction that was
16 initiated by, I believe, Suzette's mom.

17 THE COURT: Okay.

18 MR. BRIDGES: Then continues to go -- they reference
19 an incident. James Stewart [sic] asks James did he ever
20 worry about her as in Suzette as the mother. James
21 references where she pulled a gun on him. Again, this is
22 past conduct that I think is outside the scope of this
23 trial. And there are issues of relevance and prejudice
24 there.

25 Then probably my largest concerns are one of six.

1 Stewart asks him, "Suzie, is she normal or is she, in his
2 words, "freaky behind the door." So they start talking
3 about the sexual history. Again, I don't know how that's
4 relevant to this issue, and I also think that it's
5 extremely prejudicial. And, most importantly, for me they
6 asked James -- this is about one -- about 1:58. Stewart
7 asks James if he looks at pornography. James actually
8 admits to having a problem with pornography that he picked
9 up in the Navy. That goes from about 1:55 until about
10 2:00.

11 And, again, that's extremely prejudicial. And also I
12 don't think that's relevant, and it also includes
13 character evidence. For those reasons I would like 1:55
14 to 2:00 to be redacted or cut out from the video.

15 And then when James brings back his cell phone they
16 read a message that Suzie sent. I just don't know how
17 that would not be hearsay in this context because we do
18 not have that cell phone. Suzie can't testify to it's
19 authenticity. It kind of puts Mr. Ginther in the
20 situation of, you know, he's -- that statement comes in
21 through her recorded statement. Then I just don't know
22 how we will deal with that.

23 Stewart also alleges that he received, I believe 22
24 text messages that night. I received his cell phone data.
25 I don't think it's clear from the data what type of data

1 transmission or communication that was. So I probably
2 just ask that be limited. I mean it's speculation in
3 part. He's not an expert in that as well. And those
4 conversations occurred between, looks like about 1:20 and
5 1:30.

6 THE COURT: Okay, and anything else?

7 MR. BRIDGES: I believe that's all I have, Your
8 Honor.

9 THE COURT: You want to respond to those, Solicitor?

10 MR. FINNEY: Judge, I don't believe I'm going to put
11 up much of a fight about that. The cell point, I wanted
12 to say that for the last because I didn't really
13 understand that one. I do think that if Mr. Ginther
14 relayed information I believe all that information was
15 verified by the officer who was looking at the cell phone
16 looking at the actual text at that time. Is there a
17 picture ---

18 THE COURT: My understanding is he was looking at a
19 sheet. He had information that he had received a bunch of
20 texts ---

21 MR. FINNEY: Right.

22 THE COURT: --- you know, at this period. He was
23 asking him about his cell phone.

24 MR. FINNEY: Right.

25 THE COURT: So I guess his objection was whatever

1 paperwork the officer was looking at when he questioned
2 his client, where that paperwork came and how. And I was
3 kind of unclear when I was listening to it how the text
4 messaging that he claimed the defendant got where those
5 texts came from. Whether it was from the victim or
6 whether it came from him. And at one point he looked at
7 the phone. I wasn't real clear what the texts were
8 actually on his phone versus the data that she had. I
9 assume from some phone company or the victim's phone.

10 MR. FINNEY: Yes, sir. And I can tell you that we
11 can take testimony right quick and the Investigator can
12 tell you, but based on what I think he's going to say he
13 was in a position to download and receive emergency
14 information from the cell phone company. The victim ---

15 THE COURT: Right.

16 MR. FINNEY: --- and knew that the victim's phone had
17 contacted with the defendant's phone and there were
18 also -- they were able to determine from those sheets
19 whether they were text messages or voice messages -- voice
20 communications.

21 And so when he was questioning Mr. Ginther he knew
22 whether it was a text or a voice because of the sheets he
23 had in his hand. And he was asking, "What did you text
24 about at ten o'clock last night or five o'clock yesterday
25 afternoon?" That's what the conversation was about.

1 THE COURT: My understanding is he denied those texts
2 from the tape.

3 MR. BRIDGES: If I may respond, Your Honor. It's --
4 there is a text message that Suzie sent to James. It's
5 kind of undisputed or uncontested that it happened. What
6 I'm referring to is particularly around 1:27, 1:28. And
7 I've seen this long. It's been provided to me. It's
8 not -- it doesn't show a number that these messages got
9 sent from. It shows that it was sent to James' phone.

10 But even Investigator Stewart isn't sure. He asked
11 is this an App update? Is this a data transmission. I
12 don't think it's clear from the records, the emergency
13 cell phone records, that this was actually a text message.
14 That's all I'm saying. And I don't know if Stewart
15 speculated playing that question is him asking him a
16 speculative question.

17 I don't know if he actually knows what that is when
18 he asks James that question. All we have is the record
19 that there was some kind of data transmission between an
20 unidentified number and James' phone at those hours in the
21 morning. I don't think that's clear what that actually
22 is. What is the nature of that communication.

23 THE COURT: I didn't pick that up either. I couldn't
24 tell where it was coming from either.

25 MR. FINNEY: And based on the information we have

1 right now Investigator Stewart still hasn't got the answer
2 to that. We do have a S.L.E.D. expert that's coming to
3 talk about the cell, pole cellular, but those seven or
4 eight -- was it like seven or eight?

5 MR. BRIDGES: Yeah, it was from about 3:30 to about
6 5:00 I want to say.

7 MR. FINNEY: Those are -- those were questions that
8 Stewart didn't have an answer to, and he was trying to get
9 information to see if Ginther had a reasonable explanation
10 for why these things were appearing on the phone. They
11 appeared apparently on Suzie's phone, the victim, as well
12 as Mr. Ginther's phone.

13 THE COURT: I wasn't real clear the fact on his
14 phone. Now, I assume at some point did y'all ever get his
15 phone?

16 MR. FINNEY: No, sir, his phone was never recovered.

17 THE COURT: So it never was recovered?

18 MR. FINNEY: No, the phone was not.

19 MR. BRIDGES: Neither was Suzie's phone as well.

20 THE COURT: So neither phone was ever recovered?

21 MR. FINNEY: That's correct.

22 THE COURT: So that information that -- so you never
23 got a search warrant for the phone after the interview?

24 MR. FINNEY: The phone itself we never found, but we
25 do have the search warrants for the records. We have both

1 of the records, and we have Investigator Stewart who was
2 working under the emergency warrant that he got.

3 THE COURT: Right.

4 MR. FINNEY: That day -- the next day after the body.
5 And then there was later, I guess what you call a full
6 search warrant, a regular search warrant, to get
7 information going back let's say 30 days. We have all the
8 records for both phones for 30 days for the November
9 period.

10 THE COURT: And did they -- I guess my objection is
11 that these phone records are either not relevant or has
12 not been authenticated and nobody has come in from the
13 phone company, you know, saying that this message came
14 from this phone and received by the defendant's phone. Do
15 you have anybody that is going to authenticate that
16 information that he had?

17 MR. FINNEY: We have two witnesses who will talk
18 about cellular information on both of the phones, the
19 victim's and the defendant's. But we are not bringing in
20 any conclusions as to whether those phones -- because
21 there is some information that is technical that we just
22 don't have the answer for.

23 THE COURT: He wants me to exclude the cell phone
24 conversation from his client because you can't pick out --
25 it implies that Officer Stewart had information that came

1 from the victim's phone to his phone in the middle of the
2 night. And I guess the question is whether that
3 information is verifiable.

4 MR. FINNEY: Well, first of all, the information --
5 the only conversation there was no conversation what you
6 call a voice. There was no voice message. Voice
7 communication. All the communication that we would be
8 interested in would be the text messaging from Suzie to
9 Mr. Ginther.

10 THE COURT: How do you propose to get that in? You
11 have got somebody going to come in? I mean we would ---

12 MR. FINNEY: First, after all the ---

13 THE COURT: --- get it in.

14 MR. FINNEY: We have the tape where Mr. Ginther
15 admits that he did communicate with Suzie, and not only
16 the time and the place, but also the subject. He tells
17 the investigator what they were fussing about.

18 THE COURT: But that's my recollection. I may be
19 wrong. It's that happened around 9:00 or ten o'clock that
20 night.

21 MR. FINNEY: Yes.

22 THE COURT: 2:00 or three o'clock.

23 MR. BRIDGES: Yeah, that's my contention. I mean we
24 understand there is a text message from Suzie to James.

25 THE COURT: Right.

1 MR. BRIDGES: He admits it's on the record.

2 THE COURT: Right.

3 MR. BRIDGES: It is there. It's a question that
4 Stewart asked after that that says, "You received 20 text
5 message that night."

6 THE COURT: Right.

7 MR. BRIDGES: "Between these hours." And I'm just
8 saying that we don't know enough about this data to even
9 know that those are text messages or not. They're from an
10 unidentified number.

11 MR. FINNEY: I don't have any problem blocking that
12 out.

13 THE COURT: I mean because that's the part that
14 doesn't make any sense to me. But the fact that he
15 admitted, that's fine.

16 MR. BRIDGES: And my concern is then this. He asks
17 James a question about that, and James says he didn't get
18 any text messages.

19 THE COURT: Right.

20 MR. BRIDGES: It says he looks like he's being
21 deceptive when I don't think that he really understands.

22 THE COURT: So you don't have any problem?

23 MR. FINNEY: No, sir. We can block that.

24 THE COURT: All right. What about anything else?
25 Anything else?

1 MR. FINNEY: In the part about his -- the only
2 problem I would have is I don't want to be blocked from
3 using the other objectionable material if Mr. Ginther gets
4 on the stand.

5 As far as my case in chief, I'm not going to talk
6 about the porn. I'm not going to talk about Suzie's
7 sexual history. If he gets on the stand then he's liable
8 to be asked about all those things.

9 THE COURT: Well, if he opens that door you can't put
10 in your case in chief. I don't know. As far as
11 impeaching him, if it becomes an issue, you know. What
12 ---

13 MR. FINNEY: For example, there is an issue about ---

14 THE COURT: What does porn have to do with it? Of
15 course, I don't know the facts in this case, and I assume
16 there is no sexual abuse. But how does him looking at
17 porn have any relevance to anything that happened in this
18 case? If you can make it relevant if he gets on the
19 stand.

20 MR. FINNEY: If he gets on the stand and tries to be
21 an all American boy that went in the Navy and did fine and
22 the record shows that he was pushed out of the Navy for a
23 less than honorable discharge and it may have had
24 something to do with porn then I want it to be open.

25 THE COURT: If he opens that door you can go there.

1 MR. FINNEY: All right.

2 MR. BRIDGES: Yes, sir. And I'm well aware. So do
3 we have a way we can skip around those parts of the video?

4 THE COURT: I'm not -- y'all have either got to
5 figure out.

6 MR. FINNEY: If we can figure that out, if he's got
7 the times we can figure it out.

8 THE COURT: And it would be smoother if you stop, cut
9 and play that part. Sometimes you can. Sometimes you
10 can't. Anything else on the video?

11 MR. BRIDGES: I believe that's it on the video end,
12 Your Honor.

13 MR. FINNEY: May I ask, and we can do this off the
14 record, but just the first thing he said was something
15 about Billy Parker's relationship.

16 THE COURT: Yeah, I don't understand that.

17 MR. BRIDGES: Yeah, so that was at 24. It refers to
18 an incident when James was married to Suzie. Billy Parker
19 was in their house. Basically having ---

20 THE COURT: Caught them in bed together?

21 MR. BRIDGES: Yes. So again, it's another incident
22 that I feel is not relevant.

23 THE COURT: What is your position on that?

24 MR. FINNEY: I think it's the same thing, Your Honor.
25 I'm not going to bring it up in the case in chief, but it

1 is certainly something that I want to be able to argue if
2 he takes the stand.

3 THE COURT: Okay. Anything else?

4 MR. BRIDGES: No, Your Honor. I think we can move
5 around the -- with these time stamps.

6 THE COURT: All right. Y'all try to figure that out.

7 MR. BRIDGES: And you want the Louisville video after
8 lunch?

9 THE COURT: I can. I mean I guess I need to listen
10 to it. Y'all want me -- you want me to -- you want to
11 play it on the record or do you want to give it to me?
12 What do you want to do right now? And what, from this
13 standpoint, was he in custody when he talked to those
14 officers?

15 MR. BRIDGES: So he just had a car accident and I
16 think they were coming to investigate it. And they tell
17 him -- he asks -- I think he asks if he can go to the gas
18 station or something. They say, "you can't leave. You
19 need to sit in the car." Then they start asking him
20 questions.

21 And from my recall he's not Mirandized. And at a
22 point they get a -- they get his I.D. They do a, you
23 know, check on him. They see he has a warrant. Then
24 there is a part where you will see the officer uses
25 extremely colorful language once he hears that James

1 Ginther has a warrant for murder.

2 And, you know, it was admitted that I certainly want
3 that part to be redacted for relevance and prejudice. And
4 one point the officer references him as being armed and
5 dangerous in the reading of some version of the report in
6 there.

7 But his actual interactions with the police are at
8 the beginning of that video, and I would just submit that
9 he should have been Mirandized before they asked him those
10 questions. Because he is -- they tell him that he is not
11 free to leave. They so secure the vehicle. They do
12 search his person. And that is incident to the warrant,
13 but I just think that anything he says should have been
14 covered.

15 MR. FINNEY: We have it on flash drive, Your Honor.

16 THE COURT: Okay. I can listen to it over lunch.

17 All right.

18 MR. BRIDGES: That's y'all.

19 MR. FINNEY: May I have a moment?

20 THE COURT: Certainly.

21 MR. FINNEY: While we are on the record, Your Honor,
22 the same day that Investigators Stewart and Hilliard were
23 at Mr. Ginther's house interviewing him they asked him for
24 D.N.A. He refused and they left. Five minutes later they
25 got a call from the Ginther house. Come back. He's going

1 to do the D.N.A. So there is a video of him giving his
2 D.N.A. to the officers that day.

3 I don't know that he makes any statements. He might
4 have, but any way, it's all on video.

5 THE COURT: Do you have an issue with that?

6 MR. BRIDGES: No, Your Honor. I've reviewed that
7 video, and it's very brief. It's just him saying, "I give
8 consent to this." I think he says, "I talked to my father
9 to make sure this was okay." Something like that. There
10 is not -- there is no additional questioning or anything
11 like that of Mr. Ginther.

12 THE COURT: So he voluntarily gave it?

13 MR. FINNEY: Yes.

14 THE COURT: That's going to come out?

15 MR. FINNEY: Yes, sir.

16 THE COURT: Cause I -- when I listened to the video
17 one of the concerns I had was that at the end may not be
18 admissible. And that when he refused to give D.N.A.
19 there's no South Carolina case on that. There is a
20 Florida case that says, "Refusal to give D.N.A. cannot be
21 used against him at trial." And the fact that he didn't
22 give him the gun, he has a constitutional right to possess
23 the gun.

24 And so on the D.N.A. and the phone, not necessarily
25 so. So the fact that that was on that tape gave me some

1 concerns, even though there is no South Carolina case.
2 There's a Florida case. And it's plenty of South Carolina
3 cases where somebody refusing to talk to the police or
4 silence can't be used against him. But the fact that he
5 didn't give his D.N.A. or the fact that he didn't give
6 them the gun, and so I had some concerns about that part
7 of the tape.

8 But if he turned around and gave -- maybe that's not
9 that way, but wanted to put that to y'all. That concerns
10 of the tape that you just can't use somebody exercising
11 their rights against them to imply guilt. Okay.

12 MR. FINNEY: All right.

13 THE COURT: All right. I'll see y'all ---

14 MR. FINNEY: Yes, sir, at 2:30.

15 THE COURT: I'll be here before that in case --
16 simply if y'all need to get the tape redacted or y'all can
17 agree on it. But we'll start back at 2:30.

18 MR. FINNEY: We're not going to show the tape today.

19 THE COURT: That's fine then.

20 MR. FINNEY: And that's what I was going to ask. If
21 we start back at 2:30 you have an introduction to the
22 jury, open statements. I would probably have two
23 witnesses today.

24 THE COURT: That are short? I mean, obviously, I
25 don't care how long they are as far as getting into the

1 tape. You're not getting into the tape today?

2 MR. FINNEY: No.

3 THE COURT: Okay. On either tape? Okay.

4 MR. FINNEY: Either tape.

5 THE COURT: We can do that. I can give the jury
6 brief instructions. Y'all can do opening statements, and
7 two witnesses or two -- I'm supposed to be at a City
8 Council Meeting at 6:30.

9 MR. FINNEY: I'm supposed to be at a budget meeting
10 at 6:00.

11 MR. BRIDGES: I'd like to be home.

12 THE COURT: All right. I'll see y'all at 2:15.

13 (WHEREUPON, Court was in recess at 12:50 p.m. and
14 reconvenes at 2:37 p.m.)

15 (WHEREUPON, State's Exhibit Nos. 1 THROUGH 62 were
16 marked for identification only.)

17 MR. FINNEY: May it please the Court, Your Honor.
18 The State has marked 60 exhibits. Most of them are color
19 photographs, and we also have four maps. They have all
20 been marked. The Defense tells me that they don't have
21 any objection, and I just want to let you know that had
22 been done.

23 There is a photograph that we are seeking to
24 introduce, actually two photographs, of a vehicle. Same
25 vehicle. It's two photographs. One is a zoom in of the

1 other one. The reason we want those photographs is
2 because they appear to be the type of vehicle that the
3 Defendant was driving at the time this crime was
4 committed. We are not saying that it was the vehicle of
5 the Defendant. We're just saying that a search of the
6 Columbia -- City of Columbia traffic cameras have produced
7 that image. And the S.L.E.D. agent who was examining
8 the video on Highway 378 as a major artery out of Columbia
9 on the way to Sumter captured the video on the date and
10 time we think the Defendant was on his way to Sumter.

11 THE COURT: Tell me one more time. S.L.E.D. agent
12 captured this video or you got it from somewhere else?

13 MR. FINNEY: The City of Columbia maintains traffic
14 cameras and the S.L.E.D. agent went through all the video
15 and found that image.

16 THE COURT: Okay. And you object to this photograph?

17 MR. BRIDGES: Yes, Your Honor. From the -- Agent
18 Gainey from S.L.E.D. is the agent who took that camera.
19 In her report she said that was pulled from the traffic
20 camera, 1256, near Fort Jackson Boulevard and Vine Street.
21 So that's in Columbia.

22 Our objection is that it's not relevant and that can
23 also be confusing to the jury. There is no identifying
24 marking on that vehicle or license plate about driver.
25 The remote distance and timeframe, I means It's not like

1 it's in Sumter next to any crime scene location. I think
2 that it's too remote in time to be relevant, and there is
3 also not enough identification of any vehicle to be
4 relevant.

5 So I would just object to that on relevance ground
6 and also could be prejudicial to my client by confusing
7 the jury about what is exactly shown in that video. Or in
8 the stills.

9 THE COURT: Okay. So his objection is relevance.
10 Not -- you don't have any objection as to authenticity?
11 It's just relevance?

12 MR. BRIDGES: That, I guess we would have to have the
13 agent testify to what databases she looked through to
14 that. I mean they could argument that as potentially a
15 business record exception or something of that sort.

16 Yeah, but there is just no way to say that that is
17 his car. I mean it may match the description as far as
18 what he was driving, but there is not even a brand on
19 there visible. There is not a license place. There is no
20 driver. And the distance from the scene and the time that
21 this happened we just think that's not relevant and is
22 prejudicial to my client.

23 THE COURT: Okay. And what witness do you intend to
24 put this in on?

25 MR. FINNEY: Agent Gainey was in the video.

1 THE COURT: I know Agent Gainey.

2 MR. FINNEY: Agent Gainey went to the house of the
3 Defendant. Subsequently during the investigation they
4 learned by the traffic camera that that traffic camera was
5 within a very short distance from his house. So they
6 checked the traffic camera closest to his house to see if
7 there was any activity that they could capture his vehicle
8 leaving Columbia in the middle of the night heading
9 towards Sumter.

10 And that's what she was able to capture based on
11 location to his house and the direction of the vehicle and
12 the time and date. They thought it was relevant to take
13 that picture.

14 THE COURT: And I understand his objection, and I'll
15 have to -- you will have to inform me and I'll rule on it
16 when -- and it may be relevant or it may not. And it
17 doesn't necessarily identify your client's vehicle, but
18 the fact that it was a vehicle similarly made becomes
19 relevant, I don't know. But everything else y'all don't
20 have any objection to?

21 MR. BRIDGES: All the other photographs? Nothing
22 that has been premarked. That was the only thing.

23 THE COURT: So they're in without objection.

24 MR. BRIDGES: Yes, Your Honor.

25 THE COURT: And so the court reporter has them all

1 and she's numbered them?

2 MR. BRIDGES: That's correct.

3 THE COURT: And they are Exhibits One through how
4 many? You know?

5 COURT REPORTER: Just the photos? One through 55.

6 THE COURT: Exhibits One through 55 are in without
7 objection? And they're either photos or maps?

8 COURT REPORTER: These are just photos, One through
9 55.

10 THE COURT: Okay.

11 MR. FINNEY: Those are just photos.

12 THE COURT: Okay.

13 MR. FINNEY: And then 56 is a map. 57 is a map. 58
14 is a map. 59 is a map and 60 is a CD of a 911 call.

15 THE COURT: You don't have any objection to 60?

16 MR. BRIDGES: No, I don't have any objection to the
17 911 call.

18 THE COURT: Okay. So Exhibits One through 60 are in
19 without objection.

20 (WHEREUPON, State's Exhibit Nos. 1 through 60 were
21 admitted into evidence.)

22 THE COURT: Are we ready to bring the jury in now?

23 MR. FINNEY: Yes, sir.

24 THE COURT: Okay. Bring me a jury and you can swear
25 them in when they get here.

1 that objection, and sometimes it's so involved that I may
2 have to send you to the jury room to get through that and
3 rule whether it's admissible or not admissible and bring
4 you back in. It's not that we're trying to keep anything
5 from you, but under our rule it's important that you hear
6 what you're lawfully entitled to. So that's why sometimes
7 I may have to send you out based on an objection and I'll
8 get you back out just as quick as I can.

9 So if you pay close attention the Solicitor will make
10 his opening statement and we can get started. Solicitor.

11 OPENING STATEMENT BY MR. FINNEY

12 MR. FINNEY: Please the Court, Your Honor. Good
13 afternoon, ladies and gentlemen. My name is Ernest Finney
14 the Third, and I have the pleasure of having served for
15 the last eight and a half year as your Solicitor. I have
16 been a lawyer in Sumter County for the last almost 40
17 years. And I have tried many a case in this court house.

18 As you sit there today most of you probability have
19 never serve on a jury before, and you weren't all that
20 happy about being here this morning. And you probably
21 weren't that much more happy at being selected to be on
22 the jury. And then you find out it's a murder case.

23 Well, let me tell you this. There is nothing more
24 important that you can do as a citizen than to come up
25 here and help the wheels of justice turn. All of the

1 people in this courtroom are concerned about this case.
2 This is the most important case what we want to try this
3 week. This is about how somebody treated somebody else,
4 and we're not talking about strangers. We're talking
5 about family.

6 For the next three or four days as you come and
7 listen to the evidence in this Court you're going to hear
8 one of the most surprising and unreal stories what you
9 have ever heard. And it's not a story made up of just
10 facts or fiction, as the Judge told you you're here to
11 determine the facts. And that's what we're going to bring
12 you.

13 Randy Stewart is the chief investigator on this case.
14 He has been a military service man who left the military
15 and got into law enforcement. He has been my right hand
16 on this case for the last several months. You're going to
17 hear from him at some point during this trial, but he is
18 the one that helped put all the pieces together.

19 Sitting next to Randy is Gwen Harrett. Gwen Harrett
20 has been a victim's advocate and a non-paid volunteer
21 investigator for this case. Has been with the Sheriff's
22 Office for years and years and years. She probably has
23 been in this line of work longer than all of us. Although
24 she doesn't look it. She wears it well with the stress.

25 Some other people I want to introduce you to are

1 family members of Suzie Ginther. Suzie Ginther was a
2 young lady that lived here in Sumter County and her life
3 was taken from her in November of 2017. Suzie Ginther had
4 grown up in Florida with her parents who are here, John.
5 Raise your hand, John. John Bates and Eileen raised her
6 in Florida. At some point John was working here in South
7 Carolina in Sumter and he had a house out in the
8 Cherryvale Section.

9 When his job took him back to Florida he allowed
10 Suzie, his daughter, and her husband at the time, James
11 Ginther, the man who is charged with murder to live in
12 that house. That house is going to be very important in
13 this case.

14 Also I want you to know that there is a man here by
15 the name of Billy Parker. Billy, raise your hand. You're
16 going to meet Billy in a few minutes. Suzette Ginther,
17 who we call Suzie, Suzie, after her divorce from the
18 Defendant met and fell in love with Billy Parker, and she
19 and Billy Parker were living in the family house, John
20 Bates' house in Cherryvale.

21 At time of her death she and her two children, J.J.
22 and Emily, were living with Billy, and they were caring
23 for one another and raising these kids. While all that
24 was going on Mr. Ginther, you will hear from other
25 evidence, found another relationship with a woman by the

1 name of Rachael Salak. Rachael Salak will be here. There
2 she is on the front row. They started a relationship, and
3 after a year or so they had a child. His name is Patrick.
4 Patrick was born in Columbia, South Carolina after they
5 had moved around some.

6 And the events that you're going to be listening to
7 this week took place between Columbia, South Carolina and
8 Sumter, South Carolina. Suzie Ginther, in the terminology
9 that we use in Court is a victim. But from the time that
10 I opened this case, every day that I spend on this case I
11 got to know more and more about her, and I learned she's
12 not a victim because if you're a victim what you're really
13 doing is you're pinning someone with a badge concerning
14 their death. She did not have anything to do with her
15 death. She should not be judged on the fact that she was
16 treated so unkindly at her death.

17 You will find out about her life, and you will find
18 out that she was much more than a victim because of how
19 she lived. Not how she died.

20 The Solicitor's Office presents cases in Court, and
21 we will bring you every piece of evidence that we've been
22 able to dig up. Most of that evidence will be what they
23 call direct evidence. That means that I will show you a
24 photograph. I will show you -- I will have a tape
25 recording for you to listen to. Evidence that you can

1 hear or you can see.

2 There is another kind of evidence that's called
3 circumstantial evidence, and we will be using
4 circumstantial evidence because we allege when James
5 Ginther took life of Suzie Ginther illegally and
6 premeditatedly. Premeditatedly means he that he planned
7 this way before he pulled the trigger on the firearm that
8 took her life.

9 And we will show you that through either direct
10 evidence or circumstantial evidence. And the Judge is
11 going to tell you at the end of this case that both are
12 good. Sometimes you have salt. Sometimes you have
13 pepper. Both make the food better. Circumstantial
14 evidence and direct evidence work together to help us
15 prove our case. And we have to prove our case beyond a
16 reasonable doubt.

17 The Judge is going to tell you what reasonable doubt
18 is. I don't want you to hear about reasonable doubt at
19 the end of the trial and think, oh, this is something new.
20 Mr. Finney and Mr. Bridges didn't talk about it.
21 Reasonable doubt is the standard that we have to meet to
22 build our case. We have to convince you that beyond a
23 reasonable doubt that that man killed Suzie Ginther in
24 November of 2017. And that he did it illegally.

25 We are going to show you that this case is not just

1 about obsession. It's not just about bitterness. It's
2 not just about family members not getting along. It's
3 about control, and only one person here couldn't handle
4 that. Couldn't have things his way. And he had to have
5 control.

6 You're going to see step by step the planning, the
7 moving, the visiting, all of the things that were done.
8 We're going to refer to State's Exhibit 56 which is the
9 map of the month of November, 2017. We're going to show
10 you what was going on with James Ginther especially during
11 the week of the 13th through the 18th. And especially on
12 the 15th, the 16th, which is the date she was killed, the
13 17th, the 18th, and the 19th.

14 In this courtroom and in this State I have to tell
15 you and show you through the evidence when the case
16 happened. I just showed you that. Where it happened, and
17 I've got other exhibits here to show you the location of
18 important places and things that were going on in Sumter
19 County where she lived, Suzie lived. Where vehicles were
20 found. The where will be shown to you. Not by theory but
21 by fact.

22 I have to show you, tell you and prove to you how
23 Suzie's life ended. We have a doctor coming on Wednesday.
24 We have investigator's photograph. We have investigator's
25 reports of things they found at the crime scene. The how

1 will be clear to you. The who will be clear to you
2 because there is only one victim, Suzie Ginther.

3 What I will not be able to tell you is why. There is
4 only one man in the whole world who knows why. He's the
5 man that pulled the trigger on her. We're asking for you
6 to listen to the evidence. Give us your utmost attention,
7 and by all means don't feel like you have to be a lawyer.
8 The lawyers are going to do the work. What I need you to
9 do is use your common sense, listen carefully and apply
10 the law that the Judge is going to give you.

11 At the end of this case I believe you will find that
12 we have proved James Ginther guilty beyond a reasonable
13 doubt. We ask you to find him guilty of the kidnapping
14 and murder of Suzie Ginther. Thank you. .

15 OPENING STATEMENT BY MR. BRIDGES

16 MR. BRIDGES: Good afternoon, ladies and gentlemen.
17 I'm Jason Bridges. I represent James Ginther, and this is
18 my colleague, Mr. Jack Barnes, also at the table. You may
19 be hearing from him periodically throughout the trial.
20 I'd like to extend the Solicitor's thanks for your service
21 this week. I understand that this is not in the top 50
22 things that you would probably like to be doing this week,
23 but jurors and jury trials are the bedrock of our system.

24 And this event happened in November 2017. I've been
25 representing James ever since, and to him and to the

1 family and to everybody this is the most important week of
2 his life. Most important week of the victim's family's
3 lives, and this is very important. Cannot do this without
4 you. It's important to note, as the Solicitor mentioned
5 and as the Judge will tell you, in any criminal case the
6 State has the burden of proof.

7 And what that means is that the State has to prove
8 beyond a reasonable doubt that Mr. James Ginther is guilty
9 of the specific crimes that he's being charged with,
10 murder, kidnapping. That means that it's not up to me to
11 prove Mr. Ginther innocence. It's not up to me to prove
12 anything, but as you will see there will be many reasons
13 to doubt. As you say with this case with every [piece of
14 evidence that gets introduced, whether it's photographs,
15 testimony, medical experts, testimony of other experts,
16 there is really more questions than answers here.

17 There is -- undoubtedly this is a very tragic case.
18 Very tragic occurrence, but there are issues at every turn
19 about what exactly happened, how it happened, and I will
20 say the most important thing, who did it. Who actually
21 did this crime. So I would just stress, as the Solicitor
22 has, that you pay attention. Give us your full attention.
23 I know that can be very tough sometimes as we work through
24 this material.

25 And always keep in mind that the State has to prove

1 beyond a reasonable doubt that Mr. Ginther committed these
2 crimes. And you will see with everything they bring up
3 that there will be questions. Where did this kidnapping
4 take place? How did it take place? Where -- you will
5 hear about the location of the victim's vehicle. You will
6 hear about the people around that area. There are many
7 unanswered questions.

8 And like I said it's not -- fortunately, it's not my
9 role to solve the case. It's not our role to do that.
10 It's just our role for these specific facts and not your
11 role to decide -- it's your role to decide if these
12 allegations against James Ginther is guilty beyond a
13 reasonable doubt of these crimes.

14 And after all the evidence is presented and all the
15 issues are raised I'm confident that you will agree with
16 me that the State has not met its burden and that Mr.
17 Ginther is not guilty on both charges. Thank you.

18 THE COURT: Yes, sir. You may call your first
19 witness.

20 MR. FINNEY: Please the Court, Your Honor. We call
21 Billy Parker.

22 BAILIFF: State your name.

23 THE WITNESS: William Parker.

24 WILLIAM PARKER, after being duly sworn,
25 testified as follows:

1 BAILIFF: Thank you. Step around, sir. Watch
2 yourself coming up the ramp. State your name for the
3 record and spell your last name, please.

4 THE WITNESS: William Benjamin Parker. P-A-R-K-E-R.

5 DIRECT EXAMINATION

6 BY MR. FINNEY:

7 Q. Good afternoon, sir. You all right?

8 A. Yes, sir.

9 Q. Mr. Parker, you are a resident of Sumter County?

10 A. Yes, sir.

11 Q. All right, sir. And where do you live?

12 A. Right now I live at 8 sunset Street.

13 Q. All right. And in 2017 did you reside with Suzie
14 Ginther at?

15 A. 4164 North Lake Cherryville.

16 Q. Okay. And in November of 2017 how long had you known
17 Suzie?

18 A. Me and her met right at the tail end of 2014, and we
19 started becoming involved right at the beginning of 2015.

20 Q. Okay. All right. And how long did you all court
21 each other before you started living together?

22 A. We were together up until -- let's see. October is
23 when I actually moved in.

24 Q. October of?

25 A. Of 2015.

1 Q. Of '15. Okay. And would you recognize a photograph
2 of Suzie if I showed it to you?

3 A. Yes, sir.

4 Q. All right. I'm going to show you what's been marked
5 as State's Exhibit Number One. Who is that in the
6 photograph?

7 A. That's Suzie and her dad, John.

8 Q. Do you know John?

9 A. Yes, sir.

10 Q. He's here today?

11 MR. FINNEY: Without objection, Your Honor.

12 MR. BRIDGES: No objection from the Defense.

13 BY MR. FINNEY:

14 Q. Do you know when this picture was taken?

15 A. I'm not sure exactly when. I want to say it was the
16 possibly the beginning of 2017. Maybe the end of 2016.
17 Somewhere in that neighborhood.

18 Q. Were y'all -- you and Suzie were together when this
19 picture was taken.

20 A. Yes, sir.

21 Q. Do you know where it was taken?

22 A. It was taken at the house.

23 Q. In Cherryvale?

24 A. Yes, sir.

25 Q. The house you lived in?

1 A. Yes, sir. That's the main living room.

2 Q. Very good. Tell us a little bit about you. What do
3 you do for a living?

4 A. Freelance artist.

5 Q. An artist?

6 A. Yes, sir.

7 Q. All right, sir. What kind of field do you work in?

8 A. I sculpt. I paint. Tattoo, air brush, pretty much.

9 Q. And did you grow up around here?

10 A. Yes, sir.

11 Q. Okay. And so you've lived in Sumter all your life?

12 A. Yes, sir.

13 Q. And when you met Suzie did she have two children,

14 J.J. and Emily?

15 A. Yes, sir.

16 Q. And you got to know them as well as -- while you were
17 courting Suzie?

18 A. Yes, sir.

19 Q. Okay. Would you let me ask you a little bit about
20 November 2017. You were an artist at that point in your
21 life?

22 A. Yes, sir.

23 Q. Did you work outside the home and inside the home?

24 A. Yes, sir.

25 Q. Tell the jury about that?

1 A. Well.

2 Q. How your schedule worked in that period of your life.

3 A. Well, I start work at a tattoo shop, and our hours
4 are from 12:00 in the afternoon until 9:00 in the evening.
5 And I would wake up 7:00 in the morning. Take the kids to
6 school. Drop them off. Come home. Go to work at 12:00.
7 Stay there until 9:00 and come home. Hang out with Suzie
8 if she was up.

9 If she was already asleep -- she had a long drive
10 commuting back and forth to Columbia and Sumter to work.
11 So if she was sleep I always let her sleep and I would go
12 upstairs and paint, do whatever.

13 Q. In November of 2017 where was Suzie working?

14 A. November of 2017?

15 Q. Yes, sir?

16 A. She was at Pet Smart.

17 Q. Pet Smart is an animal supply company?

18 A. Yes, sir.

19 Q. Where is it located?

20 A. In Columbia, South Carolina.

21 Q. How long had she had that job?

22 A. I know she had that job for -- I know right about six
23 months I know at least.

24 Q. All right. And did she like the job?

25 A. She loved it.

1 Q. And did Suzie like animals?

2 A. She loved them.

3 Q. All right. And tell the jury how you know she liked
4 animals?

5 A. She always -- she started working in PetCo here in
6 Sumter. She was there a little while. Things went array
7 and she left there and she found a couple of jobs here and
8 there to kind of make ends meet until she found something
9 that she was happy with. And then met the people at Pet
10 Smart. Filled out an application there and did the
11 commute there.

12 Q. All right. So every morning she would have to leave
13 Cherryvale area and drive to Columbia?

14 A. Yes, sir.

15 Q. What time would she normally leave your house in
16 Cherryvale?

17 A. That all depended on her schedule. Usually she would
18 leave right around 4:00 to 6:00 in the morning because she
19 usually worked weekdays. She was at work right around
20 5:00 on the -- whatever time she felt like leaving and on
21 weekends she worked for around 7:00 to whenever she came
22 home.

23 Q. So in the morning when she was leaving the house at
24 four o'clock in the morning how would that affect you and
25 the kids? In other words, were y'all up having breakfast

1 together at 4:00 in the morning?

2 A. Every now and then whenever I would make her lunch,
3 if I was up I would walk her to the door and it was cold.
4 So at that point she just told me to stay in bed cause she
5 didn't want me to get up to be near the cold and stuff.

6 Q. All right. Tell us about the vehicle she used to go
7 back and forth to work every day?

8 A. It was a hunter green Chrysler Town and Country
9 minivan.

10 Q. All right. And is it a car you know she drove every
11 day?

12 A. Yes, sir.

13 Q. And is it a car that she had when you met her?

14 A. Yes, sir.

15 Q. Okay. So that car -- do you know who bought the car?

16 A. I know it was in James' name. I know that much.

17 Q. Okay. And James is James Ginther, the defendant?

18 A. Yes, sir.

19 Q. And you know -- how did you know James Ginther?

20 A. Well, Suzie had mentioned whenever we had met and she
21 told me about the situations, you know. She's there
22 living with him. She said their divorce -- they had filed
23 for a divorce in another state. And, yeah, there is --
24 basically kept him there to kind of help out with the
25 kids.

1 Q. All right.

2 A. And to have like a live in babysitter almost.

3 Q. All right. And that's where you first met her?

4 A. Yes, sir.

5 Q. Was she driving the Chrysler minivan then?

6 A. Yes, sir.

7 Q. I want to show you what's been marked as State's
8 Exhibit Number Two and ask if you can identify it.

9 A. Yes, sir, that's it.

10 Q. What's it?

11 A. The van.

12 Q. Is that Suzie Ginther's van?

13 A. Looks like it. Yes, sir.

14 Q. All right.

15 A. Yes, sir.

16 MR. FINNEY: Without objection, Your Honor?

17 MR. BRIDGES: No objection, Your Honor.

18 THE COURT: Without objection.

19 BY MR. FINNEY:

20 Q. And the during all of the time that you knew Suzie
21 she was driving this car?

22 A. Yes, sir.

23 Q. All right. And every morning early in the morning
24 she would leave Cherryvale in Sumter and drive to Pets
25 Smart in Columbia?

1 A. Yes, sir.

2 Q. What time would she return normally from Columbia
3 after work to get back to Sumter?

4 A. That all varied because sometimes she would stay
5 there a little bit later to take care of any kind of extra
6 work that needed to be done. Make sure everything was
7 running smoothly. And she pretty much ran the whole
8 warehouse area by herself. So she worked a whole lot. So
9 she was always staying a little bit later than she should
10 have. And, yeah, she made sure her job was done before
11 she got home.

12 Q. All right. As far as the kids, I heard you testify
13 earlier, who took the kids to school in the morning?

14 A. I did.

15 Q. What time was that?

16 A. They had to be at school at 7:00 in the morning.

17 Q. You had your own personal vehicle to do that?

18 A. Yes, sir.

19 Q. I'm going to show you State's Exhibit 59 and ask if
20 you could just look at it and orient yourself to what's on
21 this map. I'd like to know if you can pick out the area
22 where you live with Suzie, where the school is and for
23 right now that will be the biggest thing?

24 A. It's right there.

25 Q. All right. Speak up a little bit.

1 A. That's our place right there.

2 Q. All right. That's Cherryvale. The house on
3 Cherryvale where you lived?

4 A. Yes, sir.

5 Q. Is it North Lake Cherryvale Drive?

6 A. It's North Lake Cherryvale.

7 Q. All right. And from there could you look and see how
8 you would -- what route you would take to get to the
9 school in the morning?

10 A. Right there. We would come right here. Right to
11 this road.

12 Q. Let me ask you to stand up, sir.

13 A. All right. Take them to school.

14 Q. Show the jury where the residence is on this map?

15 A. This is the residence right there.

16 Q. All right. And tell the jury where the Shaw Air
17 Force Base is in conjunction with your residence?

18 A. Should be all over here, right? No, it's over here.
19 Yes, sir.

20 Q. That's 378 right here?

21 A. Yes, sir. 378 is basically -- Shaw is up here in
22 this area.

23 Q. So which way is Columbia?

24 A. Columbia is this way.

25 Q. All right. And is this 378 going to the left that

1 would be taking you to Columbia?

2 A. Yes, sir.

3 Q. And 378 to the right would be bringing you into
4 Sumter on Broad Street?

5 A. Yes, sir.

6 Q. So in the morning when you leave your residence on
7 North Cherryvale which way would you take the kids?

8 A. You go right down the street to 378. And I would
9 come down here and bring them to school which looks like
10 it might be right there.

11 Q. All right, sir?

12 A. I would either go there or cut down this road. Come
13 down here like this. Come down south like and it's like a
14 little side road that James used to live on. But, yeah,
15 we cut down that road. It was the road that Oak Lawn
16 Trailer Park is on. But, yeah, we cut down that side road
17 that comes right out close to Cherryvale where the
18 elementary school is.

19 Q. All right.

20 A. Cut right into the school.

21 Q. At the time of her death how old were J.J. and Emily,
22 the children?

23 A. Emily was nine I want to say and J.J. was six.

24 Q. Okay. All right. Now, do you know the route that
25 Suzie took to work when she left the residence in the

1 mornings?

2 A. Yes, sir.

3 Q. What route did she take?

4 A. That same route that I took to take the kids to
5 school right here. Right down the street straight to 378.
6 She takes a left and straight on into Columbia.

7 Q. All right, sir. Very good. I'll leave this right
8 here. You can sit down. Did you say something about
9 James living in the area?

10 A. Um hum.

11 Q. Can you tell the ladies and gentlemen of the jury
12 once you moved in with Suzie to that house did James
13 Ginther live in that same area?

14 A. No, sir. Oh, in the same area?

15 Q. Yes, sir?

16 A. Yes, sir. He still resided in Cherryvale close
17 enough cause he was still working security at Wal Mart
18 cause he was working third shift. He was going in at 8:00
19 at night, and he would work until about 2:00 in the
20 morning. And just so he could still get back and forth to
21 work they moved him into one of the nearby trailer parks
22 so that he would walk, pick up the van because that was
23 his mode of transportation.

24 He would pick up the van and drive to work, come
25 back, bring it back. And he would either -- at first

1 Suzie was just dropping him off and then she got tired of
2 doing that so he just started walking. Drop the van off
3 at the house and walk to his place.

4 Q. So you're saying that he would use the minivan to go
5 to Wal Mart?

6 A. Um hum.

7 Q. And come back at 2:00 in the morning?

8 A. Yes, sir.

9 Q. And drop the van in your yard?

10 A. Yes, sir.

11 Q. Then after dropping the van in your yard he would
12 walk to his trailer?

13 A. Yes, sir.

14 Q. Which was nearby your home?

15 A. In Oak Lawn Trailer Park.

16 Q. Oak Lawn Trailer Park?

17 A. Yes, sir.

18 Q. All right. And that went on for months?

19 A. Well, about a year because he stayed until his lease
20 was up.

21 Q. All right. At the time that Suzie was killed was
22 James Ginther living in that trailer park then?

23 A. No, sir, he was in Columbia.

24 Q. To your knowledge where was he living?

25 A. He was living -- he was living on Beltline Boulevard

1 which was probably, maybe like a couple of blocks from Pet
2 Smart where Suzie worked.

3 Q. Which city was that in?

4 A. Columbia.

5 Q. All right, sir. If you don't mind I want to ask you
6 some questions about the weekend in November when Suzie
7 died. You all were still together and everything was fine
8 in your house, correct?

9 A. Yes, sir.

10 Q. All right, sir. Do you remember the events of
11 Wednesday, November the -- 2017 as far as -- excuse me.
12 Thursday the 16th, as far as her getting up that morning
13 and leaving the house?

14 A. Yes, sir.

15 Q. Is that the last day you ever saw her alive?

16 A. Yes, sir.

17 Q. Tell us what happened when the alarm went off or
18 whatever?

19 A. She, Suzie, her usual routine was to wake up 15, 20
20 minutes before she had to go to work or before she had to
21 leave. She would get up to, get ready. For the last five
22 or ten minutes when she had spare she would come and lay
23 down back in the bed with me. And when it time for her to
24 go, 4:00 in the morning, she got up and walked out and I
25 told her, "Love you. See you tonight when you get home."

1 Q. Did she have a cell phone?

2 A. Yes, sir.

3 Q. And do you know what carrier was carrying her cell
4 phone?

5 A. Sprint.

6 Q. Okay. And was she good about taking the phone every
7 day?

8 A. Yes, sir. Yes, sir.

9 Q. She was one of these young people that liked the
10 phone?

11 A. She used it for pretty much everything, you know.
12 Her schedule was keeping track of everything as far as
13 work goes and just daily routine.

14 Q. All right. And to your knowledge was she good about
15 keeping the phone plugged in and charged so there was
16 battery, full battery?

17 A. Yes, sir.

18 Q. So November, 4:00 in the morning, Cherryvale,
19 describe the conditions outside?

20 A. It was pretty chilly outside, and ...

21 Q. Was it dark?

22 A. Um hum. Yes, sir.

23 Q. And she would go out to the van that you described in
24 State's Exhibit Number Two?

25 A. Yes, sir.

1 Q. Crank it up and drive that route to Columbia?

2 A. Yes, sir.

3 Q. All right.

4 A. Like I said she's sit in the van, crank it up. As it
5 was warming up she would get her phone set up. She would
6 get a playlist going. She would get everything suited as
7 she needed it. And she would leave.

8 Q. Did you all have a normal routine after her drive to
9 Columbia to the Pet Smart that she would call you and say,
10 'hey, I got here. I'm fine. Have a good day'?

11 A. Whenever I would drop the kids off -- from whenever I
12 dropped them off to school I would come in the house and,
13 you know, send her a good morning text. And we would
14 communicate frequently throughout the day when she had a
15 moment, you know. Whenever she wasn't working she would
16 respond to me and communicate back and forth like that.

17 Q. All right.

18 A. She didn't have to tell me when she was coming home
19 and all this, that and the other. She would here and
20 there, but.

21 Q. All right.

22 A. There was nothing demanded on her.

23 Q. Okay. This particular morning she leaves, you're
24 still in the bed and an hour or so goes by. What time do
25 you get up and get the kids ready?

1 A. I wake up about 6:45, and the kids, they usually --
2 Emily, she can wake up on her own, and she will wake up.
3 J.J. and they will get ready and we'll leave at 7:00 in
4 the morning. Try to get them to school within just a few
5 minutes after that.

6 Q. After you dropped the kids off at Cherryvale do you
7 come straight back home usually?

8 A. Come straight back to the house and I find something
9 to do until it's time to go to work.

10 Q. All right. And you go do work, did you say, at
11 12:00?

12 A. Yes, sir.

13 Q. Noon time. So you've got from 7:00 in the morning
14 until about noon to work on your projects? Have your
15 breakfast? Whatever?

16 A. Yes, sir.

17 Q. That particular morning in the November did you get
18 alert that anything was different? Anything happen out of
19 the ordinary?

20 A. Not before I got a phone call from Pet Smart.

21 Q. All right. Tell the ladies and gentlemen what time
22 did you get the phone call from Pet Smart?

23 A. It was right around 10:16 a.m.

24 Q. Do you remember who called?

25 A. I want to say maybe Susan, her manager.

1 Q. All right. And what did Susan have to say? Hold on.

2 MR. BRIDGES: Objection. Hearsay.

3 MR. FINNEY: Let me rephrase the question.

4 THE COURT: Okay.

5 BY MR. FINNEY:

6 Q. Did Susan talk to you on the phone?

7 A. Yes, sir.

8 Q. As a result of that conversation did you learn
9 something you didn't know?

10 A. I mean ---

11 MR. BRIDGES: Objection. It's still leading.

12 MR. FINNEY: Let me phrase the question again.

13 BY MR. FINNEY:

14 Q. As a result of that conversation did you go and do
15 something?

16 A. Yes, sir, I went looking for her.

17 Q. Who did you go looking for?

18 A. Suzie.

19 Q. All right. And what did you do first in terms of
20 going to look for her?

21 A. I drove straight down her usual route to work to see
22 if I could see whether she fell asleep behind the wheel.
23 Like I said that was my main concern. To see if she fell
24 asleep behind the wheel, maybe, or if I saw any debris,
25 wreckage or anything like that.

1 Q. So you went out of your house to 378. Which way did
2 you go?

3 A. The same route. Went straight down Luther to 378 and
4 took a left.

5 Q. And went straight to Columbia?

6 A. Yes, sir.

7 Q. That means you went over the Wateree Swamp and over
8 the Highway 3 -- 601 all the way into Columbia? You went
9 all the way to her job at Pet Smart?

10 A. Yes, sir.

11 Q. Did you notice anything about her vehicle or her any
12 on that route?

13 A. No, sir.

14 Q. During that call -- excuse me. During that route did
15 you talk to anybody?

16 A. Yes, sir. I talked to the guy that runs the shop
17 that I work at.

18 Q. Yes, sir.

19 A. I was telling him because on my way there I told that
20 Suzie was missing; that her work had called. She hadn't
21 shown up. So I was going to look for her, and I'll be at
22 the shop whenever I found her.

23 Q. All right. Okay. You made it all the way to
24 Columbia, how long does it take to drive from your house
25 in Cherryvale to Columbia?

1 A. Right close to 45 minutes.

2 Q. All right. When you got to the store in Columbia did
3 you see her van?

4 A. No, sir.

5 Q. What did you do then?

6 A. I turned and started coming back.

7 Q. All right. And you kind of retraced your steps
8 coming back towards Sumter?

9 A. Yes, sir.

10 Q. Did you notice anything on the way back to Sumter?

11 A. No, sir.

12 Q. So what time would you say you got back to Sumter
13 that morning?

14 A. I mean 40 minutes there, 40 minute back, I mean it
15 would be probably 11:45, twelvish or something like that.

16 Q. So middle of the day? Noon time?

17 A. Yes, sir.

18 Q. All right. So after you got back to Sumter what did
19 you do?

20 A. Well, whenever I was on the way back is when I got
21 the phone call saying that they had found her van in
22 Cherryvale.

23 MR. BRIDGES: Objection. Hearsay.

24 THE COURT: Okay.

25 BY MR. FINNEY:

- 1 Q. Hold on. You can't say what they said.
- 2 A. Okay.
- 3 Q. You say you got a phone call?
- 4 A. Um hum.
- 5 Q. Who called you?
- 6 A. Well, it was -- I was talking to two different
- 7 people. I was talking to my boss.
- 8 Q. Okay.
- 9 A. And I was also talking to the family.
- 10 Q. Family of Suzie?
- 11 A. Yes, sir.
- 12 Q. All right. And do you know which one of those people
- 13 told you that or do you just remember learning that?
- 14 A. I just remember learning it. I wasn't focused on any
- 15 certain person but Suzie at that point in time.
- 16 Q. After you learned that they had found the van what
- 17 did you do?
- 18 A. I went looking for it.
- 19 Q. Okay. Where did you go to look for her.
- 20 A. I went down Harway, I want to say it was.
- 21 Q. What area of town?
- 22 A. It was still in Cherryvale.
- 23 Q. In this area on this map? You were riding in this
- 24 area on this map?
- 25 A. Yes, sir.

1 Q. Which is State's Exhibit 59. What did you do -- how
2 long did you take riding around?

3 A. Well, I was told exactly where the van was.

4 MR. BRIDGES: Objection.

5 A. Went to the van ---

6 Q. All right.

7 A. --- after I was driving around. Found the van.

8 Q. All right.

9 A. I got out and started inspecting it.

10 Q. All right.

11 A. Because, one, the van was in a place in Cherryvale
12 Suzie had no business in.

13 Q. All right.

14 A. And she would never go to.

15 Q. Now, do you remember the place where you found the
16 van that day?

17 A. Yes, sir.

18 Q. Can you point it out on this map.

19 A. Yes, sir. The van was right there.

20 Q. Speak a little louder.

21 A. The van was right there.

22 Q. All right. Do you know the street it was on?

23 A. Yes, sir, it was Harwood.

24 Q. Harwood Street?

25 A. Um hum.

1 Q. Had you ever been on Harwood Street before?

2 A. I've driven down it in the past.

3 Q. How far would you say it was from where you found the
4 van to your house, if you have an estimate? Are we
5 talking ten miles? Five miles?

6 A. No, it's like maybe a three minute drive, if that.
7 So it would have been maybe just -- maybe a mile.

8 Q. All right. Very good. When you found the van you
9 were alone?

10 A. Yes, sir.

11 Q. Tell us the condition of the van that you saw that
12 day. Was anybody in it?

13 A. No, sir.

14 Q. And it parked where?

15 A. It was parked around a little sharp curve right there
16 on Harwood.

17 Q. I want to show you State's Exhibit Number Five. Ask
18 you if you recognize that.

19 A. Yes, sir.

20 Q. Is that is van?

21 A. That's the van.

22 Q. Does that appear to be the area that it was parked
23 in?

24 A. That's the area.

25 Q. And so when you found the van you were by yourself?

1 You say you went and checked the van?.

2 A. Yes, sir.

3 Q. It was about a mile from your house?

4 A. Yes, sir.

5 Q. Suzie was not in it?

6 A. No, sir.

7 Q. Was the van locked?

8 A. No, sir.

9 Q. Did you open it?

10 A. Yes, sir.

11 Q. Do you notice anything about it?

12 A. Oh, yes.

13 Q. Tell us what you noticed?

14 A. The first thing I did, I sat in the seat. Suzie was
15 five foot two. If she drove my knees wouldn't be able to
16 clear the dashboard. Whenever I sat in it my knees
17 cleared the dashboard by close to an inch which means she
18 didn't drive there.

19 The more I start looking around the van I notice sand
20 that was in the seat and in the floorboard back here. It
21 was a pretty good decent amount in there. I dismissed it
22 cause I thought it was the kids, you know, climbing in and
23 out and sand on their shoes.

24 And I noticed J.J -- they had a D.V.D. player right
25 here in the center console and they had headsets that

1 rested -- Emily's set on the passenger's side and J.J. set
2 on the driver's side. The one on the driver's side I
3 noticed the headset was in between the seats on the floor.
4 One of the earpieces was snapped and just hanging on by a
5 wire. But all the -- there was a bunch of top consoles
6 towards the roof. All of those were opened up. I guess
7 somebody was rummaging through looking something. But,
8 yet, none of the change in the tray was taken.

9 Q. Mr. Parker I want to show you what's been marked as
10 State's Exhibit Number Nine and ask if you can identify
11 that. That's 10, that's 11, that's 12, that's -- we'll
12 start with Number Seven and ask you to just look at the
13 picture, State's Exhibit Number Seven. Tell the ladies
14 and gentlemen what you see in that picture?

15 A. This is the driver's side van or driver's side of the
16 van, door open. And it's a view of the driver's side
17 seat.

18 Q. Is that the seat you were talking about you got in an
19 sat in?

20 A. Yes, sir.

21 Q. When you got in and sat in that seat what did you say
22 you experienced?

23 A. Both of my knees didn't hit the dashboard so that
24 means Suzie didn't drive that van to that spot.

25 Q. That was the first thing that came to your mind?

1 A. Yes, sir.

2 Q. Now, you didn't take these pictures, did you?

3 A. No, sir.

4 Q. And so when -- you didn't move the seat when got in
5 the car?

6 A. No, sir I did not.

7 Q. So your testimony today is that the seat had been
8 moved from when Suzie moved it. Which way had it been
9 moved? Forwards or backwards?

10 A. Backwards.

11 Q. Back. All right. And tell us about what you see in
12 State's Exhibit Number Nine?

13 A. It looks like what seems to be Emily's seat in the
14 back, and it looks like it's covered in sand and dirt.

15 Q. You don't think that's the usual way for the car to
16 be?

17 A. No, sir.

18 Q. All right. And whose baby seat is this in State's
19 Exhibit Number Ten?

20 A. Those are J.J's.

21 Q. J.J's always rode in that seat?

22 A. Yes, sir.

23 Q. And where was that seat, the baby seat, located in
24 the back of the minivan?

25 A. That was behind the driver's side.

1 Q. The driver's side?

2 A. Yes, sir.

3 Q. And that seat stayed in the mini van at all times?

4 A. Yes, sir.

5 Q. Okay. State's Exhibit Number 11?

6 A. Yes, sir. That's the floorboard on the driver's
7 side, and a bunch of sand also.

8 Q. More sand than you're used to seeing?

9 A. As far as that goes, not particularly. What just
10 caught my eye was the amount of sand in the seats
11 themselves and all over the floorboards because it did
12 seem more than what would be tracked on from a shoe.

13 Q. All right, sir. Did you happen to notice anything?
14 I think you said something about a change cup inside the
15 minivan?

16 A. Yes, sir.

17 Q. Do you see change in State's Exhibit Number 12?

18 A. No, sir. The change would actually be up here.

19 Q. All right. Is this the change?

20 A. That's not right. Yes, sir, it is.

21 Q. Okay.

22 A. Yes, sir. There is a little bit of change right
23 there, but there is also part of that that's further up.
24 It was actually a little slot that you set the coins in
25 there.

1 Q. The coins were in there?

2 A. Yes, sir.

3 Q. All right, sir. Now, you testified about the
4 headphones the children used. Do you see a picture of the
5 headphones in State's Exhibit Number 12?

6 A. Something right there.

7 Q. All right, sir. That's at the bottom of that
8 picture. And what condition did you say those headphones
9 were in when you saw them?

10 A. One of the headpieces was snapped off and held on by
11 a small wire.

12 Q. Okay. And was the headphone set, was it on the back
13 of the chair?

14 A. Yes, sir. Right there. It wrapped around the
15 headrest.

16 Q. That's where it was kept?

17 A. Yes, sir.

18 Q. And is that where you found it?

19 A. No. Whenever I found the van it was off of the
20 headrest. Emily's was still there. J.J's was off of the
21 headrest on the floor.

22 Q. All right, sir. And did you happen to examine the
23 exterior of the vehicle?

24 A. Not too much.

25 Q. Very good. So, Mr. Parker, after you got to the

1 vehicle and you did your examination what did you do then?

2 A. I started searching the woods that was right next to
3 the van.

4 Q. Let me show you State's Exhibit Number Three. Is
5 that the area that the van was parked in?

6 A. Yes, sir, it looks like it.

7 Q. And what kind of searching did you do in the woods?

8 A. Well, there is a little cleared path that shoots off
9 right back here in the corner of that turn.

10 Q. Yes, sir?

11 A. So I started following that path back, and I just
12 started coming and going down different routes searching
13 the woods for her calling her name?

14 Q. All right, sir. How long did you do that?

15 A. I don't know, honestly. I would say maybe a good 30
16 minutes.

17 Q. All right?

18 A. Before I headed back to the house.

19 Q. And once you got back to the house what did you do?

20 A. I called 911 and did the report.

21 Q. What kind of report were you trying to make?

22 A. Missing person report.

23 Q. All right?

24 MR. FINNEY: Your Honor, at this time we'd like to
25 play the 911 tape.

1 THE COURT: Any objection?

2 MR. BRIDGES: No objection, Your Honor.

3 THE COURT: Okay.

4 (WHEREUPON, the 911 tape was played for the jury in
5 open Court. State's Exhibit 60.)

6 BY MR. FINNEY:

7 Q. When you made that call, Billy, were you home?

8 A. Yes, sir.

9 Q. And so how long did it take before the officer came?

10 A. Honestly, I could not tell you. It wasn't long.

11 Q. Did you have to fill out some paperwork and give him
12 some information?

13 A. I don't think so.

14 Q. Okay. Did you take that officer to the minivan and
15 show him where it was?

16 A. No, sir.

17 Q. After that report was made by you what happened? Did
18 the kids come home from school?

19 A. Yes, sir.

20 Q. How did the kids get home from school?

21 A. The bus dropped them off.

22 Q. And is that the normal routine? Every day the bus
23 drops them off?

24 A. Yes, sir. I take them to work -- or I take them to
25 school in the morning, and the bus would drop them off.

1 Q. Okay.

2 A. A little after 2:00.

3 Q. All right. So let's say now it's five o'clock
4 Thursday afternoon. The kids have been home. Have you
5 heard anything from anybody? Suzie? Police? Family?
6 Anything?

7 A. No, sir.

8 Q. All right. Can you tell us the next time that you
9 got a call that gave you some information that you didn't
10 have? Let me ask you this. Did you, that day, did the
11 police let go and get the van and bring it back to the
12 house?

13 A. No, sir.

14 Q. All right.

15 MR. FINNEY: Beg the Court's indulgence.

16 BY MR. FINNEY:

17 Q. Do you want something to drink?

18 A. No, I should be good.

19 Q. Billy, thank you for answering my questions. Answer
20 any questions the other lawyer may have.

21 A. Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. BRIDGES:

24 Q. Good afternoon, Mr. Parker?

25 A. Good afternoon.

1 Q. You testified earlier that at one point James lived
2 in Oak Lawn Trailer Park, and that's where you lived with
3 Suzie in North Lake Cherryvale?

4 A. Yes, sir.

5 Q. But he had long since moved back to Columbia by
6 November of 2017?

7 A. Yes, sir.

8 Q. And he -- when he lived at Oak Lawn he occasionally
9 drove the green Chrysler?

10 A. Yes, sir.

11 Q. But after he moved back to Columbia you ever see him
12 drive that green Chrysler?

13 A. No, sir. After Rachael had come down and moved down
14 with him he just started driving her vehicle.

15 Q. Do you even know if he had keys to that green
16 Chrysler?

17 A. Yes, sir.

18 Q. Do you -- did the kids use to -- there was a custody
19 agreement between James and Suzie that you're aware of,
20 correct?

21 A. Yes, sir.

22 Q. So they would do visitation at his house in Columbia?

23 A. Yes, sir.

24 Q. Would they be transported in the green van?

25 A. Him, James, and Rachael would come down and pick the

1 kids up and they would drive them down and when she and
2 James got tire or done he would bring them back.

3 Q. Would Suzie ever drop them off in the Chrysler?

4 A. If she was on her way to work then she would if it
5 was convenient as far as time goes, but I know she was
6 going to drop them off that coming Saturday because she
7 was going to work at 6:00. And that was a good time. She
8 could get plenty of sleep, and she was going to drop them
9 off at James' house and he was going to spend that week
10 with them, Thanksgiving.

11 Q. Because he had that holidays what year, correct, and
12 Saturday through Saturday?

13 A. Yes, sir.

14 Q. Would Emily and J.J. bring items from his house back
15 with them when they went back and forth between those
16 houses?

17 A. Not really. Not all the time. I mean now and then
18 he might bring an article of clothing or something like
19 that.

20 Q. Yes or no. They kept stuff at James' house and also
21 kept stuff at your house?

22 A. Yes, sir.

23 Q. And sometimes they would bring stuff back and forth
24 between the two?

25 A. Yes, sir.

1 Q. So on the morning of November 16th you testified
2 earlier that you didn't hear or see anything out of the
3 ordinary when Suzie left for work?

4 A. That's right.

5 Q. So you certainly didn't see Mr. Ginther around the
6 house? Outside the house? Anything like that?

7 A. No, sir.

8 Q. You didn't see any other vehicles around the house
9 when Suzie left for work?

10 A. No, sir, because I was in bed.

11 Q. Then you dropped the kids off before 7:00?

12 A. Yes, sir.

13 Q. And then you would do that every day they had school?

14 A. Yes, sir.

15 Q. And that's where then you said you received some
16 information that she never showed up to work and you
17 retraced her route?

18 A. Yes, sir.

19 Q. You also then went to the location where the van was
20 found her in Cherryvale, and without saying what anybody
21 told you how did you know the van was at that location?

22 A. Because one of the phone calls that I got ---

23 Q. Okay.

24 A. --- cause I made a couple phone calls, and one of the
25 people that I got in touch with he was calling hospitals.

1 He was calling police departments to see if there was any
2 information on the van. That's where the information was.

3 Q. Was that person in law enforcement you were calling?

4 A. No, sir.

5 Q. Who was that person?

6 A. That was my boss.

7 Q. Okay. And you said -- you testified earlier that her
8 van was in an area of Cherryvale that she wouldn't be in?

9 A. No.

10 Q. What does that mean? What is this area of Cherryvale
11 to you?

12 A. She didn't go exploring Cherryvale. She stayed out
13 of Cherryvale, and she just kept on her little outskirts.
14 And her only route through Cherryvale was either whenever
15 she took the kids to school some days or whenever driving
16 down Luton to 378.

17 Q. And do you know anybody that lives in that area of
18 Cherryvale?

19 A. No, sir, I don't.

20 Q. You testified that you were alone when you were
21 around the van in Cherryvale?

22 A. Yes, sir.

23 Q. Are you sure that you were not there with Brandon
24 Bates at any time?

25 A. No. Brandon Bates didn't show up until one o'clock

1 that morning.

2 Q. Well, as in the next day?

3 A. Yes, sir.

4 Q. But did you then go out with him and explore
5 Cherryvale.

6 A. No, sir. We went back out to the spot right next to
7 where the van was, and we went searching around those
8 spots in the woods.

9 Q. Did you speak with any neighbors about -- and you
10 don't have to say what they said, but were you trying to
11 speak with neighbors to see if Suzie had been in that
12 area?

13 A. No. The next day me, Brandon and another buddy of
14 ours who was there with me the day before went walking up
15 and down the road and the whole area where the van was to
16 see if anybody saw anything.

17 Q. And that was the next that. That would have been
18 Friday the 17th?

19 A. Yes, sir.

20 Q. Who was the third person?

21 A. Brandon Holiday.

22 Q. Okay. And you looked in -- were you instructed to
23 not look at the van or anything cause you testified that
24 you had looked in the van and looked at various things in
25 there?

1 A. No, sir.

2 Q. So I mean were you aware that, you know, the police
3 plight need to use the state of that van when you got down
4 there?

5 A. That why I didn't really mess with anything. I sat
6 in the seat just to see, okay, if Suzie drove here my
7 legs -- I couldn't sit in the seat.

8 Q. All right.

9 A. So, of course, I hopped in the seat to see if she
10 drove. So, and that was my main concern, yeah.

11 Q. And you handled some things. You said you touched
12 some things in the van to just kid of see what was going
13 on in there?

14 A. I didn't move anything. I just, you know, shifted
15 around, touched the seat. Looked around it.

16 Q. And that was before you -- so you did not call the
17 police when you first got out to the van?

18 A. No, sir.

19 Q. Okay. Why did you wait until after you examined the
20 van before you called the police?

21 A. Because like I said in the report I was always under
22 the assumption that you had to wait 24 hours to report a
23 missing person. So I was kind of trying to find Suzie at
24 that point.

25 Q. And so it was on the 16th that you went out there

1 alone, and then on the 17th it was you and Brandon Bates
2 and Brandon -- is it Holloway?

3 A. Holiday.

4 Q. Holiday. Beg pardon there. And you did not know
5 anybody that lived at that address where the van was
6 found?

7 A. No, sir.

8 Q. So you do not know Warren Dundero?

9 A. Say what?

10 Q. So you do not know Warren Dundero?

11 A. No, sir.

12 Q. Or Ms. Brittany Hallman?

13 A. No, sir.

14 Q. And you say have no reason -- you have never seen
15 Suzie go down to that area before?

16 A. No, sir.

17 Q. As far as you know?

18 A. No, sir.

19 Q. And you said that Suzie had been working at Pet Smart
20 for about six months?

21 A. Something like that.

22 Q. And how often did she work for -- at that shift where
23 she had to be there at 5:00 in the morning?

24 A. Just about all week. She was always there. Either
25 she was always leave the house 4:00 to 6:00 in the

1 morning. Somewhere in that neighborhood. She had to be
2 there first thing in the morning to open everything up.

3 Q. And you said that she -- you testified that you were
4 worried that she fallen asleep. Is that something that
5 happened before or was that?

6 A. That's one of the things I was mainly concerned with
7 cause like I said she worked freight. She work warehouse
8 at Pet Smart. She did just by herself the work of four
9 full grown men. So she was tired, and whenever, like I
10 said, whenever I got home if she was already asleep I
11 wouldn't bother her.

12 I might give her a kiss or a little snuggle,
13 something like that, but I would leave her alone cause I
14 wanted her to get plenty of sleep because one of the main
15 things I was worried about was her falling asleep behind
16 the wheel. But she had already told me a couple of times
17 that she would be driving and kind of start dozing off and
18 the rumble strip would catch her and wake her up.

19 Q. And J.J. and Emily would take the bus home every day?
20 Was that their usual routine?

21 A. Yes, sir.

22 Q. And they did not go to their father on Saturday;
23 correct? They stayed at your house?

24 A. Yes.

25 Q. Did they stay with you?

1 A. Yes, sir.

2 Q. And then her, Suzie's, parents I guess came to the
3 house?

4 A. Yes.

5 Q. So was there any other -- was there any incident that
6 you know of where she fell asleep while driving?

7 A. I mean she would tell me she would doze off. She
8 would kind of hit the rumble strips.

9 Q. And that's why you were concerned?

10 A. Yes, sir.

11 MR. BRIDGES: Court's indulgence.

12 THE COURT: Yes.

13 BY MR. BRIDGES:

14 Q. Mr. Parker, was law enforcement trying, without
15 saying what that said, were they trying to get in touch
16 with you that morning?

17 A. Apparently, the officer that had arrived on the scene
18 that I made the report with he had come there earlier that
19 morning looking for me, but apparently I was upstairs
20 before I received the phone call. But he come there
21 earlier that morning knocking on the door but I was
22 upstairs on the opposite end of the house so I didn't hear
23 him.

24 Q. So you weren't aware that they came by the house?

25 A. No, sir.

1 Q. Without saying what you said to anybody did you
2 consult with Family Court lawyers about the custody
3 situation after this?

4 A. Well, I come up and talked to -- I tried talking to
5 Suzie's lawyer that she had had about the whole custodial
6 thing. But, yeah, they just -- from what Suzie said she
7 had willed the kids over to me in case something ever
8 happened to her. Come up -- and me and Brandon come up to
9 find some information on that, and they just basically
10 told me it was a cute gesture, but.

11 Q. Did you do that on the Friday the 17th or Thursday
12 the 16th?

13 A. I believe we did that on Friday.

14 Q. Okay. So that was after you called the 911 call?

15 A. Yes, sir. Yes, sir. All of this was the next day.
16 We run around knocking on doors and all that stuff.

17 Q. Okay. Thank you, Mr. Parker.

18 MR. BRIDGES: No further questions.

19 MR. FINNEY: Just a few, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. FINNEY:

22 Q. Mr. Parker, tell the ladies and gentlemen of the jury
23 what this schedule for the children, J.J. and Emily, was
24 going to be for the Thanksgiving holiday out of school?

25 A. Okay.

1 Q. And if you don't mind tell the ladies and gentlemen
2 of the jury when they would have gotten out of school for
3 Thanksgiving break in November?

4 A. Well, it know the kids they got home right around the
5 2:15, the usual mark when they usually get home on the
6 16th. And what was planned was Suzie was supposed to take
7 the kids to James at six o'clock on the 18th whenever she
8 went to work at Pets Smart. She was supposed to drop them
9 off there and they were supposed to spend that whole
10 Thanksgiving week with them.

11 Q. All right. So Suzie, from what you understand, was
12 going to take the kids to Columbia on the 18th?

13 A. Yes, sir, because she had Friday off.

14 Q. And Saturday -- Friday off. Were the kids going to
15 be in school on Friday?

16 A. I honestly do not know.

17 Q. All right. See if you can remember this. When you
18 got the call about the car and you went and looked at the
19 car the next day did the kids go to school the next day
20 after the car was discovered?

21 A. I'm not sure. I want to say so. I'm not sure.

22 Q. Suzie doesn't come home Thursday night?

23 A. No, sir.

24 Q. The kids stayed with you?

25 A. Yes, sir.

1 Q. You called her daddy? Was he getting in the car and
2 coming to you?

3 A. From what I was told ---

4 MR. BRIDGES: Objection. Hearsay.

5 MR. FINNEY: Okay.

6 BY MR. FINNEY:

7 Q. You can't say what you were told. I'll ask the
8 question see if I can get ---

9 A. Well, Brandon was on his way down.

10 Q. Brandon who?

11 A. Brandon Bates, Suzie's brother.

12 Q. Okay.

13 A. Was on the way down.

14 Q. From where?

15 A. From I don't know where.

16 Q. So Brandon Bates found out. Did he find out from you
17 or somebody else that Suzie was missing?

18 A. I'm not sure. I don't know when he found out. I was
19 the last one to know in all this.

20 Q. Okay. I'm sorry. Did you tell me where Brandon was
21 coming from?

22 A. No, sir.

23 Q. What state? What city?

24 A. I don't know.

25 Q. He was out of town?

1 A. Yeah, he was out to state.

2 Q. He was on his way to you in Cherryvale?

3 A. He was in Virginia. Something like that. I want to
4 say.

5 Q. Okay. And how about John Bates, Suzie's dad?

6 A. Yes, sir.

7 Q. Did you get a -- did you find out he was on the way
8 to Cherryvale?

9 A. Yes, sir.

10 Q. When was that? Thursday or Friday?

11 A. I think it was whenever Brandon got there cause he
12 told me that the whole family was on their way down.

13 Q. All right. Do you know where John Bates was when he
14 got the word?

15 A. I'm not sure. I'm assuming he was in Florida.

16 Q. Is that where he lives? He lives in Florida?

17 A. Yes, sir.

18 Q. And when did you first see Brandon and John Bates at
19 Cherryvale? What day was it?

20 A. It was one o'clock on Friday morning whenever Brandon
21 got there, and I believe it was the next day whenever the
22 rest of the family got there.

23 Q. When you say, 'the next day'?

24 A. The next morning.

25 Q. Saturday?

1 A. Yes, sir.

2 Q. Okay. On Saturday you are testifying that Suzanne
3 was going to take the kids to James Ginther in Columbia?

4 A. Yes, sir.

5 Q. To start the vacation for Thanksgiving?

6 A. Yes, sir.

7 Q. And what days would they have been in Columbia with
8 James Ginther?

9 A. I know they were with him -- they were going to be
10 with him all the way until Thanksgiving. I don't know if
11 they were going to be brought back that night or right
12 after.

13 Q. Okay?

14 A. I do know they were supposed to be with him that
15 entire week.

16 Q. And it would have started on the 18th?

17 A. Yes, sir.

18 Q. The 19th, 20th, 21st, 22nd. Thanksgiving was the
19 23rd?

20 A. I believe so. It is always on a Thursday, isn't it?

21 Q. Yes, sir.

22 A. Yes, sir.

23 Q. And you don't know what the kids would have been back
24 in the Cherryvale the evening of the 23rd or ---

25 A. Yeah.

1 Q. --- the next day? Something along in there?

2 A. Yeah, something along in there.

3 Q. Were the kids out of school? Scoot was the school on
4 vacation that week?

5 A. I believe so. Yes, sir.

6 Q. And that had been set up between James and Suzie?

7 A. Yes, sir.

8 Q. Okay.

9 A. Cause she had a dry erase board in her room that she
10 wrote her entire schedule on for about two weeks. She
11 would track two weeks and write that down.

12 Q. One more thing, Mr. Parker. Tell the ladies and
13 gentlemen of the jury did you have been any knowledge of
14 the workings of the minivan? Was the minivan a -- was
15 everything working? The doors? The locks? The lights?

16 A. I know the -- I want to say it was on the passenger
17 side, the side sliding door. I want to say the lock was
18 broken on that because Suzie said she broke that door like
19 get mad one day, and she just ended up breaking it. But,
20 no, Suzie never locked her doors.

21 Q. All right.

22 A. She never locked the doors. I mean whenever she left
23 that morning, whenever she was ready to leave and get in
24 the van she didn't even lock the front door.

25 Q. Let me show you State's Exhibit Number Five. Is that

1 a picture of the passenger side of Suzie's van?

2 A. Yes, sir.

3 Q. And which door is it that you're saying is the
4 sliding door?

5 A. This one right here. The big sliding door that the
6 kids get in.

7 Q. Now, when you say Suzie told you that the lock -- she
8 broke the lock was that before you and she met?

9 A. Yes, sir, it was before me and her had met.

10 Q. So it had been broken for some time?

11 A. Oh, yes, sir. It was broken while her and James were
12 still together.

13 Q. Nothing further. Thank you.

14 THE COURT: Okay. Y'all need to break? Anybody need
15 a break? Y'all want to have another witness? Okay. You
16 may call your next witness.

17 MR. FINNEY: Thank you, Your Honor. We call Cameron
18 Prescott.

19 BAILIFF: Left hand on the bible. Raise your right
20 hand. State your name.

21 THE WITNESS: Cameron Prescott.

22 CAMERON PRESCOTT, after being duly sworn,
23 testified as follows:

24 BAILIFF: Thank you, sir. Watch you step going up.
25 State your name for the record and spell your last name.

1 THE WITNESS: Cameron Parker Prescott.

2 P-R-E-S-C-O-T-T.

3 DIRECT EXAMINATION

4 BY MR. FINNEY:

5 Q. Mr -- Corporal Prescott?

6 A. Yes, sir.

7 Q. Who are you employed by?

8 A. Sumter County Sheriff's Office..

9 Q. How long have you been a deputy?

10 A. Nine years.

11 Q. And what do you do as part of your job?

12 A. I am on our Community Action Team as a driver
13 enforcement team. We also do other special events within
14 the community.

15 Q. And do you patrol all of Sumter County or a district
16 inside of Sumter County?

17 A. I patrol all over Sumter County. I'm also assigned
18 to Cherryvale.

19 Q. All right. And so does that mean on different days
20 you are doing different areas of the county?

21 A. Yes, sir.

22 Q. All right. Taking your attention to November of
23 2017. Specifically, the 16th day of November 2017. Were
24 you on patrol in the Cherryvale area of Sumter County?

25 A. Yes, I was.

1 Q. All right. And when you are on patrol are you
2 dressed as you are today in a patrol gear?

3 A. Yes, sir, I am.

4 Q. And do you have a marked car?

5 A. Yes, sir, I do.

6 Q. All right. And what time do you come on your shift
7 in November of 2017 if you remember that week?

8 A. 5:30 in the morning.

9 Q. All right. And you all have, at 5:30 in the morning
10 like we see on t.v, do y'all have a big meeting where all
11 the officers gather in a big room and they talk about
12 what's going to be done today or what's going to happen?

13 A. That Wednesday we had a briefing that we discussed
14 prior events. That day, the second day we come back, we
15 do not have the briefing. We just go to our assign area
16 which is Cherryvale for me.

17 Q. All right. I want you to look at this map which is
18 an aerial view of Sumter County. It's State's Exhibit
19 Number 59. Could you orient yourself if I told you that
20 this was Shaw Air Force Base up here and that this was
21 Highway 378, what we call Broad Street Extension.

22 Sumter back this way, and Columbia going out to the
23 left?

24 A. Yes, sir. This is Cherryvale School. This is
25 Cherryvale. This is the lake. Two lakes in Cherryvale.

1 Q. So you're familiar with this area?

2 A. Yes, sir, I am.

3 Q. Have you been told that -- did you as far as your
4 patrol, what do you do in the Cherryvale area while you're
5 on patrol? Do you go by the school?

6 A. Yes, sir. I go by the schools. I go by convenient
7 stores. You go by different people in the community and
8 also answer calls for service.

9 Q. All right, sir. Back in November of 2017 did you
10 have occasion to find a Chrysler minivan parked on Harwood
11 Drive?

12 A. Yes, sir, I did.

13 Q. Can you locate the location of the minivan that you
14 located that day on this map?

15 A. I'll sorry. Yes, sir. Down -- that car would have
16 drive down there to the corner -- the curve, excuse me, of
17 Harwood Drive.

18 Q. All right, sir. What is this area right here showing
19 on this map just a few, I don't know, hundred feet,
20 hundred yards, I guess that's north of where the van was?

21 A. Yes, sir. That's a mobile home park.

22 Q. Do you know the name of it?

23 A. Yes, sir. It's Cedar Hill Mobile Home Park.

24 Q. Cedar Hill?

25 A. Yes, sir.

1 Q. All right. And this area here, I guess that's trees.
2 Is that a heavily wooded area?

3 A. Yes, sir, it is.

4 Q. All right. And the van was parked on the corner or
5 in a curve on Harwood?

6 A. Yes, sir, it was.

7 Q. And was anybody in the van when you saw it?

8 A. No, sir.

9 Q. What time did you see it?

10 A. Approximately 7:01 a.m. in the morning.

11 Q. All right. And when you saw it was anybody standing
12 near it? Was anybody over near it?

13 A. No, sir, there was not.

14 Q. All right. I want to ask you to take a look at
15 State's Exhibit Number Two and tell me what you see in
16 that picture?

17 A. I see the brown in color Town and Country van that I
18 was out with that morning.

19 Q. All right. And this picture has a law enforcement
20 vehicle in the background?

21 A. Yes, sir.

22 Q. So these pictures were taken by law enforcement as
23 far as you know?

24 A. Yes, sir.

25 Q. And would this have been the day that you found the

1 van?

2 A. Yes, sir, it was.

3 Q. All right. Tell us a little bit about what you --
4 when you first saw the van what brought your attention to
5 it?

6 A. What caught my attention is that it was on an kind of
7 a side road in Cherryvale. It was in a curve, you know.
8 There was, you know, no houses to the left or right of
9 that vehicle. So I would say it was in kind of a rural
10 area shove Cherryvale. That kind of caught my attention
11 as being suspicious.

12 Q. This is State's Exhibit Number Three. What does that
13 show?

14 A. That is Harwood Drive near the intersection of
15 Babette.

16 Q. All right. So this is the area where you saw the
17 van?

18 A. Yes, sir.

19 Q. But the van is not in this picture?

20 A. That is correct.

21 Q. All right. So when you said it was kind of -- I
22 think you just said there are no houses. No houses to the
23 left or right. Point to where that van was when you saw
24 it on that street?

25 A. (Witness points)

1 Q. Okay. Right there?

2 A. Yes, sir.

3 Q. So the wooded area is to the right. The van was
4 pointed straight ahead toward the stop sign?

5 A. Towards the stop sign at Babette.

6 Q. All right. So on the passenger side of the van there
7 would have been a lot of woods on the right side?

8 A. That's correct.

9 Q. How about on the left side?

10 A. On the left side?

11 Q. Is it wooded also?

12 A. Yes, sir.

13 Q. No houses?

14 A. Not directly to the left.

15 Q. Okay. Very good. And so it caught your attention?

16 A. That is correct.

17 Q. No body was in the van?

18 A. No, sir.

19 Q. All right .did you get out and check the van out?

20 A. I did, yes, sir.

21 Q. What did you see?

22 A. When I approached the van I noticed the van. It was
23 unlocked. No keys in the ignition, and of course, nobody
24 around it. Nobody in the van at the time.

25 Q. What is your protocol when you discover a vehicle

1 like that?

2 A. When law enforcement discovers a vehicle like that we
3 run the tag on the vehicle to make sure that the vehicle
4 is not stolen.

5 Q. And when you ran the tag what name came up on the
6 registration?

7 A. Mr. James Ginther.

8 Q. All right. And what was your next thing to do after
9 you discovered the owner of the car? Did you get an
10 address along with the name for Mr. Ginther?

11 A. Yes, sir, I did.

12 Q. Was the address in Cherryvale?

13 A. No, sir.

14 Q. Where was the address?

15 A. In Columbia.

16 Q. All right. So you now have a van that you've seen,
17 you've spotted it in Sumter County. Is that correct that
18 van was in Sumter County?

19 A. Yes, sir.

20 Q. And it's registered to a man who lives in Columbia?

21 A. That's correct.

22 Q. What did you do next?

23 A. I then had our dispatch Columbia P.D. to make contact
24 with the registered owner of the vehicle.

25 Q. All right. And while that was happening did you do

1 anything else with the van as far as did you lock it? Did
2 you put a sticker on it saying?

3 A. No, sir, I did not.

4 Q. Saying, "Call Corporal Prescott" or you didn't do
5 anything like that?

6 A. No, sir.

7 Q. Did you keep on going on your patrol?

8 A. Yes, sir.

9 Q. All right. And after an hour, two hours, three
10 hours, when was the next time you got any information
11 about that van that you had seen at 7:00 a.m?

12 A. When -- there was information that I got before I
13 made contact with Mr. Ginther.

14 Q. Okay. Tell us about that?

15 A. Okay.

16 Q. Did Mr. Ginther call you?

17 A. I obtained his number by Columbia P.D.

18 Q. All right. They give you his name?

19 A. Yes, sir, they did.

20 Q. Okay. Did you ---

21 A. Correction. Gave dispatch's number, and I obtained
22 it from dispatch.

23 Q. All right. Did you call Mr. Ginther?

24 A. Yes, sir, I did.

25 Q. Did you speak with him?

1 A. Yes, sir.

2 Q. Did you tell him that the minivan was in Cherryvale
3 in Sumter County?

4 A. Yes, sir.

5 Q. And as a result of talking to Mr. Ginther about the
6 van did you then have the questions you had about the van
7 answered? Did use strike that off your list as anything
8 you had to worry about?

9 A. Not completely at the time cause he said that he was
10 unaware that the vehicle was still registered to him and
11 that it belonged to his ex-wife, Ms. Suzette.

12 Q. Okay. And did you ask for or receive contact
13 information for Ms. Suzette?

14 A. I did.

15 Q. All right. And is that information about where she
16 lived in Cherryvale?

17 A. Yes, sir, it was.

18 Q. And did you go to her address in Cherryvale?

19 A. I did.

20 Q. All right. And what did you do when you got to that
21 house on Cherryvale?

22 A. When I arrived at the residence I knocked on the
23 door.

24 Q. All right. And?

25 A. There as no answer at the door.

1 Q. Okay. And then what did you do then?

2 A. After that I called Mr. Ginther back.

3 Q. All right.

4 A. And advised him that there was nobody at the
5 residence. He proceeded to tell me that he had two
6 children that go to Cherryvale Elementary which is in
7 Cherryvale.

8 Q. Right. How far would you say, distance wise, it is
9 from where you found the car on Harwood to Cherryvale
10 Elementary?

11 A. Approximately two and a half miles, three miles.

12 Q. To the school?

13 A. Yes, sir. Approximately two to three miles.

14 Q. And is it from the school to the house you went to in
15 North Cherryvale, how far is that?

16 A. From the school?

17 Q. From their school, Cherryvale Elementary?

18 A. From Cherryvale Elementary. Yes, sir.

19 Q. To the house in North Cherryvale where you went and
20 knocked on the door, how far?

21 A. Approximately two to three miles.

22 Q. All right. And from the school to where the van was
23 down Harwood was about two or three miles?

24 A. Yes, sir. I would say that it would be a little
25 closer.

- 1 Q. Okay. Did you go to Cherryvale Elementary?
- 2 A. I did.
- 3 Q. And what did you do when you went there?
- 4 A. I spoke with the faculty there.
- 5 Q. Okay. And you were checking on the kids?
- 6 A. Yes, sir.
- 7 Q. Were the kids at school?
- 8 A. Yes, sir they were.
- 9 Q. They were fine?
- 10 A. Yes, sir.
- 11 Q. Did you report that information back to Mr. Ginther
- 12 after you left the school?
- 13 A. Yes, sir, I did.
- 14 Q. All right. And as a result of talking to him and
- 15 telling him that did you discover anything? Did he say
- 16 anything?
- 17 A. Yes, sir, he did.
- 18 Q. What did he say?
- 19 A. He said if something had happened that he would come
- 20 pick up the children.
- 21 Q. And this was on Thursday morning or Thursday
- 22 afternoon. Around what time did you last talk with Mr.
- 23 Ginther?
- 24 A. I last spoke with Mr. Ginther I would around noonish.
- 25 Q. All right. Did you have occasion to talk with Billy

- 1 Parker after you left Cherryvale School?
- 2 A. I did.
- 3 Q. And did you go to his home?
- 4 A. Yes, sir.
- 5 Q. All right. Were you the responding officer to the
- 6 missing person's report that he wanted to file?
- 7 A. Yes, sir, I was.
- 8 Q. All right. You took the information about Suzette?
- 9 How she looked? Her weight? Her age? All of that?
- 10 A. Yes, sir, I did.
- 11 Q. What did you do with that information?
- 12 A. That information, of course, went into the report.
- 13 Q. Yes, sir. Is that report get put out on the radio?
- 14 A. Yes, sir.
- 15 Q. All right. And does it get put out pretty quickly?
- 16 A. Yes, sir. It was a BOLO.
- 17 Q. Okay. Is a what?
- 18 A. B.O.L.O. is a missing person.
- 19 Q. All right. Tell the ladies and gentlemen what BOLO
- 20 stands for?
- 21 A. B.O.L.O. is to be on the lookout for. If we have a
- 22 missing person, stolen vehicle, it's broadcasted through
- 23 the State and the County to be on the lookout for that
- 24 individual that's trying to -- missing.
- 25 Q. All right. So once the report went out would you say

1 it's about two o'clock in the afternoon? Three o'clock in
2 the afternoon, on Thursday, when the report goes out?

3 A. Yes, sir, 2:30.

4 Q. All right. And once the report goes out all the
5 officers on that network, City and County, are aware of we
6 have a missing person in Sumter County?

7 A. That is correct.

8 Q. All right.

9 MR. FINNEY: Beg the Court's indulgence.

10 BY MR. FINNEY:

11 Q. Mr. Prescott, the residence that you went to take the
12 missing person's report is on North Cherryvale Drive?

13 A. North Lake Cherryvale Drive.

14 Q. North Lake Cherryvale?

15 A. Yes, sir.

16 Q. What county is that in?

17 A. Sumter.

18 Q. All right. And I asked this question but I think
19 I'll ask it again. As far as the vehicle itself when you
20 saw it that day did you pay attention or make any notice
21 or put anything in your report about the condition of the
22 vehicle?

23 A. Yes, sir. I took I believe some mental notes.

24 Q. Yes, sir?

25 A. That's there was -- it look like the vehicle went

1 down a dirt road. There was dirt on the back bumper.

2 Q. All right. Let me ask you to look at State's Exhibit
3 Number 13.

4 A. Yes, sir.

5 Q. Is this ---

6 A. That's what I saw.

7 Q. Is this what you saw?

8 A. Yes, sir.

9 Q. And would you say that that there was enough dirt on
10 that back bumper for you to make a mental note of it?

11 A. Yes, sir, there was.

12 Q. All right. Can you tell us about the van that day;
13 that morning when you saw it?

14 A. When I initially saw it?

15 Q. Yes, sir.

16 A. I noticed that there was no keys in the ignition and
17 the door was unlocked.

18 Q. All right. This is State's Exhibit Number Eight.

19 Can you tell us what's in that exhibit photograph?

20 A. More of the same dirt that was on the rear of the
21 vehicle.

22 Q. And you said you described that dirt as being where?
23 Where was it located, that dirt?

24 A. On the vehicle?

25 Q. Yes, sir.

1 A. On the fender well of the vehicle.

2 Q. All right. And you know that that -- there was dirt
3 in that area of the vehicle, the fender area?

4 A. Yes, sir.

5 Q. And you said you thought it meant that the vehicle
6 was where?

7 A. Down a dirt road.

8 Q. All right. Are most of the roads in Cherryvale dirt
9 or paved?

10 A. Most of them are paved.

11 Q. All right. And I believe that's all. Thank you,
12 Corporal.

13 CROSS-EXAMINATION

14 BY MR. BRIDGES:

15 Q. Good afternoon, Corporal Prescott?

16 A. Yes, sir.

17 Q. You regularly patrol Cherryvale as part of your
18 normal duties?

19 A. Yes, sir.

20 Q. Are you familiar with Cherryvale?

21 A. Yes, sir, I am.

22 Q. The area the van was found was Harwood and Babette?

23 A. Yes, sir.

24 Q. Is that area -- would you classify as a high crime
25 area or are there incidents of crime typically in that

1 area?

2 A. There is crime within the Cherryvale area.

3 Q. So the Cherryvale area, is there like drug crimes out
4 there?

5 A. Yes, sir, there are drug crimes.

6 Q. When you noticed the van was it closest to -- was it
7 close to a residence?

8 A. It was. The closest residence that I remember would
9 be on Babette.

10 Q. That maybe [REDACTED] Babette? Was there a trailer there
11 that was across -- was it across the road from it?

12 A. There are several trailers across the road from it.

13 Q. Did you attempt to make contact with the people that
14 lived in that trailer across the road on that day?

15 A. Yes, sir, I did.

16 Q. Did the occupants of that house, you don't have to
17 say with they said, but did they speak with you?

18 A. They did.

19 Q. Was there somebody in that house that attempted to
20 flee when you were there?

21 A. Not that recall.

22 Q. So it's not on that? Not during that occasion? Does
23 Mr. Warren Dundero live at that house on Babette?

24 A. I know that he has frequented there before.

25 Q. All right. He had open warrants for him at the time?

- 1 A. I do not recall.
- 2 Q. So you weren't the one that served and processed that
3 part?
- 4 A. No, sir.
- 5 Q. Okay. Do you believe the vehicle had been damaged or
6 burglarized, the green Chrysler?
- 7 A. It didn't appear to be?
- 8 Q. So, you know, no windows were broken? You didn't
9 observe any windows or tail lights busted?
- 10 A. No, sir.
- 11 Q. Did you report that there was a car seat in the van?
- 12 A. I do not recall.
- 13 Q. And then the first time you went to North Lake
14 Cherryvale, you were trying to get in touch with Mr.
15 Parker?
- 16 A. Yes, sir.
- 17 Q. And he did not respond to your first attempt to make
18 contact?
- 19 A. That is correct.
- 20 Q. Were you -- you were able to get in touch with him
21 later, correct?
- 22 A. Yes, sir.
- 23 Q. You were able to verify that the children had made it
24 to Cherryvale Elementary?
- 25 A. Yes, sir.

1 Q. About how many times did you speak to Mr. Ginther
2 that day?

3 A. It was off and on. I would say approximately three
4 times, maybe four.

5 Q. Was there a vehicle at North Lake Cherryvale when you
6 drove by the first time?

7 A. Yes, sir there was.

8 Q. Do you remember its description?

9 A. A white work van, I believe that it didn't appear
10 that it was still operable. The other one, I do not
11 recall what it was.

12 Q. And you couldn't tell if either of those cars had
13 been moved or anything recently that day?

14 A. There was dew on both of them. I do recall that.

15 Q. Thank you, Corporal Prescott. No further questions.

16 A. Yes, sir.

17 MR. FINNEY: Thank you, Judge.

18 THE COURT: Okay. Thank you, sir. You can step
19 down. My understanding is this is the last witness of the
20 day?

21 MR. FINNEY: Yes, sir.

22 COLLOQUY

23 THE COURT: Ladies and gentlemen, we're going to quit
24 for the day. I need you to come back in the jury room at
25 9:30 in the morning. You can't discuss this case. Don't

1 read anybody in the newspaper about it on t.v. or any news
2 media. Don't Google anything. Don't talk to your family
3 yet. When this is over I will let you talk to anybody you
4 want to, but right now you can't talk to anybody. If you
5 have an emergency tonight, same thing I told you earlier,
6 you've got to call us a let us know. I can't start until
7 all of you get here.

8 You have a great evening. I'll see you in the
9 morning.

10 (WHEREUPON, the jury panel was excused from the
11 courtroom at 4:29 p.m.)

12 THE COURT: Okay. Anything else before we break for
13 the evening?

14 MR. FINNEY: No, Your Honor.

15 MR. BRIDGES: Your Honor, the subject of my main
16 evidentiary objection is -- will be -- we can do later.
17 There is some jail calls I've been provided with this
18 morning, I'm going to review and get back to the
19 Solicitor. I don't know when he intents to play those.

20 And the S.L.E.D. ballistics testimony, might need to
21 have a hearing as we're testifying. But both of those
22 things we can do before those respective people testify.

23 THE COURT: Okay.

24 MR. FINNEY: I believe S.L.E.D. is Wednesday. I
25 believe the doctor for the pathology is Wednesday.

1 Lexington, Kentucky officers who arrested Mr. Ginther is
2 Wednesday. So the firearms, we can do tomorrow at 5:00 or
3 Wednesday morning.

4 THE COURT: Okay.

5 MR. FINNEY: And the other thing?

6 MR. BRIDGES: Oh, the jail calls, we can do that
7 tomorrow. I'm going to go through them tonight.

8 MR. FINNEY: I would expect the jail calls to be at
9 the end of the case Wednesday afternoon or Thursday
10 morning.

11 MR. BRIDGES: Okay.

12 MR. FINNEY: And I haven't quite finished the
13 Kentucky video yet. I've got a few minutes left on there.
14 You're contention is that they interrogated him on the
15 side of the road?

16 MR. BRIDGES: Well, that he was told that he is not
17 allowed to leave, and then they started asking him
18 questions.

19 THE COURT: What questions? They told him that he
20 couldn't leave. Other than who you are on your driver's
21 license and what other questions did they ask him?

22 MR. BRIDGES: They asked him if he had weapons was
23 part of it.

24 THE COURT: Okay. I was hoping that they would ask
25 him that. That's kind of routine.

1 MR. BRIDGES: Well, it's -- I mean we would just
2 contend that he was free to leave.

3 THE COURT: I take it he was in custody, but he only
4 has to have Miranda if he's in custodial interrogation.
5 Was just trying to find out what your contention was for
6 the interrogation.

7 MR. BRIDGES: They do -- I mean they do ask him if he
8 was armed. They do ask him his identity. I think they
9 ask him, once they realize that they have a warrant for
10 him, ask him does he know what that's for.

11 THE COURT: Okay.

12 MR. BRIDGES: Now, if this video is admitted I would
13 probably move to have it cut off once they secure him,
14 because once one of the officers verifies that he has a
15 warrant he uses of very colorful language to describe the
16 situation. And I would say that that would be objectible,
17 and the period after he's secured on the scene.

18 THE COURT: Okay. I haven't heard any of that. I
19 mean there may be some non-Christian language in there,
20 but that kind of happens a lot on the road. I hadn't
21 heard anything that necessarily would inflame the jury.
22 We'll see.

23 MR. BRIDGES: It's just kind of -- I just reiterate
24 that he's wanted for murder in a way that I feel is very
25 prejudicial.

1 THE COURT: All right. I'll see y'all at 9:30 in the
2 morning.

3 BY MR. BRIDGES: Thank you, Your Honor.

4 BY MR. FINNEY: Thank you, Your Honor.

5 BY MR. BARNES: Thank you, Your Honor.

6 END OF TRANSCRIPT OF RECORD

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF SUMTER) 2018-GS-43-00206

STATE OF SOUTH CAROLINA)
) PLAINTIFF)
) vs.) TRANSCRIPT OF RECORD
)
 JAMES L. GINTHER)
) DEFENDANT)

April 8-12, 2019
 Sumter, South Carolina
 Volume No. 2 of 5

B E F O R E:

THE HONORABLE R. FERRELL COTHRAN, JUDGE; and a jury.

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

ERNEST A. FINNEY III, DEPUTY SOLICITOR
 Attorney for the State

JASON E. BRIDGES, PUBLIC DEFENDER
 Attorney for the Defendant

ALLEN J. BARNES, PUBLIC DEFENDER
 Attorney for the Defendant

BILLY PARKER,
 CAMERON PRESCOTT,
 AMY YARBOROUGH,
 SUSAN AYCOCK,
 MICHAEL MCCAULEY,
 DONALD VICKERS,

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

WARREN DUNDERO,
JOHN BATES,
MARK SJOLUND,
DAVID GAYLE,
RANDALL STEWART,
KRISTINA GAINNEY,
RACHAEL SALAK,
RANDALL HILLIARD,
KIM COLLINS,
NICHOLAS SPROUSE,
DARREN SOLOMAN,
CHAD SMITH,
SAMUEL STEWART,
ERIC GRABISKI,
DARON SOLOMON,
CHASE BARNETT,
JEFF BISHOP,
JACOB VETO,

HATTIE O. GORDON
Circuit Court Reporter

COLLOQUY

MR. BRIDGES: Your Honor, there is one thing that I'd like to put on the record before we start. I asked -- I think there are a lot of family people here. I ask that the witnesses be sequestered other than, of course, the witnesses that have already testified and members of the victim's family and the chief investigator.

THE COURT: Okay. Is that agreeable, Solicitor?

MR. FINNEY: We have complied we that, Your Honor.

THE COURT: Okay. Anything else?

MR. BRIDGES: Nothing further at this time, Your Honor.

THE COURT: Okay. You ready?

MR. FINNEY: I'm ready.

MR. BRIDGES: I'm ready.

THE COURT: Bring us the jury.

(WHEREUPON, the jury panel enters the courtroom at 9:44 a.m.)

THE COURT: Good. I'm glad to see all of you made it back. Mr. Solicitor, you may call you next witness.

MR. FINNEY: Good morning, Your Honor. Good morning, ladies and gentlemen. Call Ms. Amy Yarborough.

BAILIFF: State your name.

THE WITNESS: Amy Yarborough.

AMY YARBOROUGH, after being duly sworn,

1 testified as follows:

2 BAILIFF: Thank you, ma'am. Step around, please.
3 Watch your step coming up. State your name for record,
4 spelling your last name.

5 THE WITNESS: Amy Yarborough. Y-A-R-B-O-R-O-U-G-H.

6 DIRECT EXAMINATION

7 BY MR. FINNEY:

8 Q. Good morning?

9 A. Good morning?

10 Q. Ms. Yarborough, tell the ladies and gentlemen of the
11 jury where do you live?

12 A. I live in Columbia, South Carolina.

13 Q. Have lived there for a long time?

14 A. My entire life.

15 Q. Okay. All right. And where do you work?

16 A. I currently work for the Public Library. I used to
17 work at Pet Smart.

18 Q. Okay. And Pet Smart is an animal?

19 A. Supply.

20 Q. Supply company. Where is it located?

21 A. It's located in Columbia, too.

22 Q. All right. Were you working there in November of
23 2017?

24 A. Yes, sir.

25 Q. Did you have a coworker names Suzette Ginther?

1 A. Yes, sir.

2 Q. All right. Tell us a little bit about how you and
3 Suzie came to know each other.

4 A. I was the stocker at Pet Smart, and she was hired to
5 be supervisor of the stockers. So she was my immediate
6 supervisor.

7 Q. So you had already been there at the company working?

8 A. For a couple of years.

9 Q. And she was hired when? Do you remember when?

10 A. I want to say in January that year. I'm not
11 positive.

12 Q. January of 2017?

13 A. Yes.

14 Q. So you all worked together for about 11 months?

15 A. Yes.

16 Q. And how did you find her? Your interactions? Were
17 y'all close?

18 A. Oh, yes, we got along great.

19 Q. And during that 11 month period of time as far as
20 schedule, would the schedule change a lot or pretty much
21 the same schedule every day?

22 A. No, it would vary from day to day as far as what time
23 we went in and what time we got off.

24 Q. All right. When you say, 'vary' would it vary a lot
25 in other words?

- 1 A. No. An hour or two.
- 2 Q. Okay. And so was it unusual for you and Suzie to
- 3 open up the store in the morning, first thing?
- 4 A. Not unusual, no.
- 5 Q. Pardon me?
- 6 A. Usually we did.
- 7 Q. You did. You and her were the first ones?
- 8 A. Yes.
- 9 Q. Now, the store, as far as the front door open to the
- 10 public, what time was that?
- 11 A. Nine o'clock.
- 12 Q. Nine o'clock in the morning. What time would you and
- 13 Suzie usually get there to get started for the day?
- 14 A. 4:00 or five o'clock. Most of the times we got there
- 15 about 15 minutes earlier than our schedule time.
- 16 Q. All right. And what was her job in November of 2017?
- 17 A. She was the manager of the stocking and inventory
- 18 control.
- 19 Q. Okay. And you were assisting her?
- 20 A. Yes, I was just a stocker.
- 21 Q. Now, do you remember November 17th 2017? This was a
- 22 Thursday.
- 23 A. Yes.
- 24 Q. Do you recollect what time you were on the schedule
- 25 that day?

- 1 A. Five o'clock.
- 2 Q. And that means you were getting out of the car,
3 walking in the back door at five o'clock?
- 4 A. Well. Actually, I got there about a quarter till.
- 5 Q. All right.
- 6 A. And I stayed in my car until whichever manager is on
7 duty that day to arrive cause I don't have the keys to the
8 door.
- 9 Q. Okay. So you had to wait until -- who was going to
10 open the door that morning?
- 11 A. Suzie.
- 12 Q. She had the keys?
- 13 A. Yes, sir.
- 14 Q. So quarter to 5:00 you're there. Tell the ladies and
15 gentlemen of the jury what the elements were? How -- was
16 it light out? Dark out? Raining?
- 17 A. It was dark out. I don't recall if it was raining or
18 not. I don't think it was. I was surprised she wasn't
19 there. She always got there before I did. So I waited
20 until five o'clock.
- 21 Q. Okay. And what did you do at five o'clock when you
22 didn't -- when you ---
- 23 A. I waited a few minutes longer, and I think about at
24 5:09 I texted her asking her if she was okay because I had
25 not seen and heard from her.

1 Q. Okay. And you're saying -- your testimony is that it
2 was unusual?

3 A. Yes, very unusual. She was very dependable and
4 prompt.

5 Q. All right. I want to show you what's been marked
6 State's Exhibit Number Two and ask if you can identify it.

7 A. That looks like her van.

8 Q. Okay. And did she drive the same vehicle to work
9 everyday?

10 A. Yes.

11 Q. Okay. And do y'all park in the parking area in front
12 of the store?

13 A. Yes.

14 Q. In front of the store. And so you would go in the
15 front of the store ---

16 A. Right.

17 Q. --- in the morning even though the store wasn't going
18 to be opened for a while?

19 A. Right.

20 Q. As far as Mrs. Suzie's schedule, if she got to work
21 at 5:00 what time would she normally get off of work?

22 A. Probably 1:00 or 2:00.

23 Q. In the afternoon?

24 A. Yes. I'm not positive because I normally didn't work
25 past 12:00.

1 Q. I see. And so normally the day would be over after
2 lunch?

3 A. Yes.

4 Q. One or two o'clock?

5 A. Um hum.

6 Q. And did you have occasion to talk to her after work
7 much or y'all just mostly at work?

8 A. During work we talked.

9 Q. Okay. How did she sees to be going in November of
10 2017 with her job and her family and everything like that?

11 A. She was real dedicated to her job. She talked
12 constantly about ---

13 MR. BRIDGES: Objection. Hearsay.

14 THE WITNESS: That's ---

15 MR. FINNEY: Hold on. Hold on.

16 THE COURT: I will sustain the objection.

17 MR. FINNEY: All right.

18 BY MR. FINNEY:

19 Q. Did you, after having worked with her almost a year,
20 did you have an opinion as to whether she was in a good
21 place?

22 A. Yes.

23 Q. All right. And you -- how would you say -- how did
24 you get along with her?

25 A. I got along with her great.

1 Q. Very good. Okay. After you called her at 5:09?

2 A. I texted her.

3 Q. Texted her at 5:09 a.m. did you hear from her?

4 A. No, I did not. I did not get a response.

5 Q. All right. Did you yourself make any other calls to
6 find out who where was.

7 A. Yes, I did.

8 Q. And who did you call?

9 A. I called Suzie's cell number about five or ten
10 minutes after I first texted her and I didn't hear her
11 from her.

12 Q. You did not got a response back from the text?

13 A. No.

14 Q. So you called to see if you could speak with her?

15 A. Yes.

16 Q. All right. Was it unusual for you to send a text or
17 make a call and not got a response back from Suzie?

18 A. Yes.

19 Q. It was?

20 A. Yes.

21 Q. And so let's say six o'clock now has come. Have you
22 heard anything from her by 6:00 a.m.?

23 A. No. I had already made several calls to her and
24 could not reach her.

25 Q. Okay. You didn't have a key to open the store?

- 1 A. No.
- 2 Q. Did you make any effort to call somebody with a key?
- 3 A. I called my supervisor and I called another -- I
- 4 called the lead manager, and I called another supervisor.
- 5 Q. All right. And after the passage of some time was
- 6 the store opened so you could get in?
- 7 A. Yes, about seven o'clock.
- 8 Q. At 7:00?
- 9 A. Yes.
- 10 Q. And so from five o'clock to seven o'clock you were
- 11 outside literally waiting for the door to get open?
- 12 A. Yes.
- 13 Q. And as a result between 5:00 and 7:00 did you make
- 14 other calls trying to reach Suzie?
- 15 A. I called her phone about four times.
- 16 Q. And no response?
- 17 A. No. The first time I called her it rang numerous
- 18 times and went to voice mail. I left her a message asking
- 19 her, "I'm here at the store. Where are you? Are you
- 20 okay." And the other called I made after what went
- 21 straight to voice mail.
- 22 Q. Okay. So there was a change from the first call that
- 23 you made that morning where you said it rang and then
- 24 voice mail mixed up?
- 25 A. Yeah.

1 Q. And you left a message?

2 A. Yes.

3 Q. And on the subsequent calls you made the phone went
4 straight to voice mail?

5 A. Yes.

6 Q. Every time?

7 A. Yes.

8 Q. One minute, Mrs. Yarborough. Ms. Yarborough, I have
9 State's Exhibit 56 here. This is a blow up of the month
10 of November, and I may have mistake when I was asking you
11 questions a little while ago. Do you have an idea, if
12 this is November 2017, do you remember what day it was you
13 were supposed to meet Suzie at five o'clock and open the
14 store and she didn't come?

15 A. The day of the week?

16 Q. Yes, ma'am.

17 A. No, I don't remember the day of the week.

18 Q. Okay. All right. Very good. Do you know ---

19 A. My phone is showing the 17th is when I called --
20 texted her. I still have that on my phone.

21 Q. The phone is?

22 A. Yes.

23 Q. All right.

24 A. I don't have my phone with me. It's in my car.

25 Q. All right. Thank you for coming. Answer any

1 questions the Defense may have.

2 A. Okay.

3 MR. BRIDGES: Your Honor, I do not have any questions
4 for this witness. I ask that she be released.

5 THE COURT: Okay. Thank you. Please step down.
6 Thank you, Ms. Yarborough. Please come down.

7 MR. FINNEY: Your Honor, we call Ms. Susan Aycock.

8 BAILIFF: State your name.

9 THE WITNESS: Susan Aycock.

10 SUSAN AYCOCK, after being duly sworn, testified
11 as follows:

12 BAILIFF: Step around. Watch yourself coming up the
13 ramp. State your name for the record and spell your last
14 name, please

15 THE WITNESS: Susan Aycock. A-Y-C-O-C-K.

16 DIRECT EXAMINATION

17 BY MR. FINNEY:

18 Q. Good morning, Ms. Aycock?

19 A. Good morning.

20 Q. Ms. Aycock, tell the ladies and gentlemen of the jury
21 where you live. What city do you live in?

22 A. I live in Elgin, South Carolina.

23 Q. And how long have you lived there?

24 A. About almost 14 years.

25 Q. And what is your employment career status right now?

1 Where do you work?

2 A. I work with Pet Smart. I'm the floor leader which is
3 basely the same thing as a general manager.

4 Q. All right.

5 A. And I've been with the company seven years now.

6 Q. All right. In November 2017 did you have the same
7 position as general manager?

8 A. Yes, that is correct.

9 Q. All right. As part of your operations at the Pet
10 Smart Store -- is that located in Columbia?

11 A. Yes, sir.

12 Q. Where is it?

13 A. The store is located off of Gardner's Ferry Road,
14 corner of Fort Jackson Boulevard.

15 Q. All right. And did you have the occasion to hire
16 Suzie Ginther?

17 A. Yes, sir, that is correct.

18 Q. All right. And do you remember when you hired her's.

19 A. Yes, sir it was February of that year.

20 Q. February of 2017?

21 A. Yes, sir.

22 Q. All right. And after placing her what position was
23 she operating in your store?

24 A. She was hired in as a leader. At the time it was
25 inventory, merchandising leader.

1 Q. Okay. And did she do a good job there?

2 A. She did an amazing job.

3 Q. All right. Would you be able to tell the ladies and
4 gentlemen of the jury whether she did so well a job she
5 was promoted?

6 A. Yes, sir. She was hired in, as I said in February.
7 By that -- when she was done with her training that was
8 probably in March. By that summer she was actually
9 promoted. Her position remained the same, but the
10 position was actually a part time position. And due to
11 her strength as a leader and her merit she was promoted to
12 full time status by my superior, my district leader.

13 Q. And after she was promoted did she gain anymore
14 responsible in terms of opening up the store in the
15 morning or closing it in the evening? Things like that?

16 A. She maintained the same duties. but that was one of
17 the reasons why she was given than status because she was
18 performing above the level at which was expected of her
19 position.

20 My district leader actually said she was -- he would
21 rank her in the top three in his district in that
22 position.

23 Q. Do you -- did you get to know her very well during
24 the year y'all worked together?

25 A. I wouldn't say that I knew her very well, but I did

1 know her well. Unfortunately, when we did work together
2 we did suffer some shortages on the management staff which
3 spread us thin. And it did not afford us as much time to
4 work overlapping shifts as much as we would have liked.

5 Q. Okay. Was she, in November of 2017, responsible for
6 opening up the store first thing in the morning?

7 A. Yes, sir. She was -- she had that position right
8 from the beginning actually opening it.

9 Q. Okay. Let's talk about the week that we're here
10 today to talk about. Do you remember the dates in this
11 week as far as what day you -- did you get a call on a
12 particular day in November 2017 to say that Suzie has not
13 reported to work?

14 A. Yes, sir. It was on a Thursday which I believe was
15 the 16th.

16 Q. Let me show you a map. We have got State's Exhibit
17 Number Two is a blow up of the calendar. What day would
18 you say?

19 A. See here, it was on Thursday the 16th because I was
20 off on Wednesday and Thursday. And they had started the
21 truck that day -- delivered that day, started it that day.
22 So I believe it was the 16th. One of those two.

23 Q. All right. So if it is the 16th, if it was Thursday,
24 she would have been responsible for opening the store?

25 A. Yes, sir. That's correct.

1 Q. Would that have been about five o'clock in the
2 morning?

3 A. Yes, sir. That is correct.

4 Q. All right. Did you have her doing that on other
5 days?

6 A. Yes, sir.

7 Q. And did she -- how was her performance in terms of
8 getting there? Getting the store open? And getting
9 started for the day?

10 A. She was probably one of the most reliable people I've
11 ever met. I think her and my stocker, Amy, who you
12 already heard from, probably competed for reliability as
13 far as always being there not only on time but early every
14 single shift without fail.

15 Q. What time would these two ladies, Amy and Suzie
16 finish for the day and kind of wrap up for the day?

17 A. Depending on the day, but at that point in time we
18 were down to only three managers because we had a manager
19 that was on leave of absence. So typically she was
20 working Friday until 1:00 p.m.

21 Q. All right. Do you know how Suzie got to work at Pet
22 Smart every day?

23 A. She drove her -- she had a minivan.

24 Q. All right. And if I show you State's Exhibit Number
25 Two can you identify that picture?

1 A. Yes, sir. I remember it was a dark green minivan.

2 Q. All right. And is that the car she used every day to
3 get to work?

4 A. It looks like it, sir.

5 Q. All right. Now, do you know where Suzie lived?

6 A. I know she lived in Sumter. We had her physical
7 address, but I'm not familiar with Sumter.

8 Q. You never visited her for dinner at her house?

9 A. No, sir.

10 Q. Or a movie or anything like that?

11 A. No, sir.

12 Q. During the time that you got to know her did you get
13 to meet her family?

14 A. No, sir.

15 Q. Okay. And how would you describe her in terms of her
16 personality and where she thought she was in the world and
17 how she was doing in the world?

18 A. Can you clarify that? I'm sorry.

19 Q. Did you have conversations with her about things
20 other than her job performance?

21 MR. BRIDGES: Objection, Your Honor. This answer
22 would have to be hearsay.

23 THE COURT: Say it one more time, now.

24 MR. BRIDGES: I mean I guess she can answer if she's
25 had conversations with Suzette or not. But she can't

1 answer to any of Suzie's answers in those conversations.

2 THE COURT: Okay. But the question was did she have
3 conversation?

4 MR. BRIDGES: That's right.

5 THE COURT: She didn't ask her what conversation.

6 BY MR. FINNEY:

7 Q. Did you have conversations with Suzie about things
8 outside of her employment?

9 A. Yes, sir, we did.

10 Q. All right. And as a result of those conversations
11 did you have any concerns about her? For her?

12 MR. BRIDGES: I'm going to object to that. That
13 would imply that -- that would, basically, bring in the
14 subject of those conversations.

15 MR. FINNEY: I'll rephrase. I'll withdraw the
16 question.

17 BY MR. FINNEY:

18 Q. When Ms. Suzie did not show up for work on the 16th
19 how were you contacted?

20 A. It actually had received several phone calls and
21 several text messages. Unfortunately, I slept through
22 them, but when I did wake up I saw that my phone had a
23 series of missed phone calls and text messages.

24 Q. Was it your normal practice for Suzie and Amy to open
25 the store and get ready in the morning, and then you would

1 come in a little later?

2 A. Correct. Yes.

3 Q. All right. And I believe Amy testified that the
4 store opened at about nine o'clock in the morning?

5 A. That's correct.

6 Q. Do you remember going to the store that morning after
7 you woke up and got the messages?

8 A. I did not go that morning. I did not report in until
9 my normally scheduled time. We had, as I mentioned, three
10 managers at that time and they were able to get in touch
11 with my third manager. And she lives very close to the
12 store, and she actually came into the store so that they
13 would have a manager there while they were trying to find
14 out what was going on.

15 Q. All right. And so from the time that you recognized
16 that your phone had blown up until the time you got to the
17 store did you have any communications -- did you try to
18 reach Suzie?

19 A. Yes, sir, I did. Once I did wake up and saw that I
20 had all those missed messages I called to find out what
21 was going on. And as soon as I found out that Suzie had
22 not shown up to work that morning I immediately got off
23 the phone and started called, looking online trying to see
24 if there were any reports of car accidents. I tried to
25 get in touch with the local area hospitals, checking

1 detention centers, you know, anything and everything that
2 could have possibly to defer her from maybe getting to
3 work.

4 Q. All right. Very good. Give me one moment, please.
5 Let me ask you one other set of questions. Suzie would
6 have had keys to the store to get in the store in the
7 morning?

8 A. Yes, sir. That is correct.

9 Q. Are those stores issued -- are those keys issued to
10 her? She carries them with her and she is responsible for
11 them?

12 A. That's correct.

13 Q. Did you ever have those keys turned in? Were they
14 found in the vehicle or anything like that?

15 A. No, sir, keys were not found.

16 Q. Do you have recollection of any other items from the
17 store being with Suzie when she went home on Wednesday
18 that she would have been bringing back Thursday?

19 A. Yes, sir. She took home the store cell phone. We
20 have several cordless sets that we carry around, and two
21 to the sales floor, a primary and a secondary. And she
22 actually had taken the primary phone home which I realized
23 after she had left.

24 I called her about 20 minutes after she had left to
25 ask if realize that she had, and she said she would bring

1 them back the next morning with her.

2 Q. All right. And you never recovered that phone?

3 A. That's correct.

4 Q. Okay. Speaking of Suzie and working, did she have a
5 dress uniform at the store or a -- what is the standard
6 dress like for her to be in the store working?

7 A. Our standard uniform in the store is open. It's kaki
8 pants, a blue store issued polo with a Pets Smart insignia
9 on it. That kind of thing. However, before the store
10 opened it was quite a bit warmer in there. Doing stocking
11 you do sweat a lot, so it was perfectly fine to come in
12 wearing a tee shirt before the store opened.

13 Q. Okay. All right. Thank you, ma'am.

14 A. You're welcome.

15 Q. Answer any further questions Defense counsel would
16 have.

17 A. Thank you.

18 CROSS-EXAMINATION

19 BY MR. BRIDGES:

20 Q. Morning, Ms. Aycock.

21 A. Good morning.

22 Q. This is just going to be very brief. Did you hire
23 Suzie personally or were you part of the hiring process?

24 A. I did hire her, yes.

25 Q. Do you remember -- I believe you said that was in

1 February?

2 A. Um hum.

3 Q. Do you remember exactly when in February?

4 A. I don't remember the specific day. It was probably
5 towards the end of February because I think she basically
6 started training in March.

7 Q. Thank you very much.

8 MR. BRIDGES: No further questions, Your Honor.

9 THE COURT: Thank you. Anything further?

10 MR. FINNEY: Ask that she may be excused.

11 MR. BRIDGES: No objection to that, Your Honor.

12 THE COURT: Thank you, Ms. Aycock.

13 THE WITNESS: Thank you.

14 MR. FINNEY: Next witness is Michael McCauley.

15 Deputy Mike McCauley, Sumter County Deputy.

16 THE COURT: Okay.

17 BAILIFF: State your name.

18 THE WITNESS: Michael Thomas Martin McCauley.

19 MICHAEL MCCAULEY, after being duly sworn,
20 testified as follows:

21 BAILIFF: Thank you, sir. Step around. State your
22 name for the record and spell your last name, please.

23 THE WITNESS: Michael Thomas McCauley. Last name is
24 M-C-C-A-U-L-E-Y.

25 DIRECT EXAMINATION

1 BY MR. FINNEY:

2 Q. Good morning, sir.

3 A. Good morning.

4 Q. Tell the ladies and gentlemen where you work?

5 A. I work Sumter County Sheriff's Office.

6 Q. And how long have you been there?

7 A. Fifteen years.

8 Q. And what are your duties there?

9 A. My current job is the Commander of the Crime Scene
10 Unit Tactical Investigations.

11 Q. Were you doing that particular job back in November
12 of 2017?

13 A. I was not commander, but I was in the Crime Scene
14 Unit at that time.

15 Q. And how long have you been in the Crime Scene Unit?

16 A. Almost five years now.

17 Q. All right, sir. Are you a certified law enforcement
18 officer?

19 A. I am.

20 Q. Does that mean that you have been to the Academy, the
21 Criminal Justice Academy, and trained there and graduated
22 there?

23 A. Yes, sir.

24 Q. All right. When did you graduate the Academy?

25 A. April 16, 2004.

1 Q. All right, sir. And how long you been a deputy with
2 the Sumter County people?

3 A. Since January 31st 2004.

4 Q. All right. Are you familiar with an investigation
5 that took place as a result of a missing person in
6 November of 2017?

7 A. Yes.

8 Q. Regarding Suzette Ginther?

9 A. Yes, I am.

10 Q. All right, sir. Tell us what your first recollection
11 is of being, you know, responding to that case?

12 A. We were at the office conducting business. We were
13 contacted in reference to a missing person; that the
14 vehicle that the missing person, Ms. Ginther, had been
15 located in the Cherryvale area. And they asked us to
16 respond and process the vehicle to see if we could locate
17 any clues concerning her current whereabouts.

18 Q. What day was that ---

19 A. That was a Thursday.

20 Q. --- that that call came in? Sorry.

21 A. That was a Thursday.

22 Q. Was it the 16th of November?

23 A. It was.

24 Q. All right, sir. And the vehicle had been located in
25 Cherryvale?

1 A. Yes, sir.

2 Q. Are you familiar with that area?

3 A. Yes, sir.

4 Q. All right, sir. Did you get a call to go out and
5 respond?

6 A. I did.

7 Q. All right, sir. And did you see a vehicle matching
8 the description of the vehicle in State's Exhibit Number
9 Two?

10 A. I did.

11 Q. All right. Would you describe that vehicle for us?

12 A. That is a hunter green Chrysler Down and Country.

13 Q. All right, sir. And when you got to the location can
14 you tell the ladies and gentlemen of the jury a little bit
15 about where the vehicle was located?

16 A. The vehicle was located in the sharp corner on the --
17 near a wooded area on Harwood Drive which is a -- if you
18 were take 378 and turn onto Cherryvale Drive Harwood is
19 closer to the end of Cherryvale Drive on the left.

20 Q. And this is Exhibit Number 59. Could you show the
21 ladies and gentlemen coming off of 378 how you would get
22 to the location where you saw the van?

23 A. Coming from here you come in this way down 378. Take
24 a turn onto Cherryvale sand cut into Harwood right off of
25 here.

1 There is actually a turn from Babette. You can also
2 come around this way. You can also loop all the way
3 around from this way as well.

4 Q. All right. And when you saw the car -- you can go
5 ahead and return to your seat, sir.

6 When you saw the car was anything distinguishing
7 about it when you saw -- when you first got there?

8 A. The vehicle was unlocked. The ignition was intact
9 indicated that nobody had actually broken the ignition to
10 start the vehicle. It was covered in a fine layer of
11 light tan dust that was also build up in the wheel wells.

12 Q. All right, sir. Let me show you what is shown as
13 State's Exhibit Number Eight. What do you see in that
14 picture?

15 A. That would be the build up of the dust in the wheel
16 well.

17 Q. All right, sir. And as far as the roads you just
18 talked about, driving from 378 going through the
19 Cherryvale section and getting down to Harwood, any of
20 those dirt roads?

21 A. None.

22 Q. All right. Let me show you what's been marked as
23 State's Exhibit 13. Do you recognize that picture?

24 A. Yes, sir. This is the back of the vehicle with the
25 hatch open.

1 Q. All right. And what do you see on the back bumper
2 there of the vehicle?

3 A. There is more dust on that right there, on the
4 running board for the back.

5 Q. All right. When you saw the vehicle parked on the
6 side of Harwood, you say it was in the curve?

7 A. Yes, sir.

8 Q. Would that normally be a parking space for a person?

9 A. Not normally, no.

10 Q. All right. Are there any residences close by the
11 vehicle?

12 A. There is a residence directly across the street.

13 Q. All right. You say the ignition was intact, but
14 there was no key?

15 A. No, sir.

16 Q. You didn't find the key?

17 A. No, sir.

18 Q. All right. Did you have the job of, now that you had
19 a missing person's report and had the vehicle belonging to
20 the person, what was your normal protocol for processing?

21 A. The first thing we do is just do a cursory search of
22 the outside and open the doors if we can. Look inside the
23 vehicle just to see if anything that is incredibly out of
24 order. Any significant damage that is easily explainable.
25 Anything that would like look blood or bodily fluids.

1 Anything that would look an indication of a fight or some
2 kind of a weapon used.

3 Q. All right, sir. Did you notate those things? Did
4 you start processing of the vehicle from front to back?

5 A. Yes, sir.

6 Q. Inside and out?

7 A. Yes, sir.

8 Q. All right. As a result of processing it did you take
9 photographs of it?

10 A. Yes, sir.

11 Q. All right. And those photographs became part of the
12 case file?

13 A. Yes.

14 Q. Did you have other officers respond to that scene
15 where the van was?

16 A. Yes. Investigator Pernada came with me, and shortly
17 therefore Unit Commander Lieutenant Vickers came out.

18 Q. Okay. And as a result of finding the van, once you
19 processed it, how long would you say the van stayed there
20 while you were working with it?

21 A. Approximately three hours.

22 Q. All right. And do you remember what happened at the
23 end of the three hours that caused the van to move?

24 A. We requested that it be towed to the Sumter County
25 Public Works for further processing.

1 Q. All right. And so it was removed from that location
2 and taken into the Sumter County Property Lot to be -- was
3 it put inside?

4 A. It was actually put inside the -- one of the loading
5 bays in the Public Works building itself to keep it out of
6 the elements.

7 Q. All right. Very good. Besides processing it at the
8 scene did you have occasion to be called as a result of
9 new information to another scene connect to the van?

10 A. While we were working on the van we had been notified
11 that possible body had been located off of Burnt Gin Road.
12 I volunteered to stay with the vehicle proper, while
13 Investigator Pernada and Vickers went out to that scene.

14 Q. All right. What time would you say that call came in
15 about the location of the body?

16 MR. BRIDGES: I'm going to object to the call. All
17 the hearsay. Haven't had witness testify about that call
18 yet.

19 THE COURT: Okay.

20 MR. FINNEY: I'm sorry.

21 THE COURT: He can testify as to knowledge -- of his
22 knowledge of the call that he got from the information.

23 BY MR. FINNEY:

24 Q. Did you receive a call relative to the van that you
25 were processing later in the day, on the Thursday, that

1 caused you and your staff to go somewhere else?

2 A. I did not leave the scene, but the other two
3 investigators did.

4 Q. All right.

5 A. Approximately an hour, hour and a half after we
6 initially got out the van ourselves.

7 Q. All right. So do you remember what time the other
8 call, the later call came in? Just estimate. It was
9 Thursday afternoon?

10 A. Late afternoon. I would say a little around 1600,
11 four o'clock p.m.

12 Q. Thank you, sir. Answer any questions the Defense
13 has.

14 CROSS-EXAMINATION

15 BY MR. BRIDGES:

16 Q. Morning, Investigator McCauley?

17 A. Morning, sir.

18 Q. As part of your training and job task do you take
19 forensic samples from a crime scene? As in do you dust
20 for prints or try to take blood samples?

21 A. Yes, sir.

22 Q. When you arrived at the scene at Harwood and Babette
23 did you test the interior of the van for samples?

24 A. Not the interior. Only the exterior.

25 Q. Exterior. And at a later date did you dust the

1 interior? Or was that ---

2 A. Yes, I did. I served a search warrant on the vehicle
3 on the next day late in the afternoon.

4 Q. And typically when you do that if there is a finger
5 print can you describe that process for the jury?

6 A. Under normal circumstances fingerprint powders are a
7 very fine -- usually a contrasting powder. Usually it's
8 black but it can be other colors. It's sticks to any
9 subaqueous oils, regular finger print oils or oil from
10 your hands.

11 With luck it the form in a consistent pattern that
12 will help us to actually be compared to fingerprints in
13 file and we just have to identify the file and who they
14 belong to.

15 Q. And so were these -- were you aware of the results of
16 the analysis of this van?

17 A. I was.

18 Q. And there was no print identifications found,
19 correct?

20 A. None that came back to anybody.

21 Q. And were you able to find any thing that you
22 recognize as blood or other bodily fluid samples in the
23 vehicle?

24 A. None. the Inside of the van was treated with Blue
25 Star Luminol. That's the stuff that you see on t.v. that

1 glows in the dark if it comes in contact with most human
2 bodily fluids. That was treated during the search warrant
3 during the evening. The bay was actually closed off and
4 the lights were turned off to see if -- well, nothing did
5 fluoresce at that time.

6 Q. So you did not find any samples that you could take
7 from that van?

8 A. No.

9 Q. Now, going back to earlier. Was there a period of
10 time when the van, between when Corporal Prescott reported
11 the van and you arrived on the scene, how long did it take
12 you to arrive on the scene since being directed to go out
13 to the van?

14 A. Approximately, half an hour.

15 Q. Half an hour. And so the van was only secured during
16 those times?

17 A. Yes, it was. Corporal Prescott was with it.

18 Q. And were you involved in the processing of the house
19 on Babette Road across the street or were your duties
20 primarily just to stay with the van that day?

21 A. That van it was entirely with the van.

22 Q. And the vehicle was towed. How long did you say you
23 stay with the van? Approximately three hours?

24 A. Approximately.

25 Q. And you left after the vehicle was towed away?

1 A. After Public Works was secured.

2 Q. So the vehicle would have been towed away at
3 approximately 11:30 or noon given that timeline?

4 A. No, sir. It was actually much closer to 5:00 p.m.

5 Q. 5:00 p.m. So it was late in the afternoon?

6 A. Yes, sir.

7 Q. Okay. Did you ever see -- did anybody try to
8 approach the van while you were there?

9 A. No one that was not law enforcement.

10 Q. So you did not see a Mr. Billy Parker?

11 A. As far as Parker Tow Service?

12 Q. No. No. No. A non-law enforcement civilian?

13 A. No, sir, nobody got within touching range of the van.

14 Q. And that was the whole time you were working on it?

15 A. The whole time I was working on it.

16 Q. And the timeframe would have been from about 8:30
17 until about when it said it was towed away?

18 A. No, sir. I was only out with the van from
19 approximately 3:30 until approximately a little after
20 5:30.

21 Q. Okay. So you didn't actually arrive to the van until
22 about 3:30?

23 A. Yes, sir.

24 Q. Were there any other officers, without saying what
25 was said, but were there other any officers that were with

1 the van earlier in the day that you know of?

2 A. I know from talking to Corporal Prescott he had seen
3 the van earlier during his normal property searches in the
4 morning.

5 Q. Okay. So back track to what I said. So from him
6 reporting it to you and you showing up there was no law
7 enforcement on scene to your knowledge?

8 A. Not to my knowledge.

9 Q. So that's a longer period of time than an hour.
10 That's about seven to eight hours from 7:00 in the morning
11 to 3:30?

12 A. Yes, sir.

13 Q. Okay. Thank you. Well, actually, in Cherryvale,
14 there are some dirt roads in Cherryvale?

15 A. Most of them are driveways for mobile home parks.

16 Q. And I guess you were saying earlier that these are
17 the main roads that are paved?

18 A. Yes, sir.

19 Q. Okay. Thank you, Mr. McCauley. No further
20 questions.

21 REDIRECT EXAMINATION

22 BY MR. FINNEY:

23 Q. Sergeant, can you leave a fingerprint if you've got
24 on gloves?

25 A. Only under very, very specific circumstances.

1 Normally, no.

2 Q. Okay. And if you were driving a Chrysler minivan to
3 work every day would you expect your D.N.A. to be in it?

4 A. Yes.

5 Q. If you were hurt or injured outside of the minivan
6 and there was blood in other places you wouldn't
7 necessarily expect to find blood in the minivan, right?

8 MR. BRIDGES: I think that's speculation. Objection.

9 MR. FINNEY: Well, I'll ---

10 THE COURT: I'll allow the question.

11 THE WITNESS: That is contingent upon the injury.

12 BY MR. FINNEY:

13 Q. And every crime is different. So it depends on the
14 facts of the crime; is that correct?

15 A. Yes, sir.

16 Q. But you all checked it out and looked for evidence of
17 these things; is that correct?

18 A. Yes, sir.

19 Q. Okay. If -- are you familiar with the situation
20 where after a crime is committed that someone who
21 committed the crime would try to wipe away the evidence?
22 Wipe away the fingerprint? Things like that?

23 A. Yes, sir.

24 Q. Have you been to crime scenes investigating crime
25 scenes where that had been done?

1 A. Yes, sir.

2 Q. All right. And so it's not unusual to go to a crime
3 scene and not see evidence of fingerprints or D.N.A.

4 A. Yes.

5 Q. Answer any questions the Defense may have.

6 MR. BRIDGES: Just Briefly.

7 RECROSS-EXAMINATION

8 BY MR. BRIDGES:

9 Q. You observed the exterior and interior of the van at
10 different times?

11 A. Yes, sir.

12 Q. Were you able to discern if there was a struggle or
13 anything of the sort that occurred in the van?

14 A. No, sir. Nothing that was incredibly obvious.

15 Q. Thank you, Investigator McCauley?

16 MR. BRIDGES: No further questions.

17 MR. FINNEY: No questions.

18 THE COURT: You may step down. Everybody okay?

19 Anybody need a break? Okay. You may call your next
20 witness.

21 MR. FINNEY: Yes, sir. We call Investigator Donnie
22 Vickers.

23 THE COURT: Okay.

24 BAILIFF: State your name.

25 THE WITNESS: Donald Vickers.

1 DONALD VICKERS, after being duly sworn,
2 testified as follows:

3 BAILIFF: Step around, please. Watch your step.
4 State your name for the record and spell your last name,
5 please.

6 THE WITNESS: My name is Donald Wayne Vickers.
7 That's V-I-C-K-E-R-S.

8 DIRECT EXAMINATION

9 BY MR. FINNEY:

10 Q. Good morning, sir.

11 A. Good morning.

12 Q. Mr. Vickers, tell me are you still employed as a law
13 enforcement officer?

14 A. No, sir. I retired in -- April 1st last year.

15 Q. Very good. And tell us about your law enforcement
16 career before you retired?

17 A. I worked with the Sheriff's Office for 30 years.
18 Twelve years on patrol, 15 years in narcotics and the rest
19 was spent in forensics.

20 Q. All right. And tell us what is forensics? What does
21 the Forensics Unit do?

22 A. We take fingerprints, swabs, take photographs, log in
23 evidence.

24 Q. All right. And were you working in the Forensics
25 Unit in November of 2017?

1 A. Yes, sir, I was.

2 Q. All right. Did you get a call around the 16th of
3 November regarding a missing person, Suzette Ginther?

4 A. Yes, sir.

5 Q. All right. Can you relate to us a little bit about
6 your recollections of that day. When was the first time
7 you got the call about the?

8 A. When -- the first thing I did in responding to the
9 scene where the vehicle was found on Babette.

10 Q. All right, sir. And what -- would you describe the
11 vehicle we're talking about?

12 A. It was a minivan.

13 Q. All right, sir. Let know show you State's Exhibit
14 Number Five, and State's Exhibit Number Two and ask if you
15 can identify those items in the photograph?

16 A. Yes, sir. That's the minivan that I responded to.

17 Q. All right. And is it true that you probably took
18 those pictures that I have in my hand?

19 A. It's possible. Yes.

20 Q. All right, sir.

21 A. More than likely.

22 Q. All right. That was the location that you found the
23 minivan on Babette?

24 A. Yes, sir.

25 Q. Show you State's Exhibit Number Three. That's --

1 tell the ladies and gentlemen of the jury what that is a
2 picture of?

3 A. That's the end of Babette Road where it crosses. I'm
4 not sure of the intersection.

5 Q. All right, sir. What -- you don't know the name of
6 the street right here?

7 A. This is Babette right here if I'm not mistaken.

8 Q. All right, sir. And the minivan that you took
9 pictures was located where on this picture, State's
10 Exhibit Three?

11 A. It would have been this side of it.

12 Q. This side?

13 A. Yeah, this side of it.

14 Q. And was it, the minivan, facing the stop sign that
15 you see there?

16 A. Yes, sir.

17 Q. All right. Did you notice anything unusual about the
18 minivan when you got there?

19 A. The inside was fairly clean. The outside had a lot
20 of dust on it.

21 Q. All right. And did the dust appear to be all over?
22 I mean was it in any particular place?

23 A. Around the bumper and up near the tires.

24 Q. All right. And did you take photographs of that?

25 A. I may have.

1 Q. All right, sir. Let me show you what's been marked
2 as State's Exhibit Number 13.

3 A. Yeah, this is a picture is of the back of the van
4 when the door is open. You can see the dust on the back
5 bumper.

6 Q. All right, sir. That's the back bumper of the
7 minivan?

8 A. That's correct, sir.

9 Q. And State's Exhibit Number Eight?

10 A. Yes, sir. That is near the fender well.

11 Q. All right. And these things were photographed
12 because they were of interest to you?

13 A. Yes, sir.

14 Q. All right, sir. So you say you took -- just take a
15 look at those, please, sir. You did take photos of the
16 interior of the minivan?

17 A. Yes, sir.

18 Q. And you were part of the team that Mr. McCauley was
19 out there processing, taking finger prints? You were the
20 supervisor of Mr. McCauley at that time?

21 A. Yes, I was.

22 Q. Okay. As a result of the processing did it take a
23 number of hours for you to process the van and get things
24 lined up?

25 A. It took McCauley a lot longer than it took me.

1 Q. All right. Very good. And at some point later on on
2 Thursday afternoon did you get a call relative to the van
3 to go to another location?

4 A. Yes, sir. While we were at the van myself,
5 Investigator Pernada and Mike, we got the call about a ---

6 MR. BRIDGES: Objection. He can say he received a
7 call, but he can't say the contents of the call.

8 THE COURT: Okay. She just said they got a call.

9 MR. FINNEY: Yes, sir. And he was about to say,
10 'about a', and he was going to tell what the call was in
11 reference to not what the ---

12 THE COURT: Okay.

13 MR. FINNEY: --- conversation was.

14 THE COURT: Okay.

15 BY MR. FINNEY:

16 Q. Could you tell us what the call was in reference to?

17 A. The call was in reference to a hunter being in
18 Wedgefield found a body.

19 Q. All right. And at that time did you respond to that
20 call?

21 A. I did along with Investigator Pernada.

22 Q. All right. And the van remained on Harwood where it
23 was located where you were?

24 A. Yes, sir. Investigator McCauley stayed with the van
25 and finished processing the van.

1 Q. All right. What time of the day on Thursday would
2 you say the call came in?

3 A. It was close to five o'clock. So probably between
4 4:30 and 5:00.

5 Q. All right. And can you tell the ladies and gentlemen
6 the route you took from the car, the minivan that you were
7 standing next to, to get to where you went out in
8 Wedgefield?

9 A. Yes, sir. I went -- I left Harwood. I went to St.
10 Pauls Church Road. Took St. Pauls Church Road to Stans
11 Market. Took a right on Stans Market. Went down Stans
12 Market to Burnt Gin Road. Took a left on Burnt Gin Road
13 and followed it to the spillway.

14 Q. From the location of the minivan to the location that
15 you went to regarding the call about the body, how far a
16 distance would you estimate that would be?

17 A. Five. Between five and seven miles, maybe.

18 Q. And how long would it have taken you to drive there?

19 A. Probably seven to ten minutes.

20 Q. All right. Would you mind -- if you wouldn't mind
21 looking at State's Exhibit Number 58. I want you to
22 orient yourself to State's Exhibit Number 58, and then if
23 you could I'd like for you to answer some questions and
24 point out the direction?

25 A. Okay.

1 Q. All right. Would you come and here. Use that. Tell
2 us you were with the van on State's Exhibit Number 58?

3 A. Right here.

4 Q. All right, sir. And that's in Cherryvale?

5 A. Yes, sir.

6 Q. All right. And tell us the route you took once you
7 got the call to leave Cherryvale and go to the location of
8 the body?

9 A. I went from Babette to the Hickory. From Hickory to
10 St. Paul Church Road. I took St. Paul Church Road all the
11 way down to be Spans.

12 Q. Spans is a country road?

13 A. It's a cross road right there where the railroad
14 tracks take.

15 Q. Okay.

16 A. And that's Highway 261.

17 Q. Yes, sir.

18 A. And St. Pauls Church Road is the crossroad.
19 Everybody knows it as Spans Crossroad.

20 Q. Okay?

21 A. Took a right to right in here.

22 Q. Yes, sir.

23 A. And that is Burnt Gin Road. Burnt Gin Road actually
24 goes all the way around and comes back out on Wedgefield
25 Road.

1 Q. Yes, sir.

2 A. And I'm sorry. This is not 261. This is 763.

3 Q. All right.

4 A. But this is Burnt Gin and this spillway right there
5 on the back side of it. Burnt Gin Camp is right across
6 the pond from it.

7 Q. All right. And when you arrived at the Burnt Gin
8 location what did -- go ahead and sit down. What did you
9 discover?

10 A. I met the person who made the phone call, a
11 Mr. Gayle.

12 Q. Yes, sir.

13 A. And he pointed to the direction ---

14 MR. BRIDGES: Objection. Mr. Gayle has not testified
15 yet.

16 THE COURT: Sir, what question did you ask?

17 MR. FINNEY: I asked him what did he do when he got
18 to the location on Burnt Gin Road.

19 THE COURT: Okay. Go ahead and answer that question.

20 MR. FINNEY: All right.

21 THE WITNESS: I met with Mr. Gayle.

22 BY MR. FINNEY:

23 Q. You met with Mr. Gayle?

24 A. Yes, sir.

25 Q. Had Mr. Gayle made contact with law enforcement?

1 A. He was the person who made the phone call.

2 Q. Okay. And as a result of talking to Mr. Gayle did
3 you go down and discover anything off Burnt Gin Road?

4 A. Yes, sir. I went down. It's like on the back side
5 where the spillway is. There is a little creek that runs
6 back through there, and I walked along side the creek.
7 There is like a little path that goes all the way down to
8 where hunters go.

9 Q. Yes, sir. And what did you discover there?

10 A. A shoe.

11 Q. All right. And was there anything unusual about the
12 shoe?

13 A. Yes, sir, it appeared to be just sitting there.

14 Q. Yes, sir.

15 A. So myself and Investigator Pernada reached down and
16 grabbed the toe. We squeezed the toe, and found out that
17 there was something still inside the shoe.

18 Q. Would you please take a look at State's Exhibit
19 Number 25.

20 A. Yes, sir.

21 Q. What does that reflect?

22 A. What I saw that afternoon?

23 Q. What color was the shoe?

24 A. The back of it was black.

25 Q. Okay. And when you saw the shoe was it in that same

1 orientation with the sole, the bottom of the shoe up?

2 A. Yes. This is the only thing you can see. That's why
3 we didn't know for sure if there was anything in there.

4 MR. FINNEY: State's Exhibit Number 25.

5 MR. BRIDGES: No objection.

6 THE COURT: Okay. In without objection.

7 (WHEREUPON, State's Exhibit No. 25 was previously
8 admitted into evidence.)

9 BY MR. FINNEY:

10 Q. What time of day or night was it when you got there
11 and saw the shoe?

12 A. It was either at 5:00 or a little after.

13 Q. And in November at five o'clock what kind of
14 conditions do you have?

15 A. It is starting to get dark.

16 Q. All right. And this photograph was taken right after
17 off the Burnt Gin Road?

18 A. Yes, sir.

19 Q. All right. And I notice there is a yellow marker
20 that says, '2' on it?

21 A. Yes, sir.

22 Q. Would your officers have been responsible for putting
23 down markers?

24 A. Yes, sir.

25 Q. Tell the ladies and gentlemen why you put down

1 markers.

2 A. To mark evidence and to make sure that everyone knows
3 that that's what that is and not to mess with it.

4 Q. All right. And so were a number of markers put down
5 that day?

6 A. Yes, sir, there were several.

7 Q. All right. This, State's Exhibit 25, has a Marker
8 Number Two in it?

9 A. Yes, sir.

10 Q. To mark the location of the shoe?

11 A. Yes, sir.

12 Q. All right. Would you please look at State's Exhibit
13 26 and tell us what you see there?

14 A. It appears to be blood.

15 Q. That's what you thought it was when you got there?

16 A. Yes, sir.

17 Q. All right. And so you put a marker down?

18 A. I put Marker Number Three.

19 Q. Marker Number Three, a spot of blood. How far away
20 from Marker Number Two, the shoe, was the spot of blood
21 you saw and put in Marker Number Three down?

22 A. Just a couple of feet, sir.

23 Q. All right. And then if you would, please, sir, look
24 at State's Exhibit Number 27.

25 A. Yes, sir.

1 Q. And tell us what's in there?

2 A. That's a fired casing from a weapon.

3 Q. A shell casing?

4 A. Yes, sir.

5 Q. From a weapon?

6 A. Yes, sir.

7 Q. How many did you find?

8 A. Just one.

9 Q. How far was the Mark Number Four from Number Two and
10 Number Three?

11 A. Just a few feet.

12 Q. All right. All in the same location?

13 A. Yes, sir.

14 Q. You have State's Exhibit 28 and 29?

15 A. Yes, sir.

16 Q. Would you tell me what's in those pictures?

17 A. It's a picture of a rolling tape measure, and I use
18 that to make sure of the distance between the road and
19 where the shoe was found.

20 Q. All right. And did you get a measurement on the tape
21 measure?

22 A. Yes, sir.

23 Q. And what was the measurement?

24 A. 216.3 feet.

25 Q. 216.3 feet starting where?

1 A. From the edge of the road only Burnt Gin Road to
2 where the shoe was found in the woods.

3 Q. All right. And after you took that markers -- excuse
4 me. After you took that measurement did your people also
5 put down other markers to go along with the ones that were
6 down near the shoe?

7 A. Yes, sir.

8 Q. Let's start with the lowest number, State's Exhibit
9 Number 16. Do you see a marker in that picture?

10 A. Yes, sir.

11 Q. Can you tell us the number on it?

12 A. It's Number Seven.

13 Q. All right. And State's Exhibit Number 17, is that a
14 close up picture of Number Seven?

15 A. Yes, sir.

16 Q. All right. So and tell us what you see in those
17 pictures?

18 A. This is a picture of a glove.

19 Q. And what that glove found by your officers?

20 A. Yes, sir.

21 Q. All right. And so you have a close picture of the
22 glove, State's Exhibit 17?

23 A. Yes, sir.

24 Q. And you have a far away, kind of a bigger, broader
25 area picture in State's Exhibit Number 16?

1 A. Yes, sir.

2 Q. Did you collect that glove and put it in evidence?

3 A. I did not, sir.

4 Q. Do you know if it was picked up and collected?

5 A. It was.

6 Q. Who picked it up?

7 A. I believe S.L.E.D.

8 Q. All right. Now, your officers, the Sumter County
9 Sheriff's Office?

10 A. Yes.

11 Q. Was S.L.E.D. called in to assist you all on this
12 case?

13 A. Yes, sir.

14 Q. All right. And so they were in charge so to speak of
15 collecting evidence at the scene?

16 A. Yes, sir.

17 Q. All right. I want to show you Exhibit Numbers 14 and
18 15 and ask if you would look at those and tell me what you
19 see?

20 A. Fourteen is a parking area that is just to the right
21 on Burnt Gin. It's closer over to the spillway where a
22 lot of people park to go fishing and go down to the pond.
23 And that's where the glove and this other item was found.

24 Q. And do you know what that item is?

25 A. It was a package to a tampon.

1 Q. All right. And the parking area that you described
2 is shown in State's Exhibit 14?

3 A. Yes, sir, and on that one.

4 Q. Sixteen?

5 A. Yes, sir.

6 Q. Same parking area?

7 A. Yes, sir.

8 Q. Just different picture of it?

9 A. Yes, sir.

10 Q. All right.

11 A. This is the picture with the glove. I'm actually on
12 -- behind it. And where the vehicles are, it's the road.

13 Q. Okay.

14 A. And other side of the road is where the body was
15 found.

16 Q. All right. Do you think you could sketch that out if
17 I give you a marker and a pad?

18 A. Sure.

19 Q. All right. Would you mind stepping around here? Do
20 you have a marker? We will do the best that we can with
21 this, sir. If you would sketch out Highway 763 from Spans
22 Store. Start with Spans Store up here in the corner, if
23 you don't mind.

24 A. (Witness draws).

25 Q. And go down towards Burnt Gin Road. All right. Now,

1 that's ---

2 A. It's a lot longer than that.

3 Q. Okay. I understand that. That highway is 763?

4 A. 763.

5 Q. All right. And what is this?

6 A. It's St. Pauls Church Road.

7 Q. All right. And then what kind of turn do you make
8 off of 763?

9 A. Make a left hand turn.

10 Q. And go -- estimate how far you drove to the spillway?

11 A. The first part is paved, and then it goes into dirt.

12 Q. What kind dirt is that road made out of when you get
13 to the dirt part?

14 A. It's kind of a sandy, clay road.

15 Q. Okay.

16 A. And ... (Witness draws).

17 Q. Okay.

18 A. It's a lot longer than this. It's probably, from
19 this part until it gets all the way to the dead end, it's
20 probably at least 4-miles, maybe five.

21 Q. Okay. And then when you get down to the spillway?

22 A. There is the pond.

23 Q. There is a pond there?

24 A. And the spillway is here, and the parking area is
25 right here.

1 Q. All right. The parking area that you're talking
2 about is in State's Exhibits 14 and 16?

3 A. Correct.

4 Q. And the parking area would be on what side of this
5 road?

6 A. It's on the right side.

7 Q. The right side. Okay. That's fine. And you say
8 after the pavement ends all this road here is sandy, clay
9 dirt road?

10 A. Dirt road until you get about maybe three quarters to
11 a mile to the end of where it goes into 361.

12 Q. Yes, sir.

13 A. Then it's paved again.

14 Q. Okay. Now, the parking area that the photograph show
15 in 14 and 15 contain a couple of items that were of
16 interest to your staff and they took pictures of them?

17 A. Correct.

18 Q. One was a glove?

19 A. Correct.

20 Q. And one an unwrapped -- wrapped tampon?

21 A. Yes. Those were the only items that were -- seemed
22 out of place at the time.

23 Q. All right. And is it your understanding that people
24 go there to the parking area to park and have lunch, fish
25 or whatever?

1 A. Or other things?

2 Q. Or other things?

3 A. Yes, sir.

4 Q. All right. Tell us on your sketch where the body was
5 found.

6 A. Where the spillway was.

7 Q. Yes, sir?

8 A. There is a little creek comes down through there.

9 Q. Yes, sir?

10 A. So if you go the 200 and some odd feet this way it
11 was right off the creek within I'd say 5-yards of the
12 creek.

13 Q. Okay. Very close to the creek?

14 A. Very close to the creek.

15 Q. It was 216 feet from this road to the spot?

16 A. From the left hand side of this road.

17 Q. Yes, sir.

18 A. It was 216 feet?

19 Q. All right. Now, would you -- keep your voice up.

20 Your back is turned to her. Is that parking area did you
21 also take a picture showing a Marker Number Six?

22 A. Yes, sir.

23 Q. And that's on State's Exhibit 19?

24 A. Yes, sir.

25 Q. All right. And what the does close up photograph of

1 Marker Number Six show in State's Exhibit 18?

2 A. Basically, it's a -- like a clean stage. Look like
3 scratch marks.

4 Q. So y'all took a picture of it because it was in that
5 parking area?

6 A. It was out of place. Yes, sir.

7 Q. It was out of the place. And Marker Number Six was
8 put down?

9 A. Yes, sir.

10 Q. It's close to marker -- well, in the same parking
11 area where you had the glove and the wrapped tampon?

12 A. Correct.

13 Q. All right. Did you and your staff take pictures of
14 the wrapped tampon?

15 A. Yes, sir.

16 Q. State's Exhibit 15, is that a picture of that?

17 A. Yes, sir.

18 Q. All right. At the time that you took this picture
19 did you know that that wrapped tampon had anything to do
20 with your case?

21 A. No, I didn't.

22 Q. Okay. Once you leave the roadway -- let's give that
23 road a name. What do you call that road?

24 A. Which one?

25 Q. This one.

1 A. Burnt Gin Road.

2 Q. Burnt Gin Road?

3 A. Yes, sir.

4 Q. Okay. Once you leave Burnt Gin road and go down
5 towards the spot where the shoe was is it -- you say there
6 is a path?

7 A. Yes, sir.

8 Q. Did you people take pictures of it?

9 A. I'm sure we did.

10 Q. All right. Show you State's Exhibit Number 21. Is
11 that a fair representation of what it looked like when you
12 leave Burnt Gin Road and going towards the shoe?

13 A. Correct.

14 Q. And tell us where the location of the shoe would be
15 in that picture.

16 A. It would be down this way.

17 Q. Let me hold the picture up for you. This is State's
18 Exhibit 21.

19 A. Correct. It would be down here.

20 Q. All right. And it's going to be a hundred, 200 feet
21 away from where the cameraman is standing?

22 A. Depending on where the cameraman was standing.

23 Q. Right.

24 A. Standing on the road.

25 Q. It was 216 feet?

1 A. Right.

2 Q. 216 feet on the right. And, State's Exhibit Number
3 22, tell us what that is?

4 A. This was a picture of a broken limb that was out of
5 place. It seems fresh. We put a marker by it.

6 Q. All right. The broken limb has a marker on it. I
7 believe it's Number Eight?

8 A. Yes, sir.

9 Q. And it's also Number Five?

10 A. That was just a clean spot. It didn't have any
11 leaves on it so we marked it.

12 Q. You marked it and took a picture of it?

13 A. Yes, sir.

14 Q. In this picture, State's Exhibit 22, how close is
15 this area that's in this picture to the shoe?

16 A. Very close.

17 Q. All right.

18 A. Matter of fact I think you can see the Number Two
19 right.

20 Q. The Number Two marker?

21 A. Yes.

22 Q. Where the shoe is?

23 A. Yes, sir.

24 Q. Is in that picture? And you say these limbs look
25 like?

1 A. On this branch right here there were a couple of
2 fresh break marks.

3 Q. Okay.

4 A. Or what would appear to be fresh break marks.

5 Q. This is State's Exhibit 23. Can you look at that and
6 tell us what you see in that?

7 A. Yes, sir. This is a picture of where the shoe was.

8 Q. All right. You see Number Two in there?

9 A. I don't see it. It might have been ---

10 Q. Before you put the marker down?

11 A. Yes.

12 Q. Look at State's Exhibits 23 and 24. Is that the same
13 big, long branch?

14 A. It is just a different angle.

15 Q. And do you see the marker for the shoe in 24?

16 A. No, sir, I don't. Yes, sir.

17 Q. So part of your staff would move around and take
18 pictures ---

19 A. From different sides

20 Q. From different sides of it?

21 A. Yes, sir.

22 Q. So 23 is the same branch; long, curvy branch that is
23 in State's 24?

24 A. Yes, sir.

25 Q. All right. And right in the middle of 24 do you see

1 the marker for the shoe?

2 A. Yes, sir, it's right there.

3 Q. All right. Very good. Go ahead and take your seat
4 back, Investigator.

5 (WHEREUPON, the witness returns to the witness
6 stand.)

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

8 BY MR. FINNEY:

9 Q. Investigator, Burnt Gin Road is in what county?

10 A. Sumter County.

11 Q. The location of that shoe and the body that was in
12 the shoe is in what county?

13 A. Sumter County.

14 Q. And the location of the minivan that you found
15 8-miles away was in what county?

16 A. Sumter County.

17 Q. All right. After finding the shoe and being made
18 aware of its location and what it was attached to did you
19 all make a decision to call S.L.E.D?

20 A. I called my supervisor.

21 Q. Yes, sir.

22 A. Captain McCauley and I ask him were we gong to do it
23 or were you going to have S.L.E.D. do it. My concerns
24 were I had never been trained in forensics, so the
25 determination was made to call in S.L.E.D.

1 Q. So S.L.E.D. sent a team out to go over everything
2 that you did?

3 A. Correct.

4 Q. Did Sumter County remove anything like the glove or
5 anything as part of this case?

6 A. If we removed any evidence it would have been the
7 bullet casing because at first we were told we were going
8 to work it, and then probably 15 or 20 minutes later we
9 were told to stop and wait for S.L.E.D. to show up.

10 Q. Okay. But those markers that we saw in those
11 pictures are more likely Sumter County markers?

12 A. Yes, sir.

13 Q. When you first arrived?

14 A. Yes, sir.

15 Q. All right, sir. Answer any questions Defense might
16 have.

17 A. Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. BRIDGES:

20 Q. Morning, Investigator Vickers?

21 A. Retired.

22 Q. Retired investigator. Sorry. I don't want to put
23 you back.

24 A. Thank you.

25 Q. Of course. So you started November 16th. You went

1 to the scene of the green Chrysler van with Investigator
2 McCauley?

3 A. He was already there when I got there.

4 Q. Okay. So about how much longer after he was there
5 did you arrive?

6 A. I don't know how long he had been there.

7 Q. Did you have anything to do with the processing of
8 the house that was across from the van on Babette? It
9 seems like you were called out the Babette. So you
10 weren't involved in that? In the processing of that
11 house?

12 A. Did I go there? Yes, sir.

13 Q. So you did. You went to I think it was [REDACTED] Babette
14 Road?

15 A. Yes, sir.

16 Q. Did you interact with any of the occupants of the
17 house that day?

18 A. Mr. Dundero.

19 Q. Yeah, were you there when there was other law
20 enforcement he was apprehended?

21 A. Yes, sir.

22 Q. Were you there -- did you have anything to do with
23 the serving or processing of warrants that were on him?

24 A. I believe I was part of the search.

25 Q. Was there some stolen vehicles located on that

1 property?

2 A. Not to my knowledge. I don't believe there was some
3 stolen vehicles. There was some papers from a stolen
4 vehicle.

5 Q. And you didn't ask any question of Mr. Dundero
6 himself.

7 A. No, sir.

8 Q. Have you worked in the Cherryvale area before?

9 A. Yes, sir.

10 Q. Are you very familiar with the Cherryvale area?

11 A. It's been a while since I worked the Cherryvale area.
12 I'm pretty family with it.

13 Q. Would you describe it as a high crime area?

14 A. Yeah, it's got its issues.

15 Q. What kind of issues are those?

16 A. A lot of drug issues.

17 Q. You helped process both the exterior and the interior
18 of the van when you were there?

19 A. No, sir, exterior.

20 Q. You did the exterior. And did you notices or
21 anything in the van that looked like a disturbance in the
22 van?

23 A. The inside of the van was fairly clean.

24 Q. And you did not process any of the forensic evidence
25 in the van?

1 A. No, sir.

2 Q. That's when you made -- you had to go to Burnt Gin
3 Camp at that point?

4 A. Yes, sir.

5 Q. Now, when you arrived at the scene there were you
6 able to obtain any footprints or tire treads or anything
7 like that?

8 A. No, sir. The Burnt Gin Road apparently that
9 afternoon had been scraped before we got there. So there
10 was -- the road was actually kind of pristine, and there
11 were no footprints our than the witnesses.

12 Q. So you did not -- okay. So that basically had been
13 graded over where it was a smooth road surface?

14 A. Yes, sir.

15 Q. You weren't involved in any of the testing of any of
16 these items that were found?

17 A. No, sir.

18 Q. And you stated the -- that there was a blood spot. I
19 believe it was in evidence. This is State's Evidence 26.
20 Did you take the photo?

21 A. Yes, sir.

22 Q. Was that the only observable blood spot that you
23 found?

24 A. That's the only one that I saw, yes, sir.

25 Q. So nowhere along with path in the parking area to the

1 location there was no other blood spot?

2 A. Not that I could find. No, sir.

3 Q. There was no other, other than what you observed in
4 the parking area, there was no other article of the
5 clothing or any -- anything else on the way to the parking
6 area to the spot you said by the spillway?

7 A. Not that I saw.

8 Q. Was there -- that path from the parking area to the
9 spillway, is that a totally clear path or is there some
10 brush?

11 A. Between the roadway and the?

12 Q. And the spillway area was where you found the shoes?

13 A. Well, the spillway is on the, if you're going down
14 Burnt Gin Road, the spillway is on the right. This shoe
15 was found on the left across the road from the spillway.
16 And then there is a creek on the other side of the road
17 that goes down through there.

18 Q. But to get to the parking area to where the shoe was
19 found is that clear path or is there some heavy brush?

20 A. There is a road, if you go past the spillway, there
21 is a road to the right you can go, but from where the path
22 was that we took it was down a little embankment and it's
23 brush.

24 Q. It's brush there?

25 A. Not heavy brush.

1 Q. Yes. So there are some tree limbs and some things
2 ---

3 A. Yeah.

4 Q. --- that are standing there?

5 A. Yes.

6 Q. And you didn't notice anything, blood or anything
7 like that, on the tree limbs that are on the way to that
8 site?

9 A. No, sir.

10 Q. And the tampon wrapper that was collected, you
11 weren't -- do you know if that was tested? You weren't
12 involve in the test?

13 A. It wasn't involved in it.

14 Q. Similar to the glove, you weren't involved?

15 A. I had nothing to do with it afterwards.

16 Q. And just to be clear about that, those two items are
17 found in the parking area not down where the shoe was
18 located?

19 A. That is correct.

20 Q. You say that was about 260 feet I think you measured.

21 A. 216 feet from the road. On the left hand side of the
22 road to where the shoe was. So it might have been from
23 here to just a little bit past -- halfway -- maybe not
24 quite to the door from the road to where the doors are is
25 where the glove would have been.

1 Q. And that was a designated parking area because people
2 eventually just park there?

3 A. That's where people park to go fishing or park. Park.

4 Q. So if you going to explore that area around Camp
5 Burnt Gin that's the just kind of logical area where
6 people park?

7 A. Yes, sir.

8 Q. Was there any trash or debris in the parking area?

9 A. There could have been.

10 Q. But it was just only those two items you found to be
11 out of place?

12 A. Out of place, yes, sir. If you look at the picture
13 you can see it's a wide open area, and I don't see any
14 other trash or anything visible.

15 Q. But it wouldn't be out of the ordinary if there was
16 trash there because it is a parking area?

17 A. That is correct.

18 Q. Thank you, Retired Investigator Vickers. No further
19 questions.

20 MR. FINNEY: Nothing.

21 THE COURT: Thank you, sir. You can step down.

22 THE WITNESS: Thank you.

23 MR. FINNEY: May we take a break, Your Honor.

24 THE COURT: Okay. Take a ten minute break. Please
25 don't discuss this case. I'll get you back out here.

1 (WHEREUPON, the jury panel was excused from the
2 courtroom at 11:03 a.m.)

3 (WHEREUPON, Court was in recess at 11:03 a.m. and
4 reconvened at 11:26 a.m.)

5 THE COURT: State ready?

6 MR. FINNEY: Yes, sir.

7 THE COURT: Defense ready?

8 MR. BRIDGES: Yes, sir.

9 THE COURT: Bring the jury.

10 (WHEREUPON, the jury panel enters the courtroom at
11 11:27 a.m.)

12 MR. FINNEY: Please the Court, Your Honor.

13 THE COURT: Yes, sir.

14 MR. FINNEY: Call Mr. Warren Dundero.

15 THE COURT: All right. Come around, please, sir.

16 BAILIFF: State your name.

17 THE WITNESS: Warren Dundero.

18 WARREN DUNDERO, after being duly sworn,
19 testified as follows:

20 BAILIFF: Step around, please. Watch your step.
21 State your name for the record and spell your last name,
22 please.

23 THE WITNESS: Warren Dundero. D-U-N-D-E-R-O.

24 DIRECT EXAMINATION

25 BY MR. FINNEY:

1 Q. Mr. Dundero, how are you sir?

2 A. I'm already.

3 Q. Tell the ladies and gentlemen where you live.

4 A. Currently, I live on Brewington Road.

5 Q. Who do you live with now?

6 A. My mother.

7 Q. All right. Is she in the courtroom this morning?

8 A. She is.

9 Q. All right. You have had number -- a number of
10 contacts with Sumter County law enforcement over the past
11 several years?

12 A. I have.

13 Q. All right, sir. And is it true and fair to say that
14 you have been involved in a number of crimes where you've
15 been charged with different things?

16 A. I have.

17 Q. All right, sir. And do you know Investigator Randall
18 Stewart?

19 A. I do.

20 Q. All right. Did you have occasion back in 2017 --
21 were you living in one place in Sumter County and you
22 moved to another place in Sumter County?

23 A. I did.

24 Q. Will you tell the ladies and gentlemen of the jury
25 where did you live originally the first part of 2017?

1 A. With my mother, Serenity Circle.

2 Q. And is that -- in what section of Sumter County?

3 A. It's in Maysville.

4 Q. Maysville?

5 A. Yes.

6 Q. Ten miles out from the downtown area of Sumter
7 County?

8 A. Yes, sir.

9 Q. All right. Back in the first part of 2017 were you
10 working?

11 A. I was.

12 Q. What was you doing?

13 A. Construction.

14 Q. And that that kind of job you have been doing most of
15 your adult life?

16 A. Yes, sir.

17 Q. All right, sir. What caused you to leave your
18 mother's house in 2017?

19 A. Well, I met a girl in Cherryvale, and I ended up
20 going to stay we her.

21 Q. So you start courting a young lady?

22 A. Right.

23 Q. What is her first name?

24 A. Brittany.

25 Q. Okay. How did you meet Brittany?

1 A. Through mutual friends of ours.

2 Q. And you all started courting, and at some point you
3 left you mom's house and move in with Brittany?

4 A. Right.

5 Q. In Cherryvale?

6 A. In Cherryvale.

7 Q. All right. And what was the address or location of
8 Brittany's house in Cherryvale?

9 A. [REDACTED] Babette.

10 Q. All right. And during this time were you still
11 working construction?

12 A. At that moment I was not.

13 Q. Tell us if you could remember when was it that you
14 moved out of your mom's house and moved in with Brittany?

15 A. It would be August of '17.

16 Q. All right. August of 2017. Did you continue living
17 with Brittany at the Babette address all of August,
18 September, October and November of that year?

19 A. Yes, sir.

20 Q. All right. Now, during that time period you said you
21 weren't working. Is it true that you had a drug habit?

22 A. I did.

23 Q. All right. And were you using drugs pretty
24 regularly?

25 A. Yes, sir.

1 Q. All right, sir.. And what were you do to support your
2 habit?

3 A. I was actually selling drugs.

4 Q. All right. Anything else?

5 A. Stealing cars.

6 Q. All right, sir. And did it come to the attention of
7 Sumter County Law Enforcement that you were involved with
8 stealing cars?

9 A. It did.

10 Q. And did you actually have a situation back in
11 November of 2017 where you were involved with maybe two
12 stolen cars during the week of the 13th through the 18th
13 of November?

14 A. That's correct.

15 Q. All right, sir. Now, did you know Sumter County Law
16 Enforcement was possibly looking for you?

17 A. Yes, sir.

18 Q. In connection with the stolen cars?

19 A. Right.

20 Q. All right, sir. Babette is located, if I can show
21 you on the map. Excuse me, sir. I'll have to ask you to
22 look at the map and see. Do you know how to read a map
23 pretty good? Have you ever seen this map before?

24 A. I've never seen that map.

25 Q. All right. Look at that map for a minute. This is

1 State's Exhibit 59. It's an aerial photograph, and I want
2 to see if you can pick out what's in the aerial
3 photograph.

4 A. Pick out some photographs?

5 Q. Can you pick out the house that you and Brittany were
6 staying at in this photograph?

7 A. Right here.

8 Q. All right, sir. Let me turn it around so the jury
9 can see what you pointed to. Would you mind standing up?
10 Where was the house that you and Brittany lived in?

11 A. Right there.

12 Q. And that address on that house?

13 A. Was [REDACTED] Babette.

14 Q. All right. I've got a blue marker hear. Do you
15 think you could put a circle around the house that you and
16 Brittany lived in.

17 A. (witness draws).

18 Q. All right, sir. Thank you, sir. Now, you had been
19 staying there with Brittany for two or three months when
20 November got there?

21 A. Right.

22 Q. Do you have occasion to remember seeing a vehicle
23 that would be the same vehicle that is in State's Exhibit
24 Number Two?

25 A. Yes, sir.

1 Q. Would you describe that vehicle to the jury?

2 A. From the house there I thought it was a blue minivan.

3 Q. All right, sir. And you saw the minivan from your
4 house on Babette?

5 A. Yes, sir.

6 Q. Do you remember when you saw it?

7 A. It would have been Thursday morning. Thursday the --
8 November 16th.

9 Q. All right, sir. Let me ask you to look at this.
10 This is a map. Excuse me. A blow up of November of 2017
11 and State's Exhibit 56. What day did you say you saw it?

12 A. It had to be 16th, Thursday.

13 Q. Thursday the 16th. And you saw it where? Where?
14 Let me question you to look at State's Exhibit Number
15 Three. Can you describe what you see in that picture?

16 A. That's the view looking at the vacant lot right next
17 to Brittany's.

18 Q. All right. When you say, ' next to Brittany's,
19 that's the house you and Brittany were staying in?

20 A. Correct.

21 Q. On Babette. So can you see -- tell us if you can
22 point to, on State's Exhibit Number Two, where the house
23 you and Brittany -- is the house in the picture?

24 A. It's not.

25 Q. Where is it?

1 A. Right here.

2 Q. All right. How far would it be out of the picture?

3 A. Just literally right there.

4 Q. Right next to it where this picture ends?

5 A. Right.

6 Q. Okay. And the street that your house is on is

7 Babette?

8 A. Correct.

9 Q. Is that Babette Street there going left and right?

10 A. Correct. That stop sign.

11 Q. What is the name of this street right here that's

12 mostly in the picture?

13 A. Harwood.

14 Q. And are you familiar with Harwood?

15 A. I am.

16 Q. As you come off of Babette onto Harwood what does

17 Harwood do?

18 A. It makes a sharp 90 to the right.

19 Q. To the right?

20 A. Correct.

21 Q. So the person who is taking this picture is pretty

22 much standing -- getting ready to stand in the curve?

23 A. Correct.

24 Q. Looking back towards Babette?

25 A. Correct.

1 Q. When you saw that minivan on Harwood on Thursday what
2 time was it?

3 A. Early morning.

4 Q. How early?

5 A. Between 6:45 and 8:45.

6 Q. Okay. Between 6:45 and 8:45 was there any other
7 vehicles on Harwood next to the minivan that you saw or
8 was it by itself?

9 A. By itself.

10 Q. And did you see anybody with it at that time? Any
11 activity? Somebody under the hood? Somebody changing the
12 tire or anything like that?

13 A. No, sir.

14 Q. Was the van parked off the road, you know, all the
15 way on the leaves or was it?

16 A. It was more or less on the lane.

17 Q. Okay. And had you seen that van at that location
18 before?

19 A. No. Never.

20 Q. All right, sir. So once you saw it Thursday morning
21 between 6:45 and 8:45 what did you do then? Did you do
22 anything? Did you go over to the van?

23 A. Absolutely not.

24 Q. Did you make a call to anybody?

25 A. I did.

1 Q. All right?

2 A. Yeah, I called a buddy of mine that lives in the
3 area. His wife actually came and picked me up and I left.

4 Q. You left?

5 A. Brittany's house.

6 Q. Brittany's house?

7 A. Correct.

8 Q. Why did you make the call to leave Brittany's house?

9 A. As you stated earlier I was under suspicion that the
10 police might be like looking for me, and I actually
11 thought they could have been the police. So I left.

12 Q. So you thought that they were watching your house?

13 A. Correct.

14 Q. And when your friend came and picked you up do you
15 remember about what time it was?

16 A. Before noon.

17 Q. And that would have been on the 16th?

18 A. Correct.

19 Q. All right. When you left was there anything going on
20 with the van as far as any activity?

21 A. No, sir.

22 Q. All right. Did you have -- did you later on that day
23 want to know if that van was still there?

24 A. I did.

25 Q. How did you find out if that van was still there

1 later on that day?

2 A. My friend actually went through the area.

3 Q. All right.

4 A. And he did a check.

5 Q. Okay. And what -- and then he reported to you what
6 he found?

7 A. He did.

8 Q. And based on what he told you what did you do then?

9 A. I went back the Brittany's.

10 Q. All right. Now, this would have been after
11 five o'clock? After six o'clock in the evening?

12 A. Yes, sir.

13 Q. Did you stay at Brittany's all day that day?

14 A. Until later that night.

15 Q. Okay. But the rest of the day of Thursday from
16 twelve o'clock to midnight -- from twelve o'clock noon to
17 midnight on Thursday you were at Brittany's?

18 A. Yes, sir.

19 Q. Or whatever time you got back to Brittany's?

20 A. Right.

21 Q. Okay. Did you do anything unusual after midnight or
22 at midnight on Thursday?

23 A. I left.

24 Q. Sit down please, sir. You left Brittany's house?

25 A. Yes, sir.

1 Q. What was the purpose of you leaving Brittany's house?

2 A. I actually went to get a vehicle.

3 Q. All right. When you say, 'get a vehicle' tell the
4 jury what you mean.

5 A. I had a friend of mine pick -- a friend of mine pick
6 me up, and I went to Valentine's and stole a vehicle.

7 Q. Okay. Valentine is in where? What area of the
8 state?

9 A. Ermo.

10 Q. All right. On the other side of Columbia?

11 A. Other side of Columbia.

12 Q. Up in the Newberry area?

13 A. Newberry.

14 Q. And did you know what kind of vehicle? You had seen
15 this vehicle before?

16 A. No, sir.

17 Q. All right. And when you stole the vehicle in Ermo
18 what time was it?

19 A. Early Friday morning.

20 Q. All right. Two hours after midnight Friday morning.
21 So we're talking two o'clock in the morning? Something
22 like that?

23 A. I think to.

24 Q. All right, sir. Were your friend that took you to
25 Ermo did he stay with you while you stole the vehicle?

1 A. He didn't.

2 Q. All right. So once you got the vehicle what did you
3 do with it?

4 A. Came back to Brittany's.

5 Q. To Brittany's?

6 A. Yes, sir.

7 Q. Where did you park the vehicle?

8 A. In the lot immediately across the street from the
9 house.

10 Q. On?

11 A. On Harwood.

12 Q. On Harwood?

13 A. Right.

14 Q. So when you got back to Harwood after -- in this
15 stolen vehicle.

16 A. Right.

17 Q. What kind of vehicle was it?

18 A. It was a Honda Civic.

19 Q. Honda Civic. There was -- were there any other
20 vehicles on Harwood?

21 A. None.

22 Q. And you -- how did you put the Honda Civic -- did you
23 leave it on the street on Harwood like the van had been
24 left?

25 A. No, sir. I backed it up to the entrance of the

1 vacant lot.

2 Q. All right. What did you do after you got out of the
3 vehicle?

4 A. I went back inside of Brittany's.

5 Q. All right. And what time was it when you got back
6 inside the house at Brittany's?

7 A. 4:00 a.m. Friday morning.

8 Q. All right. From 4:00 a.m. Friday morning did you
9 stay at Brittany's house?

10 A. Yes, sir.

11 Q. What was the first event that happened Friday that
12 came to your attention?

13 A. Somebody came up around lunch time Friday, knocked on
14 Brittany's door.

15 Q. And after the investigation and after going through
16 some things do you know who that was now?

17 A. Now I do.

18 Q. Who was it?

19 A. That was Suzette Ginther's brother.

20 Q. All right. Did you know him?

21 A. No.

22 Q. All right. Who did you think it was?

23 A. I thought it was the police.

24 Q. At that time on Friday morning when the knock came to
25 the door what did you do?

1 A. I told Brittany to give me a minute. I was going to
2 go out the back door and wait until, you know, she figured
3 out what was going on, who it was or whatever cause she
4 had never seen them before either.

5 Q. All right. Did you notice anything about the Honda
6 Civic at the time when the knock came to the door?

7 A. At that time, no, I didn't. But, you know, I went
8 outside and sat in the backyard there and after I saw the
9 fellow leave here house -- during that period while they
10 were inside talking I noticed that the car I had just went
11 and retrieved was gone.

12 Q. The Honda Civic was gone?

13 A. And the keys were in the house so that's when I
14 notice that.

15 Q. All right. So the fellow that knocked on the door,
16 talked to Brittany, he left?

17 A. He left.

18 Q. You came back inside?

19 A. Yes, sir.

20 Q. What was the next significant event that occurred
21 after that?

22 A. That's when I met Mr. Stewart.

23 Q. Mr. Stewart came knocking on the door?

24 A. Right.

25 Q. Did he have a search warrant?

1 A. He did.

2 Q. And did he search the house?

3 A. He did.

4 Q. Did he find the keys to the Honda?

5 A. He did.

6 Q. Did he arrest you?

7 A. Yep.

8 Q. And did you tell him that you had been in Ermo in the
9 late night hours of Thursday night taking to Honda Civic
10 and bringing it back to Sumter?

11 A. Right.

12 Q. All right. Did Mr. Randall Stewart ask you to take a
13 D.N.A. test?

14 A. Yes.

15 Q. And what did that -- how did that go about? Did you
16 have to get a needle in your arm? How did that go?

17 A. They did a swab.

18 Q. They took a Q Tip?

19 A. Yes, sir.

20 Q. Swabbed your mouth and sent it to the lab?

21 A. Correct.

22 Q. Did you continue consent to the D.N.A.

23 A. Absolutely.

24 Q. And why was that?

25 A. Initially, when him and the other officers got there

1 I just suspected it was stolen car, the drug use and stuff
2 like that. Well, you know, after I saw was going on and
3 the amount of officers that were there that's whenever
4 they told me what their suspicions were. And that's the
5 reason I consented to it.

6 Q. All right. So they told you that it was a missing
7 woman?

8 A. Right.

9 Q. They told you the missing woman had been found dead?

10 A. Correct.

11 Q. Okay. And they wanted you to give your D.N.A. so
12 that you could be tested as to whether you had any
13 connection to the case or not?

14 A. Correct.

15 Q. You understood all that?

16 A. I did.

17 Q. Did you have any connection to the case?

18 A. Absolutely not.

19 Q. Do you know James Ginther?

20 A. No, I don't.

21 Q. Do you know that man sitting over there in the black
22 coat and the blue shirt?

23 A. I don't.

24 Q. Have you ever had coffee with him? Have you ever
25 went for a ride with him? Do you know him at all?

1 A. No, sir.

2 Q. Suzette Ginther, State's Exhibit Number One, that's
3 her dad and that's Suzette. You know her?

4 A. I do not.

5 Q. Ever seen her before?

6 A. Have not.

7 Q. You ever talk to her?

8 A. Never.

9 Q. Ask you to look at this document and see if you know
10 what it is?

11 A. I do.

12 Q. What is it?

13 A. That is consent form I myself signed on the day I was
14 arrested, November 17th 2017, to give my D.N.A.

15 Q. Do you know -- does it have a time on there?

16 A. It does.

17 Q. What time is it?

18 A. 5:00 p.m.

19 Q. On Friday the 17th?

20 A. Correct.

21 Q. All right. And you gave that signature voluntarily
22 do Investigator Dubose?

23 A. Correct.

24 MR. FINNEY: Beg the Court's indulgence?

25 THE COURT: Okay.

1 BY MR. FINNEY:

2 Q. Mr. Dundero, did you get arrested that day after you
3 gave the D.N.A. and talked to the investigator?

4 A. I did.

5 Q. And charges were placed on you for stealing the car?

6 A. Correct.

7 Q. Have you been to court on what?

8 A. I have.

9 Q. You already got sentenced?

10 A. I have.

11 Q. And what sentence did you get?

12 A. Three years.

13 Q. Does Brittany still live in that house?

14 A. She does.

15 Q. How would you describe that area of Cherryvale in
16 terms of -- would you describe it as a high crime area?

17 A. Not that particular section.

18 Q. All right. Is it unusual for you to see cars parked
19 on Harwood the way that minivan was parked back in
20 November?

21 A. It is.

22 Q. Have you answered all of my questions truthfully?

23 A. Absolutely.

24 Q. Any answer questions the Defense has.

25

CROSS-EXAMINATION

1 BY MR. BRIDGES:

2 Q. Morning, Mr. Dundero?

3 A. Morning.

4 Q. We have met before, correct?

5 A. We have.

6 Q. Where were we when we met before?

7 A. I was at Wateree Correctional Institution.

8 Q. When were you released from there?

9 A. I left Wateree in December, and I was released
10 January 7th.

11 Q. You were convicted in 2009 of burglary second-degree?

12 A. Correct.

13 Q. Violent, correct? You were convicted in 2017 of
14 distribution of a controlled substance?

15 A. Correct.

16 Q. You've been convicted in 2017 also of possession of a
17 stolen vehicle?

18 A. Correct.

19 Q. And the latest things that you were doing a sentence
20 for was that possession of a stolen vehicle?

21 A. Repeat that one more time.

22 Q. The sentence you were doing in Wateree was that for
23 possession of a stolen vehicle.

24 A. Correct.

25 Q. Also were there any drug charges or was that just

1 possession of a stolen own vehicle and distribution?

2 A. Possession of a stolen own vehicle and distribution.

3 Q. Okay. You were, timeframe of November 2017, were you
4 distributing drugs around that Cherryvale area.

5 A. Not around Cherryvale.

6 Q. Were you selling drugs to some people somewhere?

7 A. Correct.

8 Q. Was there any drug use going on in that house on
9 Babette, [REDACTED]?

10 A. There was.

11 Q. Both you and Brittany?

12 A. Correct.

13 Q. How is your relationship we Brittany? Did you guys
14 get along?

15 A. For the most part.

16 Q. No police calls about anything like that,
17 disturbances with her?

18 A. No disturbances.

19 Q. So you testified that the night of the 17th -- no.
20 The night of the 16th you were in Ermo?

21 A. Correct.

22 Q. Is that with Mr. Shelby West?

23 A. He gave me a ride.

24 Q. And does he own a Jeep?

25 A. No.

1 Q. Does his wife own a Jeep?

2 A. No.

3 Q. Do any of them own -- well, what kind of vehicle did
4 he drive that night?

5 A. I think it was a red car. A red sedan.

6 Q. Red sedan. And the night of 15th, it's the day
7 before, do you remember where you were or what you did?

8 A. The night of 15th I was at home with Brittany asleep.
9 I was asleep the whole day matter of fact.

10 Q. The whole day. So you did not leave that house?

11 A. No.

12 Q. Did you use any control substances that day?

13 A. Did not. That's the reason I didn't leave. I was
14 sleep.

15 Q. Did you use them the day before?

16 A. I believe so.

17 Q. Now, when law enforcement first showed up on the 16th
18 when that van was outside did you run from the house?

19 A. No. I never saw law enforcement on the 15th or 16th.

20 Q. There was a date very similar to that week where you
21 had ran from them?

22 A. There was.

23 Q. What day was that?

24 A. November 11th.

25 Q. November 11th. And you had an injury as a result of

1 that run, correct? Like a cut on your face?

2 A. I did, but it had nothing to do with that incident.

3 Q. I didn't ask you that. I asked if you had a cut on
4 your face ---

5 A. I did.

6 Q. --- during that time period?

7 A. I did.

8 Q. And you saw the van on the morning of the 16th. What
9 time did you get home or you were just asleep at the house
10 that morning?

11 A. I was asleep at the house.

12 Q. And you'd not seen anybody at the van at any time?

13 A. No.

14 Q. Not seen Mr. Ginther around the van?

15 A. Saw nobody around the van.

16 Q. You know if anybody came and took anything from that
17 van or did anything during the time that it was there?

18 A. No.

19 Q. Didn't hear about anything happening to the van?

20 A. You mean did I hear anything about anything happening
21 to it? I mean I heard all kinds of things happening to
22 the van.

23 Q. I mean as in parked outside of your house. Did you
24 hear about anything happening to it during that time
25 period?

1 A. I did.

2 Q. You did? What did you hear?

3 A. I heard some individuals came to it, looked in it and
4 left.

5 Q. Okay. And then on Friday the police served a search
6 warrant on your house. That would be the 17th?

7 A. Right.

8 Q. Were you very worried at that time, Mr. Dundero, that
9 you were going to be charged with a murder?

10 A. I was.

11 Q. It did not cross your mind at all that you were a
12 suspect in this case?

13 A. It did. They told me I was.

14 Q. They told you you were a suspect?

15 A. Right.

16 Q. You told them you were stealing cars in Columbia that
17 night so you couldn't have been involved?

18 A. Right.

19 Q. That was actually the night -- previous. Not the
20 night of the disappearance cause you were stealing cars
21 the night of November the 16th, correct?

22 A. Early morning on the 17th.

23 Q. Early morning. Okay. But on the 15th you claimed
24 you were at your house?

25 A. I was.

1 Q. Okay. And you gave a D.N.A. swab at the time. About
2 a year later when you were at S.C.D.C. Wateree did
3 Investigator Stewart visit you again and Investigator
4 Dubose?

5 A. They did.

6 Q. And at that time you were asked for another D.N.A.
7 swab?

8 A. I was.

9 Q. And you did not give one at that time?

10 A. I didn't see any reason to.

11 Q. And I don't know if you recall what you said, but do
12 you remember saying a week prior you might have left some
13 clothes and stuff in the woods when you ran on that day
14 from the police?

15 A. I lost toboggan in the woods the day I ran.

16 Q. Did you lose gloves else? Did you lose a glove or
17 anything else?

18 A. No.

19 Q. Did you notice anything -- let's go back to the 16th
20 and 17th. Did you notice anything missing from the
21 pockets in your pants that morning?

22 A. No.

23 Q. So you don't remember Brittany taking anything from
24 your pants before you left the house that day?

25 A. No.

1 Q. Did you meet a man named Raphael in Columbia?

2 A. I do.

3 Q. Was that the man you were doing these stolen vehicles
4 with?

5 A. That's correct.

6 Q. Did you bring one of those vehicles back to Columbia?
7 I mean back to the house on Babette?

8 A. I did.

9 Q. You know the neighbors around Babette? Did you know
10 Shawn Martin?

11 A. No, I don't know him or of him.

12 Q. And you've already testified to not knowing
13 Mr. Ginther, James Ginther, at all?

14 A. No.

15 Q. Do not know Suzette Ginther at all?

16 A. Correct.

17 Q. Do you know Billy Parker or do you know Billy Parker?

18 A. I don't.

19 Q. I have no further questions, Your Honor.

20 THE COURT: Thank you.

21 MR. FINNEY: Please the Court.

22 REDIRECT EXAMINATION

23 BY MR. FINNEY:

24 Q. Mr. Dundero, how are you doing these days?

25 A. I'm doing well.

1 Q. And you're back at your mom's house?

2 A. I am.

3 Q. What about you and Brittany?

4 A. We still talk to each other.

5 Q. All right. Did y'all decide that the living
6 arrangement needed to be changed?

7 A. We did.

8 Q. Okay. And both of y'all all right with that?

9 A. We're fine with it.

10 Q. And are you under any supervision now?

11 A. I am.

12 Q. And do you have to be drug tested?

13 A. Regularly.

14 Q. And how have you been doing with that?

15 A. Been doing good.

16 Q. All right. Are you employed now?

17 A. Yes, sir.

18 Q. Doing construction?

19 A. Yes, sir.

20 Q. In Sumter?

21 A. Yes, sir.

22 Q. All right. Thank you for coming today.

23 A. Yes, sir.

24 THE COURT: You can step down. Thank you, sir.

25 THE WITNESS: Thank you.

1 MR. FINNEY: Mr. John Bates.

2 THE COURT: All right.

3 BAILIFF: State your name.

4 THE WITNESS: John Andrew Bates.

5 JOHN BATES, after being duly sworn, testified as
6 follows:

7 BAILIFF: State your name for the record and spell
8 your last name, please.

9 THE WITNESS: John Andrew Bates. B-A-T-E-S.

10 DIRECT EXAMINATION

11 BY MR. FINNEY:

12 Q. Mr. Bates, good morning, sir? Good afternoon. No.
13 It's still morning?

14 A. Good morning.

15 Q. Tell us where do you live, sir?

16 A. I currently live in Spring Hill, Florida.

17 Q. All right. And how long have you resided there?

18 A. Like just moved there. Prior to that I lived in
19 Coral Spring, Florida.

20 Q. All right. And is what on the west coast of Florida
21 or the east coast?

22 A. Spring Hill is on the west coast. Coral Spring is on
23 the east coast down near Fort Lauderdale.

24 Q. All right. And tell us about yourself. What kind of
25 business are you in?

1 A. I'm in the truck leasing business. I retired from
2 the Marine Corp, and I got into the truck leasing business
3 working in the service.

4 Q. All right. And how long were you active in the
5 Marine Corp?

6 A. I was active in the Marine Corp for 14 years.

7 Q. All right. And, children, do you have children?

8 A. Yes, sir, I do. I have four children.

9 Q. All right, sir. And tell where would your daughter,
10 Suzie, was in the line.

11 A. Suzie was my third child. My youngest daughter.

12 Q. First girl?

13 A. Second girl.

14 Q. Second girl. This is the State's Exhibit One. Is
15 this a picture of you and Suzie?

16 A. Yes, sir.

17 Q. Do you know where it was taken?

18 A. Yes, I do.

19 Q. Tell us?

20 A. It was taken at our house in Lake Cherryvale.

21 Q. All right. Now, Lake Cherryvale, you said, 'our
22 house'. Did you buy that house?

23 A. Yes, I did.

24 Q. When did you buy that house?

25 A. 2009.

1 Q. And in 2009 you and your family came to Sumter for
2 employment ---

3 A. Correct.

4 Q. --- purposes?

5 A. I was the general manager of the Peterbilt in
6 Florence truck dealership.

7 Q. All right. That dealership was in Florence?

8 A. It was in Florence.

9 Q. And you commuted to work?

10 A. Yes, sir.

11 Q. The Cherryvale house, you bought it. Who moved into
12 the house when you got here?

13 A. At first it was just Suzette and myself.

14 Q. Okay. And later on other family came?

15 A. Yes, sir.

16 Q. And you have a son, Brandon?

17 A. Yes.

18 Q. Is he here?

19 A. Yes, he is.

20 Q. Stand up, Brandon. And is -- thank you, sir. Did
21 Brandon also move into the house at some point?

22 A. Yes, in 2017.

23 Q. Okay. And you maintained the house? You lived
24 there? You worked for the trucking company in Florence.
25 At some point did your employment change after 2000 when

1 you bought the house in 2009, I think you said?

2 A. Yes, sir. It changed in 2010. The dealership was
3 sold, and I went to work for Penske Truck Leasing.

4 Q. And where was that job?

5 A. Washington, DC..

6 Q. Okay. So you left Cherryvale, moved to Washington.
7 Did Suzette move to Washington?

8 A. Yes. James was in the Navy, and they were stationed
9 at Fort Mede, Maryland.

10 Q. All right. So Suzie had met James. Had they married
11 when you moved to Washington to take that job?

12 A. They were married when we were living in Cherryvale.
13 James was in training in the Navy.

14 Q. Okay. And his training was in Virginia?

15 A. No. At that time he was at Great Lakes.

16 Q. Okay, so during this period of time you're working --
17 you are from Florida? You are from Florida all you life
18 other than the Marine Corp?

19 A. No. I'm actually from Upstate New York. I spent
20 most of my life in the Carolinas. We moved to Florida in
21 the mid 2000s, and really liked it there. And employment
22 took me back out of Florida.

23 Q. All right. Okay. The house in Cherryvale, after you
24 left -- you and Suzie left you went to -- excuse me. You
25 left and went to Washington. Suzie was already married to

1 James Ginther?

2 A. That is correct.

3 Q. And had they had their two children or were they in
4 the process of having their two children?

5 A. They had one. They had Emily.

6 Q. All right. Emily is the oldest. And J.J. came a
7 couple years later?

8 A. Correct. When they were stationed at Virginia Beach.

9 Q. Okay. Now, did there come a time when James Ginther
10 and Suzette moved back to Cherryvale?

11 A. Yes. When James got out of the Navy they didn't have
12 a place to go. We told them that they could live at the
13 house in Cherryvale.

14 Q. All right. And when that moved into the house in
15 Cherryvale can you give me a rough idea was that 2014?
16 2015? Somewhere along in there?

17 A. I'd say 2014 is probably pretty close.

18 Q. All right.

19 A. I don't recollect the exact date.

20 Q. I understand. And when they moved in did they have
21 both kids?

22 A. Yes, they did.

23 Q. How long after they moved in did they start having
24 problems and actually separated?

25 A. They started having problem soon after they moved in,

1 but they didn't separate -- I want to say it was maybe a
2 year.

3 Q. Okay. So maybe we're in 2015 now? Give or take?

4 A. Could be.

5 Q. All right. When they separated did James Ginther
6 leave the Cherryvale house that you owned?

7 A. No initially.

8 Q. All right. And so there was a separation agreement
9 between the parties, but they still lived under the same
10 roof?

11 A. That is correct.

12 Q. All right. Did you know -- did you come and check on
13 them? Check on the grandkids? Were you involved in the
14 lives of the Little Gintners?

15 A. Yes. I talk to them all the time on the phone, but I
16 came to the house a couple times a year. And Eileen came
17 to the house a couple times a year.

18 Q. By the time Suzette and James separated, but they
19 were still under the same roof, were you still in Florida?

20 A. Yes, sir, I was.

21 Q. All right. In November of 2017 -- let me back up.
22 After the separation did there come a time when James
23 Ginther no longer lived at Cherryvale?

24 A. That is correct.

25 Q. And when that happened did they also officially get

1 divorced?

2 A. Soon after that, yes.

3 Q. What filed for the divorce, as far as you know?

4 A. Suzie.

5 Q. And there was a divorce hearing?

6 A. Yes.

7 Q. Do you know if that was in March of 2017?

8 A. That sound correct.

9 Q. All right. And at that time when the divorce was
10 finalized was Mr. Ginther in the house with Suzette?

11 A. No, he was not.

12 Q. All right. In March of 2017 when the divorce was
13 finalized did Billy Parker play a big part in Suzette's
14 life?

15 A. Yes.

16 Q. Did you know him?

17 A. Yes, sir.

18 Q. All right. Had you seen them together?

19 A. Yes, I have.

20 Q. When you would come to Sumter for a visit did you
21 stay at the house at Cherryvale?

22 A. Sometimes.

23 Q. Okay. And how did find Billy and Suzette's
24 relationship to be?

25 A. It seemed to be very good.

1 Q. Who had custody of Emily and J.J?

2 A. Suzie had -- I don't know Legally, but I know Suzie
3 had physical custody, but they had -- James had scheduled
4 visitation.

5 Q. All right. To your knowledge was he exercising the
6 scheduled visitation?

7 A. Yes, sir, he was.

8 Q. All right. Was he under support order to pay for
9 support of his children?

10 A. Yes, sir, he was.

11 Q. How often during the period of time from March, when
12 they got divorced, until November when she was killed, how
13 often did you talk to Suzie?

14 A. Usually a couple times a month.

15 Q. Okay.

16 A. And I visited her on July 4th of 2017. That's when
17 that picture was taken.

18 Q. Very good?

19 A. She came to Florida in October of 2017.

20 Q. All right.

21 A. And visited both her mom and myself, and went to
22 Disney World with the children and Billy.

23 Q. So Billy and the two kids and Suzette were at your
24 house in Florida in October?

25 A. Yes, sir.

1 Q. How was she doing? How were they doing? How was
2 everybody doing?

3 A. She seemed the happiest I've ever seen her.

4 Q. How was her job career path going as far as you can
5 tell from talking to her?

6 A. We talked about her job quite a bit. She was
7 extremely excited. She loves animals and it was a dream
8 job for her to be able to work at Pet Smart.

9 Q. Very good. Did you have anything to do with the
10 Chrysler minivan being in the family?

11 A. I did not.

12 Q. Okay. Do you know how long they had that?

13 A. I know they got it when they were in Virginia Beach.

14 Q. Okay.

15 A. Cause I remember when they purchased it. I just
16 don't remember the date.

17 Q. All right. Bringing you to the events that we're
18 here today about. When was the first time in November
19 that you were made aware that there was a problem with the
20 minivan and Suzie?

21 A. At 8:42 in the morning on the 16th.

22 Q. The 16th is Thursday morning?

23 A. That is correct.

24 Q. 8:42 a.m.

25 A. Correct.

1 Q. And how did you get the alert?

2 A. I received a text message.

3 Q. From who?

4 A. From James.

5 Q. James Ginther?

6 A. Yes, sir.

7 Q. All right. Is that the first idea -- that's the
8 first indication that you had that there was something
9 irregular?

10 A. That is correct.

11 Q. All right. After you got the text what did you do?

12 A. I tried to contact Suzette.

13 Q. And you did that by phone?

14 A. By phone and text.

15 Q. By phone and text. Was there any response from her?

16 A. No. The phone went directly to voice mail. I was
17 sending texts probably every 15 to 30 minutes and never
18 got anything back.

19 Q. All right. As the day grew on Thursday did you
20 decide that you were going to do anything?

21 A. Yes. I did not have Billy's telephone number, so I
22 knew that she had worked for Pet Smart in Columbia, but I
23 didn't know which store. So I got on the computer and
24 just started calling every single Columbia Pet Smart until
25 I found the location she worked at.

1 The manager I talked to there couldn't release me
2 Billy's number, but she did call Billy and Billy called
3 me.

4 Q. All right. And so now Thursday afternoon is -- has
5 arrived. Was there any word any time Thursday about --
6 did you get -- at the time that Mr. Ginther called you you
7 were made aware that the van had been located in
8 Cherryvale?

9 A. Yes, sir.

10 Q. How did you feel about that news?

11 A. I was extremely concerned.

12 Q. Why?

13 A. It was very unlike Suzie.

14 Q. Okay.

15 A. And she knew nobody else back in the Cherryvale area.

16 Q. All right. Thursday night, you go to bed. There is
17 no word?

18 A. Correct.

19 Q. All right. You still in talks with family and
20 friends?

21 A. Yes.

22 Q. All right. Had you talked to Brandon?

23 A. I did not. His mother did.

24 Q. Okay. And Brandon is your son?

25 A. My youngest son.

1 Q. And what did you learn about Brandon?

2 A. I was told -- well, I knew Thursday night that
3 Brandon was on his way to the house. Brandon lived in
4 Virginia. So -- near Virginia Beach. So he was on his
5 way. I knew he would get there sometime around midnight
6 or 1:00 a.m.

7 Q. All right. And did you hear from Brandon when he
8 arrived in Cherryvale?

9 A. I heard from him later in the morning.

10 Q. Okay. This would have been Friday morning?

11 A. Correct.

12 Q. So on the morning of Friday you knew Brandon had got
13 to South Carolina?

14 A. Yes, sir.

15 Q. No developments?

16 A. No, sir.

17 Q. What did you do then?

18 A. I informed my employment that I needed to leave, and
19 I got in my vehicle and started driving from the Fort
20 Lauderdale area up to Sumter.

21 Q. When did you arrive in Sumter?

22 A. I arrived in Sumter just before 11:00 p.m.

23 Q. On Friday night.

24 A. And I had a message to call the coroner which I did
25 as soon as I arrived.

1 Q. You went to Cherryvale to the house?

2 A. To the house.

3 Q. Billy was there?

4 A. Yes, sir.

5 Q. Emily, J.J. was there?

6 A. Yes, sir.

7 Q. Brandon was there?

8 A. Yes, sir.

9 Q. Did you bring anybody with you?

10 A. Yes, I brought Daniel.

11 Q. And at that point Friday night you learned Suzie had
12 been found?

13 A. It learned Friday afternoon. Brandon contacted me
14 when I was in route. He was very reluctant to tell me
15 cause I was driving. But I got him to tell me.

16 MR. BRIDGES: Object to anything Brandon would say.
17 It's hearsay.

18 THE COURT: Okay. I'm sustaining the objection.

19 BY MR. FINNEY:

20 Q. And after you arrived Friday night you spoke with the
21 coroner?

22 A. Yes, I did.

23 Q. What was the activity like Saturday when you got up
24 and got yourself together?

25 A. It was ---

1 Q. I'm specifically asking did you have to contact to
2 make arrangements for Suzette?

3 A. Yes, sir. Saturday morning we as soon as places
4 started to open up we start calling funeral homes to make
5 provisions for Suzette.

6 Q. All right. And did you stay in Sumter on Saturday
7 and Sunday?

8 A. I stayed in Sumter for the next two weeks.

9 Q. And did she have a memorial service in Sumter?

10 A. Yes, sir, she did. We had it on Tuesday the 22nd, I
11 believe.

12 Q. Would you look at the calendar. We have the calendar
13 there. The 22nd would have been?

14 A. I'm sorry. Tuesday to 21st.

15 Q. Okay.

16 MR. FINNEY: Court's indulgence.

17 BY MR. FINNEY:

18 Q. After the service on Tuesday the 21st did you have
19 any official court activity regarding Suzie and J.J?

20 A. Yes. We actually contacted Suzette's lawyer and
21 retained him to, and we did that on Monday, to make sure
22 that we secured custody of the children.

23 Q. All right. And were you able to have a hearing in
24 Family Court later on in the month of November?

25 A. Yes, we did.

1 Q. And you were awarded custody?

2 A. Eileen and myself were awarded custody at that point.

3 Q. And ---

4 A. Temporary custody.

5 Q. And the children have been residing with you in
6 Florida?

7 A. They have been residing with Eileen in Florida.

8 Q. And how far are you and Eileen apart?

9 A. Right now we're six miles apart.

10 Q. Six miles?

11 A. At that point in time we were five hours apart.

12 Q. And so the kids have been in Florida for the last 18
13 months?

14 A. Correct.

15 Q. Okay. Thank you, sir, for coming. Answer any
16 questions Defense may have.

17 A. Yes, sir.

18 MR. BRIDGES: I have no questions for this witness.

19 Thank you, Mr. Bates.

20 THE COURT: Thank you, Mr. Bates.

21 COLLOQUY

22 MR. FINNEY: Your Honor, may I ask to go to an early
23 lunch today and come back at two o'clock? We have
24 witnesses scheduled to come from Columbia, but they won't
25 be here until two o'clock.

1 THE COURT: Okay. Ladies and gentlemen, I guess we
2 go to lunch. I remind you don't discuss this case. Get
3 all of you back here. If you have an emergency let us
4 know. Don't do any research. I'll see you at 2:00.

5 (WHEREUPON, the jury panel was excused from the
6 courtroom at 12:11 p.m.)

7 THE COURT: Okay. Anything before we break for
8 lunch?

9 MR. FINNEY: Nothing from the State.

10 MR. BRIDGES: Nothing from the Defense, Your Honor.

11 THE COURT: All right. See y'all at 2:00. I'll be
12 back long before then if you need something.

13 (WHEREUPON, Court was in recess at 12:12 p.m. and
14 reconvened at two o'clock.)

15 Defendant where you know through three.

16 (WHEREUPON, Defendant's Exhibit Nos. 1 THROUGH 3 were
17 marked for identification only.)

18 THE COURT: All right. Bring the jury in.

19 (WHEREUPON, the jury panel enters the courtroom at
20 2:02 p.m.)

21 THE COURT: Thank you.

22 MR. FINNEY: Please the Court, Your Honor.

23 THE COURT: Yes, sir.

24 MR. FINNEY: We call Master Police Officer Mark
25 Sjolund.

1 BAILIFF: State your name.

2 THE WITNESS: Officer Mark Sjolund.

3 MARK SJOLUND, after being duly sworn, testified
4 as follows:

5 BAILIFF: Step around, sir. Watch your step coming
6 around. State your name for the record and spell your
7 last name for the Court, please.

8 THE WITNESS: Officer Mark Sjolund. M-A-R-K. Last
9 name is S-J-O-L-U-N-D.

10 DIRECT EXAMINATION

11 BY MR. FINNEY:

12 Q. Good afternoon, Officer?

13 A. Good afternoon, sir.

14 Q. Sjolund is not a South Carolina name I take it?

15 A. No. It's a Swedish name.

16 Q. All right. And where were you -- where did you grow
17 up?

18 A. I grew up in Minneapolis, Minnesota. Moved here
19 about 12 years ago.

20 Q. Very good. Did you come to South Carolina because of
21 military?

22 A. Because of family.

23 Q. Okay. And how long have you been an officer with
24 Columbia Police Officer?

25 A. November 2017. Almost 12 years.

1 Q. And are you in patrol?

2 A. I am.

3 Q. All right, sir. Are you a certified law enforcement
4 officer who has attended the Criminal Justice Academy?

5 A. Yes, sir.

6 Q. All right. Very good. I want to take you back to
7 November of 2017 in relation to a call about a missing van
8 or a found van in Sumter County. You have recollection of
9 that?

10 A. I remember it.

11 Q. Now, you work in Columbia?

12 A. Yes.

13 Q. Did you get a call about a van that was in Sumter?

14 A. Yes.

15 Q. Yes. And what was the nature of the report to you?

16 A. I was told to go and make contact to see if I could
17 find the registered owner to see if they knew where the
18 vehicle was.

19 Q. All right. Did they give you location to go to.

20 A. I don't know the exact address, but I know it was on
21 Beltline.

22 Q. What city was it in?

23 A. City of Columbia.

24 Q. Very good. And you went to the Beltline address that
25 you were given?

1 A. Yes.

2 Q. Were you also given the name of the registered owner?

3 A. I was.

4 Q. All right. Do you remember that name?

5 A. I believe it was Ginther. I don't remember the first
6 name.

7 Q. Mr. Ginther?

8 A. Yes.

9 Q. All right. So you've never seen the van or the
10 vehicle that was the subject of the call?

11 A. No, sir.

12 Q. All right, sir. And you never traveled to Sumter
13 before today ---

14 A. No.

15 Q. --- concerning this case. In the City of Columbia
16 are you all issued body worn cameras?

17 A. Yes, sir.

18 Q. And what's the purpose of that?

19 A. To document any interaction with the public.

20 Q. Very good. And do you have an official police of
21 when you cut it on and when you turn it off?

22 A. Yes. Any call for service we're required to cut it
23 on upon contact with the individual.

24 Q. Do you have a camera with you today?

25 A. Yes.

1 Q. Can you show it to the jury. All right, sir. Did
2 you have the camera in November of 2017?

3 A. I did.

4 Q. All right. As a result of the call about the van did
5 you go to Mr. Ginther's address there in Columbia?

6 A. Yes.

7 Q. And tell us what happened?

8 A. My recollection -- it's been a couple years. I made
9 contact. Knocked several times. My memory serves me they
10 didn't answer at first. I was walking away. Somebody did
11 come to the door. I turned back around, turned my body
12 camera back on, and I made contact with the -- a female
13 holding a baby.

14 Q. All right. And did you learn who that female was?

15 A. I don't remember her name.

16 Q. All right. And the purpose of your visit to that
17 address, did you tell that female what your purpose was?

18 A. Yes.

19 Q. And was all this captured on body camera that you
20 had?

21 A. Yes.

22 Q. All right. And then the images, the video, would
23 have been downloaded from your camera?

24 A. Yes.

25 Q. And as part of your investigation was it sent over

1 here to Sumter County?

2 A. Yes.

3 Q. All right, sir.

4 MR. FINNEY: Beg the Court's indulgence. We're
5 trying to load the video.

6 MR. BRIDGES: Your Honor, I assume that they're
7 offering this video for evidence? I have an objection as
8 it hasn't been offered yet.

9 MR. FINNEY: I offer it into evidence.

10 THE COURT: Okay. And you have no objection?

11 MR. BRIDGES: None, Your Honor.

12 THE COURT: All right. It's in without objection.

13 (WHEREUPON, State's Exhibit No. 61 was admitted into
14 evidence.)

15 BY MR. FINNEY:

16 Q. Officer, can you tell from you camera what date this
17 is?

18 A. I can't really see it from here.

19 Q. Would you trust if I said it was 2017, 11th month,
20 16th day, 7:15:55 a.m?

21 A. Yes, sir. November 16, 2017, 7:15 a.m.

22 Q. All right, sir. And the camera is mounted on the
23 front of your jacket, so everything we're going to see is
24 what you were seeing that day?

25 A. Yes, sir.

1 Q. All right.

2 (WHEREUPON, State's Exhibit 61 played for the jury.)

3 BY MR. FINNEY:

4 Q. What happened just then, Officer?

5 A. I turned the camera off because nobody answered the
6 door.

7 Q. All right. And what were you getting ready to do?

8 A. Leave.

9 Q. What happened then?

10 A. Somebody came outside, and I turned it back on.

11 Q. So we have another video?

12 A. Yes, sir.

13 Q. All right.

14 (WHEREUPON, another video played for the jury.)

15 MR. BRIDGES: I have no objection to the video, but
16 just procedurally I didn't know it was being introduced
17 right away. I don't object to this video coming in.

18 THE COURT: Okay. It's in without objection.

19 MR. BRIDGES: And can we get exhibit numbers for
20 these two videos.

21 THE COURT: Yeah, give my court reporter the number.
22 Is it on one disk or two.

23 MR. FINNEY: One disk. Two files on one disk.

24 THE COURT: Okay. Can we just mark it as the next
25 State's exhibit?

1 MR. FINNEY: Yes, sir, Your Honor. I'm going to put
2 the sticker on the video.

3 THE COURT: Okay. You can put it on there when you
4 finish with it. You can put it on there before it goes
5 back to the court reporter.

6 MR. FINNEY: Thank you, sir.

7 THE COURT: All right, sir.

8 (WHEREUPON, video continued to be played for the
9 jury.)

10 BY MR. FINNEY:

11 Q. Did -- you left the premises then cut the camera off?

12 A. Yes, sir.

13 Q. As far as you know did you have any other involvement
14 with that car or the Ginther Family?

15 A. No.

16 Q. All right, sir. Nothing further. Thank you for
17 coming. Answer any question the Defense may have.

18 CROSS-EXAMINATION

19 BY MR. BRIDGES:

20 Q. Just very briefly. Officer, you did not then do the
21 call to Mr. Ginther, correct?

22 A. No.

23 Q. You passed that information on to Corporal Prescott
24 of Sumter?

25 A. I don't remember the name, but I didn't make any

1 phone calls.

2 Q. You passed that information onto Sumter law
3 enforcement?

4 A. Yes.

5 Q. Thank you, sir. No further questions.

6 A. Thank you.

7 MR. FINNEY: We ask that he be excused, Your Honor.

8 THE COURT: Any objection?

9 MR. BRIDGES: No objection, Your Honor.

10 THE COURT: Thank you, sir.

11 MR. FINNEY: Call David Gayle to the stand.

12 BAILIFF: State your name.

13 THE WITNESS: David Gayle.

14 DAVID GAYLE, after being duly sworn, testified
15 as follows:

16 BAILIFF: Thank you, sir. Step around. Watch
17 yourself coming around. State your name for the record
18 and spell your last name, please.

19 THE WITNESS: David Gayle. G-A-Y-L-E.

20 DIRECT EXAMINATION

21 BY MR. FINNEY:

22 Q. Mr. Gayle?

23 A. Yes, sir.

24 Q. How are have you today?

25 A. Doing well.

1 Q. Been a long time coming?

2 A. Yes, sir.

3 Q. Tell us where you live, Mr. Gayle?

4 A. Wedgefield, South Carolina.

5 Q. How long have you lived there?

6 A. Thirty-five years.

7 Q. And what do you do for a living?

8 A. Work for Sumter Utilities.

9 Q. And what kind of work do you do?

10 A. Electrician.

11 Q. How long you been an electrician?

12 A. Since I was 20 years-old?

13 Q. All right. And say you live in Sumter?

14 A. Yes. Wedgefield.

15 Q. Wedgefield. What part of Sumter do you live in?

16 A. Wedgefield.

17 Q. Have you ever been hunting in the Wedgefield area?

18 A. Yes, sir.

19 Q. And how often have you been doing that?

20 A. For years.

21 Q. All right. Let me ask you, if you don't mind, tell
22 the jury how old you are?

23 A. Thirty-five years-old.

24 Q. So when do you think you started hunting in the woods
25 around Wedgefield?

1 A. Since I was able to walk.

2 Q. All right. You've got friends and family that hunt?

3 A. Yes.

4 Q. Okay. What mostly do you hunt?

5 A. Deer.

6 Q. All right, sir. And is there a season for deer
7 hunting?

8 A. Yes, sir.

9 Q. So tell the ladies and gentlemen who don't hunt when
10 is deer hunting open?

11 A. Actual, for Sumter County, September the 1st and goes
12 out to January 1st.

13 Q. September, October, November, December. That's your
14 four months?

15 A. Yes, sir.

16 Q. That's when you can go out and do that?

17 A. Yes, sir.

18 Q. Do you have to have a license?

19 A. Yes, sir. State law.

20 Q. Do you have a license?

21 A. Yes, sir.

22 Q. Do you have to renew the license every year?

23 A. Yes, sir.

24 Q. So when did you get your license in 2017?

25 A. Yes.

1 Q. When did you get it?

2 A. I don't know. I would have to look at it.

3 Q. All right. So where do you go to get your license?

4 A. Store called Battons.

5 Q. Battons. And is that in Wedgefield?

6 A. Yes, sir.

7 Q. All right. So after you got your license did you
8 have occasion to go out in September, October, November of
9 2017 to do some deer hunting?

10 A. Yes, sir.

11 Q. And do you go different places or do you have ---

12 A. Yes, sir.

13 Q. All right. Where are those -- some of these places?

14 A. I mainly hunt the State, and you have to have an
15 extra license to hunt the State.

16 Q. When you say, "The State" ---

17 A. Yes.

18 Q. --- what does that mean?

19 A. The State owns it.

20 Q. State property?

21 A. Yes.

22 Q. And the State property that you like to hunt is
23 located where?

24 A. In Wedgefield.

25 Q. All right. If I were to show you a map, if you would

1 look at what I've got marked as State's Exhibit 57, I know
2 you -- have you seen this map before?

3 A. Yes, I look at it all the time.

4 Q. You know what that map is?

5 A. That's Google Earth.

6 Q. Okay. Oh, so you do Google Earth? All right. So
7 can you look at that map, State's Exhibit 57, and do you
8 see anything familiar on there as far as roads or lakes or
9 buildings?

10 A. May I come around?

11 Q. I'll bring it to you. Just keep your voice up. All
12 right, sir.

13 A. This is Burnt Gin here?

14 Q. Yes, sir.

15 A. This is Burnt Gin right here. Come all the way down.

16 Q. Burnt Gin Road comes all the way down to the bottom
17 of this picture?

18 A. Yes, sir, it is.

19 Q. And it runs into another road?

20 A. Yes, it is.

21 Q. What is the name of that road?

22 A. I believe this is Spot Road.

23 Q. All right. And where do you live in association with
24 the Burnt Gin and Spots Road?

25 A. I live right here in this area.

1 Q. All right. How far away from the intersection where
2 Burnt Gin goes down into Spot Road, how far would you say
3 you stayed from there?

4 A. Two minutes.

5 Q. All right. And when you go hunting do you ---

6 THE COURT: Let me ask you something.

7 MR. FINNEY: Yes, sir.

8 THE COURT: Show this to the jury.

9 MR. FINNEY: Yes, sir.

10 THE COURT: They have no clue what y'all are talking
11 about.

12 MR. FINNEY: Yes, sir. Yes, sir.

13 THE COURT: Get where you can see it or come around.

14 BY MR. FINNEY:

15 Q. Yes?

16 A. This is Burnt Gin, like I was saying earlier. And
17 here is where Spot Road meets at. I live in this area,
18 here.

19 Q. What is that big body of water there?

20 A. Right here?

21 Q. The big water back there?

22 A. That's not water. That's something in black cause
23 Google Earth, it will be blue.

24 Q. Oh, well, I understand. This is not Google Earth.

25 This is Sumter County?

1 A. Well, this is water. I'm sorry.

2 Q. Just stand right over there so the jury can see.

3 Right here so they can hear you.

4 A. This is the water over -- if you could see here this
5 is where the creek crosses at.

6 Q. Cross Burnt Gin?

7 A. Yes. And there is a bridge.

8 Q. All right. Are you familiar with that bridge?

9 A. Yes, I am.

10 Q. And you don't know the name of that body of water?

11 A. It's Burnt Gin, but it also runs into Boyle's Pond.

12 Q. All right.

13 A. It's by -- I think that's state road if I'm not
14 mistaken.

15 Q. That's where Boyle's Pond is?

16 A. Yeah. This creek here runs all the way to Mills
17 Creek.

18 Q. All right. So, now, based on the map that you're
19 looking at which is State's Exhibit Number 57, where is
20 Highway 763?

21 A. It would be back up this way.

22 Q. All right. Point to it on the map. Up that way?

23 A. Yes.

24 Q. Keep on going down that road?

25 A. Yeah, going back down that road and run you into 763.

1 Q. All this road that's showing on this map is it paved
2 or dirt?

3 A. Dirt.

4 Q. What kind of dirt?

5 A. Sand.

6 Q. Who color is it?

7 A. Brown.

8 Q. Okay. And is it brown like the top of this counter
9 or brown like the sidewalk?

10 A. Like this right here.

11 Q. Like this sidewalk. Okay. And you have driven on
12 that road before?

13 A. Yes.

14 Q. All right. When you drive on the road what happens
15 to your vehicle?

16 A. It gets dirty.

17 Q. All right. As of part of your hunting have you
18 hunted in this area before that's on this Map 57?

19 A. Yes. Like I was saying earlier Burnt Gin -- this is
20 what we call the atrium. That means no hunting. Period.
21 No firearms at all over there. If the game warden catch
22 us we get a ticket.

23 This side you can actually hunt, and it's like that
24 all the way around.

25 Q. All right. And do you do archery?

1 A. No.

2 Q. So you do rifle hunting?

3 A. Yes.

4 Q. And in September, October, November of 2017 you were
5 planning on doing some hunting in this area?

6 A. Yeah.

7 Q. All right. Go ahead and sit back down.

8 A. I'll leave the stick.

9 Q. Did you have occasion on Wednesday the 15th of
10 November, Wednesday the 15th of November, did you have
11 occasion in 2017 to go down to that spillway area on
12 Boyle -- Burnt Gin Road?

13 A. Yes, sir, I was planning on doing some hunting out
14 there.

15 Q. All right. Where were you working at that time?

16 A. Synder Electric.

17 Q. And where the Synder Electric?

18 A. In Hopkins, South Carolina.

19 Q. And is that on -- when you leave Sumter in the
20 morning to go to -- you go towards Columbia?

21 A. Yes.

22 Q. All right. How long did you work at Snyder's?

23 A. Six years.

24 Q. All right. What time would you get up and go to
25 work?

- 1 A. 3:30.
- 2 Q. And what time would you arrive to punch in?
- 3 A. About ten minutes to 5:00.
- 4 Q. All right. And what time was your shift over?
- 5 A. 3:30.
- 6 Q. And then you would drive back to or come back to
- 7 Sumter?
- 8 A. I would catch a ride back.
- 9 Q. Catch a ride to Sumter. What time would you get
- 10 home?
- 11 A. I get off at 3:30. I would be home about 4:15, maybe
- 12 4:30.
- 13 Q. All right.
- 14 A. No later.
- 15 Q. Did you have occasion on November 15th to go out into
- 16 the woods hunting that day?
- 17 A. Yes.
- 18 Q. Did you -- what was your purpose when you left home?
- 19 You told somebody? Your mom? Friend?
- 20 A. By mom.
- 21 Q. You told your mom that you were going out in the
- 22 woods?
- 23 A. Yes, sir.
- 24 Q. Did you go by yourself?
- 25 A. Yes, sir.

1 Q. All right. What was your purpose that day?

2 A. To go scout.

3 Q. All right?

4 A. To know exactly where I wanted to put my deer stand
5 to see where the deer were coming and going in and out of
6 cause hunting State you're not allowed to feed deer.

7 Q. Okay. So you can't put down any feed?

8 A. No, sir.

9 Q. Did you take your rifle?

10 A. No, sir.

11 Q. Did you take a stand.

12 A. No, sir.

13 Q. Did your take a camera?

14 A. I started to, but I changed my mind.

15 Q. All right. But you -- the scouting was to see if
16 there were deer in a particular area?

17 A. Yeah. Normally I would set a camera up to see what
18 time they come, which way they're coming, and you know,
19 stuff like that.

20 Q. All right. So you've been doing this for a while.
21 You've got a camera, stand, rifle. You've got all that?

22 A. Yes.

23 Q. All right. Do you usually hunt by yourself?

24 A. Sometimes I don't, then sometimes I do.

25 Q. Okay. On the 15th what time would you say you got

1 out to the area of the spillway?

2 A. It was after 5:00.

3 Q. All right. And how much time that day did you have
4 out there to spend before it got dark?

5 A. I didn't have much longer because of the time it gets
6 dark, so I didn't have really a whole lot of time.

7 Q. All right. Did you drive a vehicle down to the
8 spillway?

9 A. Yes. I parked on the other side of the road.

10 Q. All right.

11 A. On the other side of Burnt Gin.

12 Q. Let me ask you this. If you look at this diagram
13 right here. Yes, sir, come on.

14 (WHEREUPON, the witness steps down from the witness
15 stand.)

16 Q. This diagram 763, this is Spans Store sight here?

17 A. Um hum.

18 Q. Coming down 763 you make a left turn down on Burnt
19 Gin Road?

20 A. Yes.

21 Q. And you go down to the spillway?

22 A. Yes.

23 Q. Is there a little parking area?

24 A. Yes.

25 Q. Over in this side of the road on the right side of

1 the road?

2 A. Yes, sir.

3 Q. That's where you parked?

4 A. Yes. I would park here and walk down to -- well, I
5 would cross the dirt road and go down to a little path.
6 There is a path there.

7 Q. All right. So let me show you a picture of State's
8 Exhibits 14, and 16 and ask if you can look at them, 14
9 and 16. Is that ---

10 A. This is the parking area.

11 Q. Point to it on the sketch.

12 A. (witness points).

13 Q. Right there?

14 A. Yeah.

15 Q. And people come up there off the road and pull into
16 that area and park?

17 A. You can also fish there, too.

18 Q. Okay. Very good. And is that how it looked to you,
19 this area, this parking area, look in November?

20 A. Yes, cause that tree there, truck was parked right
21 there.

22 Q. Okay. When you got there that day were other trucks
23 or vehicles there?

24 A. No, it wasn't.

25 Q. All right, sir. That's good. And let me ask you

1 this. I'm going to show you what's been marked as State's
2 Exhibit 20. Is that another angle view of the?

3 A. Yes, it is.

4 Q. Of what?

5 A. Of the parking area.

6 Q. And the person who took this picture, where were they
7 standing when they took this picture of the parking area?

8 A. They had to be standing down here. This is -- right
9 here is the dirt road right here.

10 Q. That's the dirt road right there?

11 A. Yes. That why took the picture going towards the
12 parking area.

13 Q. So that would be?

14 A. Vehicles here. He would be standing here.

15 Q. Taking the picture of the parking area?

16 A. Correct.

17 Q. All right. Now, if you were standing on the road
18 looking down towards the pathway would you recognize that?

19 A. Yeah.

20 Q. What is that?

21 A. That's the other side over there. The other side of
22 the dirt road.

23 Q. All right. This is the side, the other side?

24 A. Yes. This is this side.

25 Q. Looking down?

1 A. Yes, sir.

2 Q. And is there a creek that runs in that picture?

3 A. I mean you can see it there.

4 Q. How wide is the creek?

5 A. If I was to lay down cross it I would even be able to
6 touch both sides of it. I'd say about 8 feet wide.

7 Q. All right. Very good. How wide was the creek?

8 A. If I was to lay down cross it I would even be able to
9 touch both sides of it. So I would say it's about 8 feet
10 wide.

11 Q. Okay. Very good. And from here, the parking area
12 down the path, how far can you go down the path before --
13 I mean could you go for a mile?

14 A. No. You can't because there -- the creek and
15 actually gets down in there it's open real wide and it's
16 pretty deep down in there.

17 Q. All right. Go ahead and sit down.

18 (WHEREUPON, the witness returns to the witness
19 stand.)

20 BY MR. FINNEY:

21 Q. On that particular day when you got out of your car
22 at the parking area did you know where you were going to?

23 A. Yes. I already done made plans to walk down the
24 area.

25 Q. You had been in that area before?

1 A. Yes, sir.

2 Q. When you got out the car you crossed over the road,
3 the dirt road, how far would you say you walked until you
4 stopped?

5 A. That day I walked past it, and then I came right back
6 through my same area, my same path.

7 Q. Did you notice anything on the path or near the path
8 that Wednesday when you went down into that creek area?

9 A. Yes.

10 Q. What did you notice?

11 A. A hole.

12 Q. All right. Tell the ladies and gentlemen of the jury
13 what you mean by, 'a hole'?

14 A. Well, I had been doing hunting for years, and it
15 looked like a coyote had digged the hole. I didn't pay it
16 no attention. I went on about my business.

17 Well, coming back through I saw it again that
18 Wednesday. I went to work that Thursday morning, bot off,
19 came home, same routine again about the same time.

20 But I notice the hole wasn't there anymore. Any time
21 a coyote digs a whole they -- if a dog digs a hole they
22 dig up under them. There was no dirt there. I didn't
23 think much of it, you know, at that time. So the hole was
24 covered up and I was looking around and then that's when I
25 seen something that I never seen before and immediately I

1 went back up the hill and called 911.

2 Q. All right. So first of all let's start with -- cause
3 you talk about two different days, right?

4 A. Um hum.

5 Q. You went down there Wednesday?

6 A. Wednesday.

7 Q. After work?

8 A. Yes.

9 Q. And you went back down the same parking area on
10 Thursday?

11 A. Thursday, yes.

12 Q. On Thursday did you take your rifle? Your stand?
13 Your camera? Anything?

14 A. Cause when I go -- I was going to go ahead and make
15 my mind up Thursday, and when I come back -- I was going
16 to come back that Friday and go ahead set up. And I was
17 going to hunt what weekend. That's when the State
18 actually opened. They have different days that they're
19 open. You can walk the State if it's close, but you can't
20 have any firearms.

21 Q. And so, Thursday, was that a closed day?

22 A. Yes.

23 Q. And Friday would have been an open day?

24 A. Yes.

25 Q. All right. Now, when you went down there on

1 Wednesday you walked the path?

2 A. Yes.

3 Q. Is it a pretty easy walk to get down from the roadway
4 down to ---

5 A. Yes.

6 Q. Pretty easy walk. All right. And you say you saw a
7 hole?

8 A. Yes.

9 Q. All right. I'm going to show you State's Exhibit 36
10 and ask you to describe what you see in that picture?

11 A. A hole.

12 Q. All right. Would you tell the ladies and gentlemen
13 of the jury what size was the hold when you first saw it
14 on Wednesday?

15 A. It was about, maybe 3 inches wide at the time. I
16 don't know how deep it was because it had done filled with
17 water.

18 Q. You said 3 inches?

19 A. Yes.

20 Q. 3-inches?

21 A. Not 3 inches. I'm sorry. Maybe a foot wide and I
22 don't know how deep it was because the water had done
23 start settling in there because it is a mid hole in there.

24 So I don't know really how deep it was, but there was
25 water in the hole.

1 Q. Okay. And the location of the hole, if I gave you --
2 I had a marker here. If I could ask you to come and put
3 an X where you think you saw the hole on Wednesday?

4 (WHEREUPON, the witness steps down from the witness
5 stand.)

6 BY MR. FINNEY:

7 Q. Leaving the parking area across the road where did
8 you see the hole on Wednesday?

9 A. It was right along in here somewhere.

10 Q. All right. Thank you, sir.

11 (WHEREUPON, the witness returns to the witness
12 stand.)

13 BY MR. FINNEY:

14 Q. You put an X there?

15 A. Yes.

16 Q. All right. Very good. And was there anything else
17 around the hole or near the hole that caught your
18 attention to that area?

19 A. No, that's why I never -- that's why I didn't pay any
20 attention to it because there was nothing around it.

21 Q. Did you see any other holes Wednesday ---

22 A. No, sir.

23 Q. --- that looked like that?

24 A. No, sir.

25 Q. In all the years that you've been going down in this

1 part of the Wedgefield Community had you seen any holes
2 that seem to be like that?

3 A. No, sir.

4 Q. How long did you stay out there after you saw the
5 hole?

6 A. Wednesday.

7 Q. Wednesday.

8 A. Not long because it was getting dark.

9 Q. So would you say by 6:00 or 6:30 you were definitely
10 out of there and back home?

11 A. Yes, sir.

12 Q. And you live how far away from this area?

13 A. Two minutes.

14 Q. All right. Thursday morning you get up and you go to
15 work. Five o'clock in the morning? Four o'clock in the
16 morning?

17 A. I had to be to work at 5:00.

18 Q. All right. You worked your shift. You got back
19 home, 3:30 in the afternoon? Four o'clock in the
20 afternoon; is that right?

21 A. Yes.

22 Q. What time do you go down to the woods that day, on
23 Thursday?

24 A. Possibly about the same time.

25 Q. All right. And you don't have your equipment, so

1 you're just going to spend a little time to scout around?

2 A. Yes, sir.

3 Q. Do you go park down in the same area where the hole
4 was?

5 A. Yes.

6 Q. Do you see it?

7 A. No, I didn't Thursday. I didn't see the hole.

8 Q. All right. Let me ask you this. The hole that you
9 saw, which I showed you a picture of like in State's
10 Exhibit 36, was there anything on top of the hole when the
11 you saw it? Like limbs? Branches?

12 A. Yes, it was. You could tell somebody had done
13 covered up and ---

14 Q. Hold on a minute. I'm talking about Wednesday.

15 A. Oh, Wednesday, there was nothing there.

16 Q. No trees?

17 A. No nothing.

18 Q. No limbs? No branches?

19 A. No nothing.

20 Q. Just a hole in the ground?

21 A. Just a hole.

22 Q. On Thursday when you went back to the same spot the
23 hole was not there?

24 A. That's correct.

25 Q. What was on top of the hole?

1 A. Leaves and some trees.

2 Q. And I show you State's Exhibit Number 22?

3 A. That's it.

4 Q. Is that the branches and leaves that you saw on
5 Thursday?

6 A. Yes.

7 Q. All right. And when you saw the leaves and the
8 branches on Thursday it was on the top of the area seen in
9 the hol on Wednesday; is that right?

10 A. Yes.

11 Q. Now, was there anybody in the woods on Thursday when
12 you went down there?

13 A. No.

14 Q. All right. When you went down there Thursday you say
15 you saw something that you had never seen before?

16 A. Yes?

17 Q. What was that?

18 A. It was a leg with a shoe on it. A leg with a shoe on
19 it.

20 Q. And what color was the shoe?

21 A. Straight off hand I didn't really pay attention to
22 what kind of shoe it was. It was a shoe.

23 Q. Did you touch it?

24 A. No, I didn't.

25 Q. All right. You could tell it was a shoe and a leg?

1 A. Yes.

2 Q. And could you see any other part of the body?

3 A. No.

4 Q. I want to show you State's Exhibit 25 and ask you if
5 that's what you saw?

6 A. Yeah.

7 Q. Is that the shoe?

8 A. Yes.

9 Q. And the sticks and the leave and everything were on
10 top of it?

11 A. Yeah.

12 Q. What did you do after you saw it?

13 A. I picked the stick up and poked at at.

14 Q. All right. And the shoe didn't just roll away, did
15 it?

16 A. It didn't move.

17 Q. All right. What did you do then?

18 A. Hauled behind.

19 Q. Hauled behind.

20 A. That means I left. I didn't play any games. I left.

21 Q. What did you do? Where did you go?

22 A. Back to the top of the hill where my truck was.

23 Q. What did you do when you got to your truck?

24 A. Called 911.

25 Q. Did you speak to an officer or operator, 911

1 operator?

2 A. I believe I did.

3 Q. And you reported that you ...

4 A. Yes, I did.

5 Q. You reported that you had found something very
6 unusual?

7 A. I told them I found something. I didn't know exactly
8 what it was.

9 Q. All right.

10 A. I don't know. Could they send an officer out.

11 Q. To the best of your estimate what time are we talking
12 about on Thursday afternoon?

13 A. It was like first dark.

14 Q. Okay.

15 A. It wasn't like dark, dark. You still could see down
16 in there pretty good. I didn't really look at the time.

17 Q. Okay. As a result of making the call were you told
18 to wait there or an officer was coming to you?

19 A. They said an officer was coming.

20 Q. All right. What did you do then?

21 A. After I hung up the phone with them I called my
22 mother, and I explained to her what I just found. She
23 said, "You need to come and get me." So I went and got
24 her and came back, and we still was sitting there waiting.

25 Q. All right. When the officer got there did you have

1 to take him down to the shoe?

2 A. I pointed to were it was.

3 Q. You didn't go back down there?

4 A. No, sir.

5 Q. And so the officer went?

6 A. Yes.

7 Q. And how long was it from that point until you were
8 able to leave that area?

9 A. When he got finished with me.

10 Q. And how long was that?

11 A. Three hours. Four hours, maybe.

12 MR. FINNEY: Beg the Court's indulgence. One moment,
13 Your Honor.

14 BY MR. FINNEY:

15 Q. I want you to listen ---

16 MR. BARNES: Your Honor, if I may. I guess by way of
17 an objection or just a procedural, if this is going to be
18 offered in evidence can we have some introduce as to what
19 it is? What it's number is? You can't just show a video
20 or a tape without offering it into evidence or by way of
21 some sort of introduction.

22 So if I can have some clue as to what he's getting
23 ready to do so that I might be prepared the object or
24 something else.

25 MR. FINNEY: Your Honor, counsel should know that

1 this is Exhibit Number 60 cause he approved its entry on
2 Monday.

3 THE COURT: Well, he didn't know it was Exhibit 60.

4 MR. FINNEY: And I understand that. I was going to
5 ask the man on the witness stand before I proceed.

6 THE COURT: He doesn't know what exhibit it is.

7 MR. FINNEY: I'm going to ask him about the 911 call.

8 THE COURT: Tell us what this is. Don't ask him
9 anything.

10 MR. FINNEY: There is Exhibit Number 60. It's a 911
11 call by David Gayle to Sumter County Emergency Response
12 reporting what he had found.

13 MR. BARNES: Thank you. I have no objection.

14 THE COURT: Okay. You can play it.

15 (WHEREUPON, State's Exhibit Number 60 was played for
16 the jury.)

17 BY MR. FINNEY:

18 Q. That's when you left to get out?

19 A. Yes, sir.

20 Q. And you all came back to that same parking area?

21 A. Yes.

22 Q. All right. And how long did it take the officer to
23 get there?

24 A. Maybe 20 minutes or so.

25 Q. All right. And then you stayed there and helped them

1 until they said it was all right for you to leave?

2 A. Yes, sir.

3 Q. Thank you. Nothing further. Answer any questions
4 the Defense may have?

5 CROSS-EXAMINATION

6 BY MR. BARNES:

7 Q. Good afternoon, Mr. Gayle?

8 A. Good afternoon.

9 Q. My name is Jack Barnes, and I represent Mr. Ginther.
10 In the recording that we just heard you described to the
11 911 operator about a big, deep hole?

12 A. Correct.

13 Q. When you were talking to Mr. Finney about the size of
14 the hole you saw on the 15th you said at first it was 3
15 inches which was probably about that big? Would you agree
16 with me that's about 3 inches?

17 A. Yes. I mean if I had a tape measure I'm sure you
18 could measure that for you and tell you exactly what that
19 may be?

20 Q. All right. That might be 3 inches. You agree with
21 me about that?

22 A. Yeah.

23 Q. Okay. This is a sheet of paper that's nine and a
24 half by 11, and I think once you corrected yourself you
25 said the hole was about a foot wide, correct?

1 A. Correct.

2 Q. Okay. So let's give another inch to this 11 piece of
3 paper, 11 inch piece of paper. That's about how wide the
4 hole was?

5 A. At that time I didn't -- I wasn't paying attention to
6 that. I just knew a hole was there. I didn't know how
7 wide it was or how deep it was.

8 Q. Okay. Well, you described it as being foot wide. So
9 was it a foot wide?

10 A. It was a foot wide.

11 Q. Okay. So it was this wide? Approximately? If this
12 is 11 inches and that's another inch that's a foot,
13 12-inches?

14 A. I mean if that piece of paper was a foot then I can
15 tell you it was a good foot.

16 Q. Well, it's 11 inches.

17 A. Okay.

18 Q. So this is how big it was. How long was it?

19 A. I don't know how long it was.

20 Q. Okay. You know it's 12 inches wide, but you don't
21 know how many inches long or how many feet?

22 A. Oh, how long? It's 12-inches.

23 Q. So it was a 12 by 12 hole?

24 A. I don't know. If I had a tape measure I could tell
25 you exactly how wide it was.

1 Q. Okay. Well, you know that it was 12 inch wide, but
2 you don't know how long it was?

3 A. 12 inches.

4 Q. 12-inches long? So it was 12 by 12? It was
5 essentially a square foot?

6 A. One foot.

7 Q. 12-inches by 12 inches os a square foot, right?

8 A. Correct.

9 Q. And how deep was it?

10 A. I don't know how deep it was.

11 Q. Cause it was filled with water, right?

12 A. It was filled with water.

13 Q. Okay. So why is then, Mr. Gayle, that you want to
14 describe it as a big, deep hole? We're talking about
15 something that's this big. That's not a big hole in my
16 opinion. Is that a big hole to you?

17 A. I mean if you were to put a pole or a power line
18 could you tell me how deep that hole was without just
19 looking at it?

20 Q. Well, with all due respect I get to ask the
21 questions. So my question is to you is the hole is
22 essentially 12 by 12? One square feet, that's how you
23 described it. Is that a big hole? Let's set aside the
24 deepness cause we don't -- you said that it was filled up
25 with water so we don't know how deep it was?

1 A. I was a round hole. It wasn't a square hole. It was
2 a round hole.

3 Q. Oh. So the circumference was basically 12?

4 A. I guess.

5 Q. Okay. This is important. You were the only person
6 to see this hole before. Not trying to stress you out,
7 but the description of the hole is important. And you
8 described it on the 911 call as having seen a big, deep
9 hole the day before.

10 Now, you're telling us that it's a 12-inch square
11 which is like that, and it's full of water and so you
12 don't know how deep it is?

13 A. If the water wasn't there I could give you a little
14 more about how deep it was.

15 Q. Well, why did you tell the dispatcher that it was a
16 big, deep hole that was full of water the day before how
17 deep it was.

18 A. It had to be a deep hole if water was in it.

19 Q. What if it was only half an inch of water? Did you
20 put a stick in it to see how much it was?

21 A. No. It was a swamp area. So, I mean ...

22 Q. And the water in that swamp area is black so you
23 can't see the bottom, right?

24 A. Correct.

25 Q. Okay. It could have been 1-inch? It could have been

1 30-inches? You don't know?

2 A. Correct.

3 Q. And there was not any dirt around that hole, right?

4 A. No.

5 Q. And a body could not have fit in that hole you saw,
6 could it, Mr. Gayle?

7 A. I don't know. It was just a hole there. I mean it
8 looked like a coyote had dug the hole.

9 Q. A coyote?

10 A. Coyote.

11 Q. Okay. Cause these wasn't any dirt around it like
12 somebody had taken a shovel and dumped dirt out?

13 A. I couldn't really tell you. You didn't see any dirt
14 around it.

15 Q. Well, you saw it closely enough to know that it was
16 12-inches in circumference. Did you see any dirt?

17 A. No.

18 Q. Okay. So you didn't see any dirt cause there wasn't
19 any dirt, was there?

20 A. It wasn't no dirt.

21 Q. What sort of -- so you had been scouting that area.
22 What sort of tracks did you see that lead you to want to
23 go back there the next day after you were out there on
24 Wednesday scouting. And then you're going back on
25 Thursday to scout on Friday. So what kind of tracks were

1 you seeing?

2 A. Deer tracks.

3 Q. Okay. Were they going back and forth on that?

4 A. Yes.

5 Q. Okay. When you were out that area have you ever
6 scared up any deer or anything right along that area that
7 might have already bedded down for the night?

8 A. No.

9 Q. Okay.

10 A. Deer don't dig holes. They come and drink water and
11 leave.

12 Q. Okay. I believe you testified that the path that you
13 went down from the road towards -- back towards where you
14 ultimately saw the shoe was worn, right? You said it was
15 definitely a path I think was your words?

16 A. It was a pathway.

17 Q. So that was an area that you could tell if you were
18 on the road to walk down there, right?

19 A. I mean it's a path. I don't know who be there all
20 the time. You can tell the animals walk through there.

21 Q. Well, this whole area is actually pretty well
22 frequented by people going fishing and other people going
23 hunting that day and that kind of stuff, right?

24 A. Correct.

25 Q. Okay. So it's not unusual when you are out there to

1 see multiple cars other than your car, right?

2 A. Well, that day I was the only one there.

3 Q. Correct, but it would not be unusual for you to see
4 several cars there with people fishing, perhaps other
5 people scouting, right?

6 A. Really, to be honest, you've not allowed to fish on
7 that side. You only can fish on the left side.

8 Q. Okay. What do people come to that park spot for
9 then? We've already established that it's the parking
10 spot. If you can't fish there what are all the cars
11 coming to park doing, Mr. Gayle?

12 A. I couldn't tell you.

13 Q. Okay. I believe, actually, when you were referencing
14 State's Exhibit Numbers 14 and 16 my notes say there was a
15 parking area because you said you can also fish there?

16 A. That's the left side I was talking about.

17 Q. Okay. So you would park your car there and get out
18 and go around to the left side and then you can fish
19 there, right?

20 A. Yes.

21 Q. Okay. So the next day when you come back and you see
22 that the 12 inch hole has now been filled up with sticks
23 and leaves, I believe you said, and you see the shoe. At
24 this point the area covering and the things covering the
25 hole is much bigger than 12 inches, correct?

1 A. I guess it was just leaves everywhere, so I mean,
2 you would really have to stare into it to see something
3 like that.

4 Q. Okay.

5 A. But my mind I knew a hole was there that Wednesday.

6 Q. Right.

7 A. And when I came back that Thursday there was no hole.

8 Q. Right. You knew there was a hole this big, and the
9 next day you come back that 12 inch hole is covered up and
10 were there limbs on top of it?

11 A. Correct.

12 Q. And were those limbs 12-inches or were they much
13 longer?

14 A. I don't know how long. I know it was ---

15 Q. Just give me an estimate. Were they this long?

16 A. It was trees. I don't know how long the trees were.

17 Q. It was actually tree branches?

18 A. Yes.

19 Q. So it wasn't sticks? You would call it trees?

20 A. Trees, I mean.

21 Q. This swampy area, lots of water, right?

22 A. Correct.

23 Q. Before the Wednesday the 15th that you were out there
24 and saw the hole how many days prior to that before you
25 had been back out there?

1 A. I haven't been back still to this day.

2 Q. I'm sorry. I didn't -- I don't mean since then. So
3 you go out on the 15th to scout. You go back on the 16th
4 to scout. You were going to hunt on the 17th. Had you
5 gone back on either the 12th or the 11th? I'm trying to
6 figure out when before the 15th you were out there?

7 A. I went that Wednesday, and I went that Thursday.

8 Q. You hadn't gone Tuesday or Monday though?

9 A. No, sir.

10 Q. Had you gone like the week before, maybe?

11 A. No, sir.

12 Q. Okay. So this was just -- season was getting ready?

13 A. I season was already in. I was already hunting
14 someplace else. That's where I wanted to go.

15 Q. I'm with you. Let me ask you this. At some point
16 you were planning to bring a tree stand with you when you
17 went back?

18 A. Correct.

19 Q. Well, with all that water around down there that
20 seems to me that would be pretty unstable, would it not,
21 for a tree stand?

22 A. That's why when you walk you walk to the right. Walk
23 on the other side of the creek. On the right side of the
24 creek.

25 Q. Okay. So you were going to go across the road from

1 the parking area, and you started walking down the road.

2 The creek is to your left, and then you're going to take
3 off and go off the path up to the right?

4 A. My plan was that's my end trail.

5 Q. All right.

6 A. That's where I go in at, and I would go cut back to
7 the right a little bit. There is a field over there, and
8 I can see the creek. Deer have to drink water.

9 Q. All right.

10 A. All animals need water so they're going to come
11 there, but I wanted to see which way they were traveling.

12 Q. Okay. So your plan was to take your tree stand and
13 go off that -- on the edge of that field and then you
14 could hopefully catch them as they head to the water hole?

15 A. Correct. Tree stand is real long, so I wanted to
16 make sure that's where I wanted it. So that's why I
17 didn't bring it.

18 Q. Long and heavy?

19 A. Yes.

20 Q. Have you seen coyotes out there before?

21 A. I've seen one or two.

22 Q. Okay.

23 A. Out of my life. I mean.

24 Q. Have you ever seen Mr. Ginther who is seated to my
25 left before?

1 A. Yes.

2 Q. When did you see him?

3 A. When he came to my house.

4 Q. He came to your house?

5 A. Yes.

6 Q. Okay. When did he come to your house?

7 A. That left or that right?

8 Q. I'm sorry. This is Jason Bridges, my co-counsel.

9 I'm talking about Mr. Ginther right here. Have you ever
10 seen him before?

11 A. No, I have never seen him.

12 Q. So today is the first day you've seen him?

13 A. Yes.

14 Q. At some point I think you described this place where
15 you were going to hunt as your secret place?

16 A. I mean a real deer hunter, that's what they do.

17 Q. Okay. So you would have to know that area pretty
18 well in order for you to know where your honey hole was,
19 right?

20 A. Yes.

21 Q. Okay. Thank you. That's all I have.

22 MR. FINNEY: Please the Court?

23 THE COURT: Yes, sir.

24 REDIRECT EXAMINATION

25 BY MR. FINNEY:

1 Q. Mr. Gayle, you described on the 911 call seeing some
2 land or area that was disturbed?

3 A. Yes.

4 Q. You told the 911 operator?

5 A. There was some scuff marks.

6 Q. Scuff marks. Let me ask you to look at this picture,
7 please, sir. State's Exhibit Number 18. Where was the
8 scuff mark that you saw?

9 A. Right there in that area. I believe the hole is on
10 this side if I'm not mistaken.

11 Q. Was the scuff marks down by the hole or up in the
12 parking area?

13 A. By the hole.

14 Q. By the hole. Okay. And did you tell the officers
15 who came after you made the 911 call about that?

16 A. Yes.

17 Q. So they would have gone down there?

18 A. Yes. So they would know exactly the way I described
19 to them what was going on.

20 Q. But you didn't go back down there?

21 A. No, sir.

22 Q. All right. And you haven't been back there since?

23 A. No, sir.

24 Q. All right. Thank you, sir. Nothing further.

25 THE COURT: You can step down. Thank you, sir.

COLLOQUY

MR. FINNEY: Your Honor, we have a couple of technical issue that we need to get ready for. If we can take a ten minute break I would ask the Court for.

THE COURT: Okay. Ladies and gentlemen, we will take a ten minute break. Don't discuss the case.

(WHEREUPON, the jury panel was excused from the courtroom at 3:02 p.m.)

THE COURT: We'll be in recess.

(WHEREUPON, Court was in recess 3:02 p.m. and reconvened at 3:24 p.m.)

MR. FINNEY: Please the Court, Your Honor.

THE COURT: Yes, sir.

MR. FINNEY: It has come to my attention that the State's Exhibit 34 that's been entered into evidence is a photograph of the victim in this case that we do not need. And we did not propose to put it in. We didn't think -- it got into the envelope by accident. We are going to move to withdraw Exhibit 34?

(WHEREUPON, State's Exhibit No. 34 was removed from evidence.)

THE COURT: Okay. Any objection?

MR. BRIDGES: None, Your Honor.

THE COURT: Okay. All right. You

MR. FINNEY: Your Honor, at this point, when the

1 witness is called, we are going to ask to play a CD of an
2 interview between James Ginther and Lieutenant --
3 Investigator Randall Stewart, and that disk has been
4 marked as State's Exhibit 62, and we propose to enter it
5 into evidence at this point. It's been seen by the Court
6 and the Defense.

7 THE COURT: Okay. And my understanding and based on
8 our conversations in chambers and during our early session
9 there are certain portions of it you disagree with and
10 object to. And you have agreed to redact those portions
11 by mutual consent.

12 And since we don't a redacted version we will play
13 those portions agreed on and those that are not will be
14 stopped and fast forwarded. I will explain to the jury
15 what's happening. And if in fact the jury wants to hear
16 it again we'll have to bring them back to the courtroom.

17 And you will have a copy of those redactions. I can
18 give it to the court reporter for any appellate review so
19 they will understand what was not played; that is correct?

20 MR. BRIDGES: Thank you, Your Honor. Just for the
21 record I made an initial Jackson v. Denno objection, so I
22 renew that.

23 THE COURT: I understand.

24 MR. BRIDGES: And, yes, we have compiled a list of
25 parts of the video to skip.

1 THE COURT: Okay. Thank you. Are y'all ready?

2 MR. FINNEY: Yes, sir, we're ready. .

3 THE COURT: Okay. What we'll have to do is bring the
4 jury in here. Call Investigator Stewart. Have to swear
5 him in. He will take the stand and then proceed with the
6 video. However y'all want to do it.

7 MR. FINNEY: Thank you, sir.

8 THE COURT: All right. If you will, please, bring me
9 the jury, sir.

10 (WHEREUPON, the jury panel enters the courtroom at
11 3:34 p.m.)

12 THE COURT: Thank you, sir. Solicitor.

13 MR. FINNEY: Please the Court, Your Honor. We call
14 Randall Stewart to the stand.

15 THE COURT: Come around, sir.

16 BAILIFF: State your name.

17 THE WITNESS: Randall Stewart.

18 RANDALL STEWART, after being duly sworn,
19 testified as follows:

20 BAILIFF: Thank you. Step around. Watch your step.
21 State your name for the record spelling your last.

22 THE WITNESS: Randall Keith Stewart. S-T-E-W-A-R-T.

23 DIRECT EXAMINATION

24 BY MR. FINNEY:

25 Q. Good afternoon, Investigator?

1 A. Good afternoon, sir.

2 Q. Investigator, by whom are you employed?

3 A. Sumter County Sheriff's Office.

4 Q. And what do you do there?

5 A. I am a criminal investigator in investigation's
6 Division for the Major Crimes Unit.

7 Q. And how long have you been associated with Major
8 Crimes Unit?

9 A. I have been with Major Crimes for three of the five
10 years that I've been in investigations.

11 Q. And what is your career in law enforcement? How long
12 is it?

13 A. To include my part time status, beginning in 2004, 15
14 years.

15 Q. All right. And before that what was your career?

16 A. I was active duty military.

17 Q. All right, sir. And stationed in what branch?

18 A. U.S. Air Force.

19 Q. All right, sir. Did Shar Air Force Base bring you to
20 Sumter?

21 A. Yes, sir.

22 Q. All right. Very good. At the Sheriff's Office when
23 a call comes in that a body has been found and it appears
24 foul play is involved does the Major Crime Unit get
25 involved right away?

1 A. Absolutely.

2 Q. And have you been assigned to this case from day one?

3 A. From the beginning, yes, sir.

4 Q. All right. The jury has heard all the witnesses
5 about what lead up to the location of the body. What was
6 your response when the call came in that Mr. Gayle, the
7 hunter, had found the body?

8 A. Yes, sir. On Thursday, November the 16th, that
9 afternoon, I was out of the office. My lieutenant called
10 me. Asked me to expedite back; that they had a missing
11 person report, and they needed my assistance with some
12 cellular analysis.

13 Q. With some cellular analysis?

14 A. Cellular analysis.

15 Q. All right. Are you certified with the special
16 training in how to analyze cell phone data?

17 A. Yes, sir. I was one of two people in our office who
18 were chosen to attend a specialized F.B.I. Training
19 Academy where there are only two of us that have access to
20 a restrictive program to analyze cellular data.

21 Q. All right. To get the cellular data you would have
22 to have the phone number that you're looking to look up
23 and research; is that correct?

24 A. Yes, sir.

25 Q. How were you able to get that information?

1 A. When the report was filed the person who filed the
2 report provided the number of missing person, and then
3 based on the facts of what was available at that time and
4 Corporal Prescott informed me of the information going
5 back that morning. We knew we had an exigent situation.
6 So I contacted Sprint's Legal Department and through my
7 pass code and badge number I obtained the victim's
8 cellular records for seven days. From seven days past up
9 to that moment, and we also attempted to find the ping
10 point.

11 Q. All right. Now, the information, the cellular
12 information, came to you as a result of a family member
13 reporting that Ms. Suzette missing?

14 A. Yes, sir.

15 Q. What time was that report made?

16 A. The 911 call came in shortly after 2:00. The report
17 shows written at 2:51.

18 Q. All right. So between 2:00 and 2:51 p.m. on Thursday
19 afternoon?

20 A. The 16th.

21 Q. The missing person report was made official?

22 A. The report was official just after 2:00 p.m.

23 Q. All right, sir. And what time did she, 'go missing'?

24 A. That was unknown at the time. In the initial report
25 from the reporting party she was last seen at 4:00 a.m.

1 leaving for work.

2 Q. All right. So between 4:00 a.m. on the 17th and
3 2:00 p.m. she was not -- she had not been heard from?

4 A. We had a ten hour window of no contact.

5 Q. All right. Now, after you got the cellular
6 information on Ms. Suzette's phone did that information
7 lead you to start looking at certain places and peoples?

8 A. Absolutely. I analyzed the most recent calls and
9 worked backwards on voice calls, voice messages, texts,
10 who sent. I started researching which numbers belonged to
11 which person. And in my program I can also input the data
12 and it will plot on a map call location based on tower
13 usage. So I was able to determine the last location of
14 the device and last contact information.

15 Q. All right, sir. And based on that list you started
16 working the phone numbers that you found on her cellular
17 records?

18 A. Yes, sir.

19 Q. All right. At what point did you get the call that
20 the hunter had found the body?

21 A. I was actually still at my desk researching the
22 cellular data. It was somewhere around 4:00 or 4:30. My
23 lieutenant came and informed me that patrol, who I knew
24 they were already out with the van, had diverted -- some
25 individuals went out to report a possible body found in

1 the woods.

2 Q. All right, sir. Did you go to the woods?

3 A. Yes, sir.

4 Q. All right. And as you traveled out there had you
5 ever been to that location on -- is it Burnt?

6 A. Burnt Gin Road.

7 Q. Burnt Gin Road. Have you ever been out there?

8 A. I knew where it was, but I had not personally been
9 out there to Burnt Gin Camp myself.

10 Q. If you don't mind would you tell the ladies and
11 gentlemen a little bit about -- did you happen to go, as a
12 result of your investigation, did you go to Burnt Gin to
13 the location of the body?

14 A. Yes, I did.

15 Q. And did you take any photographs that day or anything
16 like that associated with the area around the body?

17 A. No, sir. I arrived at the secured perimeter and made
18 contact with Lieutenant Vickers who was already on the
19 scene, and he was already starting the process there.

20 Q. All right. Now, when you say, 'process the area' was
21 he putting down the markers that we saw in the photographs
22 shown earlier like State's Exhibit 19 where they had a
23 marker in the parking lot area?

24 A. Yes, sir. There were no vehicles in that parking lot
25 at that time, and they backed up and blocked off the Burnt

1 Gin portion of the road. And when I arrived on scene he
2 was in the process of examining and placing those markers
3 on the scene.

4 Q. All right. And so after you got out to Burnt Gin
5 would you tell the ladies and gentlemen what the officers
6 were doing from let's say five o'clock until whatever time
7 you left?

8 A. At the location of Burnt Gin?

9 Q. Yes, sir.

10 A. When I arrived out on scene two of the patrol
11 officers who had been at work all day were already out
12 there securing the area. Lieutenant Vickers and Deputy
13 Pernada, they were out there examining the area. The
14 entire area from the parking lot across the road all the
15 way down the trail placing markers.

16 I made contact back with my lieutenant back to the
17 office, and that's where I was given the full story that
18 the patrol officer who knew this area had already
19 connected that that van may have been at that location as
20 well based on the sand.

21 So we were determined, and we had a missing person,
22 and when my Lieutenant, Lieutenant Vickers, came to me and
23 said, "I went to the shoe cause the hunter was very scared
24 at that particular time, and I needed him to calm down
25 before I could interview him."

1 Lieutenant Vickers said, "there is a foot in that
2 shoe. We do have a body." So now we have a missing
3 person's report that's only a few hours old, and then we
4 have the van that was related to that missing person and
5 then we have at least circumstantial evidence at that
6 moment that connects where the body was found to that van.

7 So we had to assume the two of them were related
8 until I could prove or disprove either one. So we just
9 connected the two and locked that area down.

10 Q. All right, sir. As a result of when you found the
11 body and the location of the body did you assume that
12 there was going to be evidence that needed to be
13 collected?

14 A. At both the van as well as the crime scene in the
15 woods.

16 Q. And so was a decision made that afternoon regarding
17 removing the body that had been found?

18 A. Yes, we were actually struggling with the clock
19 because it was dusk at this time. It was daylight when I
20 first met Mr. Gayle. By the time I had a chance to sit
21 down and do a second full interview it was already dark.
22 So we were out there for at least two hours, maybe three
23 hours at the time.

24 So I contacted my lieutenant through my chain of
25 command, and they contacted Sheriff Bosett. Do we involve

1 S.L.E.D. or not. Do we process this scene. Do we call
2 S.L.E.D. in for assistance. And we're against the
3 o'clock. We have a crime scene we must preserve. So we
4 started to process the scene, and then we were told that
5 S.L.E.D. would assist, but because there was no light in
6 those woods whatsoever the command decision was made to
7 secure the scene and wait until daylight the next morning
8 which was difficult to do, but we needed to preserve the
9 evidence.

10 Q. Okay. All right, sir. So everything was put on lock
11 down Thursday night?

12 A. Yes, sir.

13 Q. All right. And when did S.L.E.D. arrive?

14 A. S.L.E.D. arrived at daylight, Friday morning.

15 Q. All right. And they began the process of processing
16 the scene?

17 A. Yes, sir. I met Agent Kristina Gainey from S.L.E.D.
18 who was assigned to coordinate with me. The two of us
19 handled this jointly. And she brought out the Crime Scene
20 Team, and they met with Lieutenant Vickers and basically
21 reprocessed the entire area noting what was previously
22 marked.

23 And they just started all over again to ensure the --
24 because of dusk that the Sheriff's Office didn't miss
25 anything because we ran out of daylight.

1 Q. All right. Would you tell the ladies and gentlemen
2 of the jury some of the evidentiary things that were found
3 in the parking lot and down near the body that were
4 collected by S.L.E.D. and sent to the laboratory?

5 A. Sure. On -- when S.L.E.D. got there they needed to
6 be back briefed, so we took a few minutes to explain to
7 them what we knew, what we didn't know, and why all this
8 was important. So S.L.E.D. started up at the parking lot
9 area which was against the edge of the water and walked
10 their way all the way down noting, photograph, and
11 collecting the previously marked items and then searched
12 to see if they found anything else new.

13 So up in the parking area things that had been
14 pointed out the previous evening was the glove on the
15 ground, the tampon which was not worn, was not dirty.
16 There was some crushed dirty water bottles that you could
17 tell were extremely old, and there was an area that was
18 disturbed. We didn't know if someone had collected up a
19 pile of leaves and straw or if it was a sign of a
20 struggle. We weren't sure so we just noted everything
21 that could be found.

22 Once they where through with the parking lot area
23 we -- they asked was there anything related to the road
24 that would be relevant because at that time of the year it
25 would be highly traveled, and only a few people live in

1 that region. So we contacted the County Management and
2 found out that at eleven o'clock that day a road grader
3 came through so any evidence from the road was lost that
4 day. So then S.L.E.D. crossed over the road and he
5 photographed or photo mapped all the way down to the
6 scene.

7 I was behind the team the entire time, and that's
8 when they located the foot which was still in the exact
9 position that Mr. Gayle found it. And they photographed
10 and slowly removed not only the limbs and trees that were
11 piled over the shoe, but then they collected blood
12 samples, shell casing, and they noted freshly broken
13 sticks.

14 Q. All right At that point the body was then remove from
15 the hole that the hunter had found -- saw?

16 A. Yes. When S.L.E.D. got there we were able to
17 manipulate the scene a little bit by and moved some of the
18 dirt and leaves away. We could tell that it was a white
19 female. Had on khaki pants which matched the description
20 that we had. We were fairly certain the night before, but
21 we couldn't positively I.D. her.

22 So as we slowly excavated the scene the S.L.E.D. team
23 and myself spent the better part of two hour just slowly
24 exhuming the site to make sure we didn't miss any. And we
25 also went and filtered through the hole once the victim

1 was removed to see if there was anything else was in the
2 hole.

3 Q. I want to show you what's been marked as State's
4 Exhibit 30, 31 and 32. Could you tell the ladies and
5 gentlemen of the jury what you see in these pictures?

6 A. Yes, sir. That's the excavation taking progress.
7 They would pause and they would photograph. We also ran
8 and got body camera footage to document what we are doing.
9 And they would examine, as they would pull the dirt and
10 the mud away, they would go through the dirt and mud
11 because everything in there they were looking for any
12 evidence along with it. As they would pause and then
13 continue to look further and it was a very slow and
14 tedious process.

15 And then, Number 32 is a picture of the hole once the
16 body was removed.

17 Q. All right. During all of this time, from the time
18 Mr. Gayle made his phone call on Thursday evening until
19 the time the body was actually removed from the hole on
20 Friday at ten o'clock or twelve o'clock, did anybody in
21 the family, in the community, the newspapers, anybody know
22 you all had found her?

23 A. No, sir, there was nothing released that Thursday,
24 that Thursday night or Friday morning. The first news
25 release wasn't until almost 3:00 p.m. Friday afternoon.

1 Q. All right. And the pictures that we're looking at,
2 30, 31 and 32, show you having removed the limbs and the
3 leaves that the hunter saw on top of or around the foot?

4 A. Correct.

5 Q. And after you removed the limbs and the leaves did
6 y'all have to remove dirt in order to look for evidence?

7 A. Yes.

8 Q. And as you moved dirt more and more of the body
9 became apparent?

10 A. It became slowly visible. Once we got down her
11 tattoos were visible. I had already researched that
12 information. I was pretty certain who my victim was
13 before we actually removed her from the ground.

14 Q. All right. This is 30 and 31. Friday morning, you
15 were working with S.L.E.D?

16 A. Yes, sir, I'm standing there with the cameraman from
17 the S.L.E.D. C.S.U. Team.

18 Q. All right. Now, once the body had been removed what
19 did you -- where did you take the body?

20 A. The coroner was present. Once the body was removed
21 she was placed into a carrying item, and she was carried
22 up to the orange vehicle. She was transported to a
23 storage morgue facility at the Sheriff's Office.

24 Q. In Sumter?

25 A. Yes, sir.

1 Q. All right. And did you all do further identification
2 and photographing, whatever, at that time?

3 A. Yes, sir. I want to be careful how I say this. I do
4 realize that there is family in the room. Due to the
5 inability to actually positively I.D. her facially we
6 didn't want to disturb anything about her hair, clothes or
7 any of the mud or dirt on her. We didn't want to disturb
8 anything for autopsy.

9 We went to the morgue where the coroner transported
10 her, and we photo documented as we went through her
11 pockets to confirm actual positive I.D. without question.

12 And she was dressed with the kaki pants, a PetCo blue
13 shirt, had on black tennis shoes, and she had on a AEFES,
14 the BX on base, brand zip up jacket. She worked at AEFES
15 in the past. And inside of the left portion of the jacket
16 was a zipper pocket. And in that zipper pocket I found
17 her wallet, her I.D, some cash, personal items.

18 And also with her personal items she had a check,
19 speeding ticket. And she also had a tampon still in its
20 wrapper, and it was the same brand as the tampon that was
21 out there in the parking lot.

22 Q. All right, sir. All of those items were taken and
23 inventoried and placed into evidence?

24 A. As part of her personal effects, yes.

25 Q. At some point, this is Friday afternoon, at some

1 point the family was notified that you had confirmation
2 that it was Suzie?

3 A. Yes, sir. The coroner advised me that he would take
4 care of that process and somewhere after noon that
5 afternoon he made contact with the family.

6 Q. All right, sir. On Saturday were you given an
7 official duty to transport or go with the body?

8 A. Yes, sir. I myself and Sargent McCauley, we went to
9 Newbury Medical Facility and we attended the autopsy.
10 There was critical forensic evidence that was necessary
11 and we were present for autopsies.

12 Q. All right, sir. When you to the autopsy does the
13 doctor who does the autopsy take samples of, for example,
14 maybe hair? Fingernails? Blood? Urine? All those
15 things are collected at the autopsy?

16 A. Yes, there is -- I'm sure there is a basic of what
17 they do in each autopsy, but at times we make special
18 requests. We ask can you ensure to check for a rape kit
19 or something along those lines to make sure those samples
20 are taken and turned in?

21 Q. All right. And those samples are taken by the doctor
22 at the autopsy and give to who?

23 A. At the time I was there, Agent Dick Sprouse, he was
24 in charge of the crime scene. S.L.E.D. was present as
25 well. He took, because he was in control of the crime

1 scene out on Burnt Gin, he took control of all the
2 forensic evidence. And he works in the same building as
3 the lab so he took control of it.

4 Q. All right, sir. Now S.L.E.D. was in control of the
5 crime scene; is that correct.

6 A. Yes, sir.

7 Q. And Sumter County was in control of the
8 investigation?

9 A. Yes, sir.

10 Q. On Saturday after the autopsy did you have occasion
11 to sit down with the S.L.E.D. agent who was assisting you,
12 Kristina Gainey?

13 A. Yes, sir. She was not able that morning so when
14 myself and Investigator Hilliard left the autopsy we met
15 her in Columbia because of how far Newbury is. And she
16 and I sat down and we discussed what we knew, what we
17 didn't know, and what we needed at that particular point.

18 We were 72 hours into the investigation.

19 Q. All right, sir. At that point on Saturday did you
20 have a decision or did you make a decision to go and talk
21 to some people connected with the case?

22 A. Yes, sir. While I was discussing the information of
23 who we had interviewed, who we had not, what questions we
24 had answered, what questions we needed, we realized that
25 we met in Columbia that we were literally across the

1 street from James Ginther who the van was registered to
2 and he was the ex-husband of the victim and I had learned
3 in my investigation that he had recently moved back and he
4 had been having custody with the children. So I know he
5 had contact with the victim. And he was one of the last
6 people she had contact with on the phone.

7 So there were questions that I needed to interview
8 him. I needed to know more about my victim's life.

9 Q. All right. Did you and Kristina Gainey go to Mr.
10 Ginther's house that we saw on the video with the Columbia
11 police officer?

12 A. 501 South Beltline, yes, sir.

13 Q. All right, sir. And is that location pretty close to
14 where Suzette, Suzie, worked in Columbia?

15 A. Yes. It's practically across the street.

16 Q. All right. So you go to the house. Do you take any
17 special equipment?

18 A. I -- any time I interview individuals I always have
19 my body camera on like Officer Sjolund just testified to.

20 Q. All right, sir. And was your body camera operating
21 when you got to the Ginther house?

22 A. Yes, sir, it was.

23 Q. And was he expecting you?

24 A. I did not call ahead. I realized how close I was. I
25 did not call ahead. I just went to his house.

1 Q. All right. Did you have an opportunity to speak with
2 him Saturday afternoon?

3 A. I did. I spent about two hours with him.

4 Q. All right. And is all that recorded?

5 A. Yes, sir.

6 MR. FINNEY: At this time I would ask the Court to
7 allow Investigator Stewart to play the recording?

8 MR. BRIDGES: Okay. Subject to my pretrial
9 objection, Your Honor.

10 THE COURT: All right. Objection is noted. Ladies
11 and gentlemen, he's going to play a recording from the
12 body camera. I have reviewed this body cam and portions
13 of it are not relevant to this case. So we have redacted
14 certain portions of it.

15 So what's going to happen as you're going to watch
16 this tape. So at some point they're going to stop it,
17 fast forward through those portions that are not relevant
18 to this case and when the we restart. That's why it may
19 not be played the whole way. Okay.

20 (WHEREUPON, State's Exhibit 61 was played for the
21 jury.)

22 BY MR. FINNEY:

23 Q. Investigator Stewart, after the interview was over
24 and you left Mr. Ginther's house did you receive a phone
25 call from Mr. and Ms. Ginther?

1 A. Yes, sir. Within maybe three to four minutes of
2 pulling out of the driveway, actually, I hadn't even
3 gotten to the traffic light of Beltline, the radio called
4 me and asked me if I would turn around and come right
5 back.

6 Q. All right. And we really haven't introduced her, but
7 Rachael was the lady that was in the video?

8 A. Rachael Salak was in the video and was his fiance at
9 the time was also recorded.

10 Q. All right. And they had a child together? A three
11 month old baby boy?

12 A. A little baby.

13 Q. All right. You got a call from Ms. Rachael to come
14 back to the house?

15 A. Yes.

16 Q. To where you just left?

17 A. Yes.

18 Q. And what was the purpose of your coming back?

19 A. When Ms. Salak called me on the phone and I was asked
20 to return back to the residence. And when we walked back
21 up I was informed on that same stoop, on that same
22 doorway, that apparently Mr. Ginther and Ms. Salak had
23 spoken since I left. And then they -- somewhere she
24 possibly convinced him and he changed his mind to provide
25 a D.N.A. sample.

1 Q. Did you go back to the house with Officer Gainey?

2 A. Agent Gainey was with me and also Investigator
3 Randall Hilliard.

4 Q. All right. And did you get a D.N.A. swab?

5 A. Yes, I did.

6 Q. And how long did that take?

7 A. Less than a minute. I think the body cam footage on
8 that is less than four minutes in total.

9 Q. Do you have that body cam.

10 A. Yes, sir, it's on one of those disks behind you.

11 MR. BRIDGES: You need to identify it so we can mark
12 the disk. I do not object to this body cam footage.

13 THE COURT: All right. And it's four minutes long?

14 MR. FINNEY: Yes, sir.

15 COLLOQUY

16 THE COURT: Six o'clock we're going home.

17 MR. FINNEY: Yes, sir.

18 THE COURT: The Clerk tells me that the lights go out
19 at 6:00.

20 MR. FINNEY: In that case, because I want everybody
21 to be comfortable, let's carry this over until tomorrow,
22 please, sir?

23 THE COURT: Okay. 9:30 in the morning?

24 MR. FINNEY: Yes, sir.

25 THE COURT: All right. Ladies and gentlemen, we will

1 quit. I'm sorry I ran you so late tonight. I was trying
2 to get through all of that. I will see you at 9:30 in the
3 morning. Don't read any newspaper. Don't do any
4 research, and if you have an emergency call us. I'll see
5 you in the morning. Thank you so much. Don't talk to
6 anybody especially family yet.

7 (WHEREUPON; the jury panel was excused from the
8 courtroom at 5:44 p.m.)

9 THE COURT: All right. Anything y'all need for me to
10 do before we leave?

11 MR. FINNEY: No, Your Honor. Thank you very much.

12 MR. BRIDGES: Thank you, Your Honor.

13 THE COURT: See y'all in the morning.

14 END OF TRANSCRIPT OF RECORD

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

I, HATTIE O. GORDON, Official Court Reporter for the
4th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Sumter County, South Carolina, on the 9th day of April,
2019.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

August 4, 2019



HATTIE O. GORDON, Court Reporter

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF SUMTER) 2018-GS-43-00206

STATE OF SOUTH CAROLINA)
 PLAINTIFF)
 vs.) TRANSCRIPT OF RECORD
)
 JAMES L. GINTHER)
 DEFENDANT)

April 8-12, 2019
 Sumter, South Carolina
 Volume No. 3 of 5

B E F O R E:

THE HONORABLE R. FERRELL COTHRAN, JUDGE; and a jury.

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

ERNEST A. FINNEY III, DEPUTY SOLICITOR
 Attorney for the State

JASON E. BRIDGES, PUBLIC DEFENDER
 Attorney for the Defendant

ALLEN J. BARNES, PUBLIC DEFENDER
 Attorney for the Defendant

BILLY PARKER,
 CAMERON PRESCOTT,
 AMY YARBOROUGH,
 SUSAN AYCOCK,
 MICHAEL MCCAULEY,
 DONALD VICKERS,

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

WARREN DUNDERO,
JOHN BATES,
MARK SJOLUND,
DAVID GAYLE,
RANDALL STEWART,
KRISTINA GAINEY,
RACHAEL SALAK,
RANDALL HILLIARD,
KIM COLLINS,
NICHOLAS SPROUSE,
DARREN SOLOMAN,
CHAD SMITH,
SAMUEL STEWART,
ERIC GRABISKI,
DARON SOLOMON,
CHASE BARNETT,
JEFF BISHOP,
JACOB VETO,

HATTIE O. GORDON
Circuit Court Reporter

COLLOQUY

(WHEREUPON, Defendant's Exhibit Nos. 4 THROUGH 10 were marked for identification only.)

(WHEREUPON, State's Exhibit Nos. 63 THROUGH 65 were marked for identification only.)

THE COURT: Now, do y'all think that you have a better sense about when you think you will finish up your case, timewise?

MR. FINNEY: Sometime before noon on Thursday if we work hard today. I may have some evidentiary people come in to put stuff in evidence.

THE COURT: Like what?

MR. FINNEY: Like the tape he had in Kentucky, and the stuff found at the house.

THE COURT: Okay.

MR. FINNEY: The gun from S.L.E.D. should be in today, but the transfer from Kentucky to South Carolina had to be transferred up. The chain of custody people that I've got.

THE COURT: Is the gun not established in the chain on the gun? I'm assuming the same gun that he got the serial number for in the tape, and if it's the same gun it's non-pungible, so you know, you don't -- I'm assuming -- I mean, so ---

MR. FINNEY: I was just.

1 THE COURT: I'll be glad to listen that if they
2 recorded the serial number in South Carolina in his
3 presence which, and the exact same gun, exact same serial
4 number as matching the gun is not fungible. And they, you
5 know, if they find it on him in Kentucky at least then the
6 chain in between doesn't need to be established. You
7 agree or disagree with that?

8 MR. BRIDGES: The D.N.A. also I think that it might
9 require chain of custody.

10 THE COURT: D.N.A. Does -- now, D.N.A. is fungible,
11 and it definitely requires chain of custody. The only
12 thing is the gun. Everything else -- I don't know what
13 else is coming in. I need to listen to the tape, but if
14 the gun is the same gun with the same serial numbers I
15 assume that that's going to be evidence to match that gun
16 to a casing or bullet or something, is that true?

17 MR. FINNEY: Yes, sir.

18 THE COURT: Okay. Now, the casing is fungible. Is
19 the casing or the bullet, do we agree that the gun --
20 because the serial number is not ---

21 MR. FINNEY: Yes, sir. I think they just want that
22 all things collected -- all the other things collected at
23 the crime scene.

24 THE COURT: Absolutely. To maintain the chain on all
25 that. Okay. I'm just trying to figure out our schedule

1 so I'm presuming that you will finish this case this week.

2 MR. FINNEY: Yes, sir. We're going to push. I
3 understand. We contemplate nine witnesses today and maybe
4 four in the morning. And most of those tomorrow are going
5 to be short chain witnesses, but it could change a little
6 bit.

7 THE COURT: Okay. All right. And do you have any
8 idea how long you're going to take?

9 MR. BRIDGES: It kind of depends on the State's case
10 in chief.

11 THE COURT: I understand.

12 MR. BRIDGES: I believe we have eight potential
13 witnesses. I hope we will not use them all. We will get
14 there when we get there, Your Honor.

15 THE COURT: All right. Let's try to get through as
16 much as we can. All right. Bring in the jury.

17 MR. FINNEY: Mr. Stewart should be back on the
18 witness stand.

19 THE COURT: I remind you that you're still under
20 oath.

21 THE WITNESS: Yes, sir.

22 (WHEREUPON, the jury panel enters the courtroom at
23 9:47 a.m.)

24 THE COURT: Thank you. All right. Solicitor.

25 MR. FINNEY: Thank you, Your Honor. Morning, ladies

1 and gentlemen.

2 FURTHER DIRECT EXAMINATION

3 BY MR. FINNEY:

4 Q. Morning Investigator?

5 A. Good morning, sir.

6 Q. Yesterday when we concluded our questioning it was
7 regarding your having interviewed Mr. Ginther, and you
8 were leaving his house. You got a call from Ms. Ginther,
9 -- Ms. Salak to come back to the house?

10 A. Yes.

11 Q. All right. And when you went back to the house did
12 you go with some other investigators?

13 A. Yes, sir, I had S.L.E.D. Agent Gainey with me and
14 Investigator Randall Stewart with me also.

15 Q. Just a quick turn around? Just a matter of minutes?

16 A. Yes.

17 Q. What did you do when you got back to the house?

18 A. We met on the door step right there in the front
19 door. We just left and I approached Mr. Ginther. And
20 Ms. Salak and he consented to provide D.N.A. and this then
21 activated my body cam. This was all voluntary.

22 Q. Let me show you a document marked as State's Exhibit
23 65:

24 A. Yes. This is the consent form that Mr. Ginther
25 signed with me on November 18.

1 Q. All right, sir. It's been marked as the State's
2 Exhibit 65, the form which Mr. Ginther signed?

3 A. Yes, sir.

4 Q. And then you took the D.N.A. sample?

5 A. Yes, sir.

6 Q. Okay. Thank you. On body cam that form was signed?

7 A. Yes, sir.

8 Q. All right.

9 MR. FINNEY: Your Honor, the video is not more than
10 three or four minutes, and admit the swab in evidence?
11 Again, this is State's Exhibit 64.

12 THE COURT: That is in without objection?

13 MR. BRIDGES: That is correct, Your Honor.

14 MR. FINNEY: State's Exhibit 64 and 65.

15 (WHEREUPON, State's Exhibit Nos. 64 and 65 were
16 admitted into evidence.)

17 MR. FINNEY: Your Honor, is your mic on?

18 THE COURT: Yes.

19 MR. FINNEY: Thank you, sir.

20 (WHEREUPON, State's Exhibit 64 was played for the
21 jury in open court.)

22 BY MR. FINNEY:

23 Q. Thank you, Officer. Mr. Stewart, in the process of
24 your investigation did you get D.N.A. samples from other
25 witnesses in this case?

1 A. Yes, I did.

2 Q. Can you tell us who?

3 A. I took D.N.A. samples of Mr. Warren Dundero at the
4 time of his apprehension, and I also took a D.N.A. sample
5 from Ms. Rachael Salak.

6 Q. As part of your investigation after you left Columbia
7 that day did you have occasion to go by Cherryvale School
8 and talk to the staff there about visitation records?

9 A. Yes, I did visit the children and the guidance
10 counselor regarding visitor's logs for the month of
11 November.

12 Q. All right. So the whole month of November at
13 Cherryvale School. Why was Cherryvale School important in
14 this case?

15 A. That's where the children attended school.

16 Q. Two children? A boy and a girl?

17 A. Yes, sir.

18 Q. Did you get those records from the school?

19 A. I did.

20 Q. Does that appear to be the document that I've handed
21 you?

22 A. Yes, sir.

23 Q. All right, sir.

24 MR. FINNEY: Your Honor, State's Exhibit 63?

25 MR. BRIDGES: No objection.

1 THE COURT: All right. It's in without objection.

2 (WHEREUPON, State's Exhibit No. 63 was admitted into
3 evidence.)

4 BY MR. FINNEY:

5 Q. Based on your review of this document, State's
6 Exhibit 63, did James Ginther go to the Cherryvale School
7 in the month of November?

8 A. Yes, sir. Gentleman. He did visit with the children
9 and possibly have lunch with them. And during the month
10 of November, the school report, he signed the school
11 visitor center on the 3rd of November at approximately
12 10:30 in the morning and again on the 18th of November at
13 approximately 12:30 in the morning.

14 Q. We know he was in Sumter at Cherryvale on -- did you
15 say the 3rd of November, Investigator?

16 A. The 3rd.

17 Q. At what time?

18 A. At 10:32.

19 Q. And also what was the other date?

20 A. The 18th at 10:22.

21 Q. Both mornings about 10:25 in the morning?

22 A. Yes, sir.

23 Q. Do you have information about when he checked out?

24 A. He checked out at 4:00 p.m.

25 Q. When he visited the school if he didn't manually go

1 by the office it would default to the school closing time
2 at 4:00 p.m. on the school report?

3 A. Yes, sir.

4 Q. So it doesn't show earlier times either day.

5 Investigator, did you then start working in Sumter County?

6 A. Yes, sir.

7 Q. You, Officer, on cellular records, we talked
8 yesterday that you had already gotten them when you called
9 for subsequent records from Sprint?

10 A. Yes, at the time the report was filed the first thing
11 I did was contact Sprint myself within minutes to secure
12 Sprint record involving the victim's cellular records.

13 Q. When did you get records from James Ginther?

14 A. I believe that was late Friday that I obtained
15 several others.

16 Q. When you were interviewing him we saw that you had a
17 copy of the report in your hand at that time?

18 A. Yes, sir.

19 Q. You had both at the time when you did that interview?

20 A. Yes, sir.

21 Q. As a result of the records, having the records, and
22 doing a thorough search, did you later take those same
23 records and turn them over to a S.L.E.D. analyst?

24 A. Yes, sir. As the investigation continued and Mr.
25 Ginther became a person of interest or possible witness

1 who became a suspect the records became vital. I
2 transferred them to S.L.E.D.

3 Q. And you were working with who?

4 A. Agent Eric Grabski.

5 MR. FINNEY: One moment, Your Honor. If Your Honor
6 please, I would like at this time with the Court's
7 permission to let the witness -- release the witness to
8 the Defense, but I would like the right to recall him at a
9 later date to discuss other aspects of the case when the
10 case has developed down the road in a few more days.

11 THE COURT: Have you got any objection?

12 MR. BRIDGES: No, Your Honor.

13 THE COURT: All right, sir.

14 MR. BRIDGES: As long as I have there right to
15 cross-examine him when he recalls him later.

16 THE COURT: You want to cross-examination him now?

17 MR. BRIDGES: I do, Your Honor.

18 MR. FINNEY: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. BRIDGES:

21 Q. Morning Investigator Stewart?

22 A. Good morning.

23 Q. You first got notified of this case on November 16th,
24 correct?

25 A. Yes. Actually, I was notified before the report was

1 officially complete..

2 Q. And you went out to the scene on Burnt Gin and you
3 said that you were also present when the autopsy was
4 performed?

5 A. Correct.

6 Q. Now, you're not a doctor, and you didn't perform the
7 autopsy and I'm not asking you questions about the
8 contents of it, but I believe you had some report that
9 described the autopsy, correct?

10 A. Yes. Once the final report was completed and
11 approved through the coroner I obtained a copy.

12 Q. Do you recall in your opinion if the autopsy posed
13 more questions than answers?

14 A. Yes, from the results of the autopsy I learned from
15 the doctor who was present performing it, it just caused
16 me to consider a more thorough investigation based on what
17 the doctor discovered.

18 Q. Now, let's go back to the 16th. Is that when you
19 started pulling the subsequent phone record?

20 A. Yes, sir.

21 Q. You obtained them from Mr. Ginther's number, correct?

22 A. Yes, sir. He was one of the records obtained, yes,
23 sir. Because he was listed as the owner of the van, and
24 he was the ex-spouse of Suzie. He was one of the last
25 contacts on the phone so I needed to compare.

1 Q. And I believe you said you have some training and
2 were you able to get the G.P.S. coordinates of the cell
3 towers that were involved for that phone number for that
4 period of time?

5 A. Yes, sir. The training that I received provides me
6 access to a restricted program that is only on my
7 computer. Those records obtain the cell tower information
8 within a certain distance.

9 Q. And you did that for Mr. Ginther?

10 A. I did that for all known numbers.

11 Q. And there was a number given to you in the video that
12 I believe had North Carolina area code?

13 A. Yes.

14 Q. And without saying what type of message was received
15 or sent and what not, where was this phone graphically
16 located to generated for November 15th and 16th?

17 A. For the 16th -- 15th and 16th I put that phone device
18 at his residence in Columbia.

19 Q. So the device shows it at his residence in Columbia?

20 A. According to my review they did.

21 Q. And that is quite a distance from Cherryvale and Camp
22 Burnt Gin?

23 A. Yes, sir, it is.

24 Q. So then you were involved -- you I assume were
25 present when the warrant was served at the address at

1 Babette Road as we discussed?

2 A. Yes, sir.

3 Q. And that was the right where the vehicle was across
4 the street from?

5 A. Yes, sir.

6 Q. And you encountered Mr. Warren Dundero there?

7 A. Yes, I did.

8 Q. You encountered Ms. Brittany Hallman there?

9 A. Yes, I did.

10 Q. You had your body cam on? You activated it during
11 this time?

12 A. Yes.

13 Q. Do you recall saying Warren Dundero was a primary
14 suspect at that time?

15 A. He was.

16 Q. And is that part of an interview technique type to
17 talk to individuals?

18 A. Yes.

19 Q. So you misrepresent things sometimes when you talk to
20 individuals?

21 A. It is allowable to ask certain questions. We can ask
22 reverse questions to double check questions to determine
23 if they're being deceitful or not.

24 Q. And Mr. Dundero and Ms. Salak, the 17th, he was the
25 primary suspect at that point?

1 A. At that particular time, based on the location of the
2 van, the stolen vehicle, but he had an open warrant and he
3 fled. And a few days before I spoke with the magistrate
4 judge, and he agreed that a search warrant on the his
5 residence would be probable cause. And we went ahead and
6 conducted the search.

7 Q. And you also spoke with some neighbors and people in
8 the area?

9 A. Myself and my lieutenant spoke to various neighbors,
10 yes, sir.

11 Q. And later in the day, what did you do later that day
12 up to the point that you met with James and Rachael at
13 their house?

14 A. Well, the Friday morning was the exhuming of the body
15 of the victim. And Friday evening was the search warrant.

16 Q. And then how did you -- was it because you were in
17 contact with Agent Gainey in Columbia?

18 A. Well, I had to go to Newberry for the autopsy. I
19 Took Investigator Hilliard with me. We returned to Agent
20 Gainey to discuss S.L.E.D's knowledge and our knowledge
21 and compared notes related to Mr. Ginther.

22 Q. You did not have an arrest warrant?

23 A. No, sir. I was seeking information.

24 Q. And then him and his fiance invited into his home?

25 A. Yes, sir.

1 Q. Did they ever make you feel uncomfortable or that you
2 weren't welcomed?

3 A. When I realized he was emotional I asked to secure
4 his weapon.

5 Q. We saw the whole video. At any point did he ever
6 indicate that he was going to use his firearm or make any
7 kind of aggressive gestures towards you at all?

8 A. No, sir.

9 Q. Did he have a permit?

10 A. Yes. He had a valid concealed weapon. One from
11 Virginia and one from South Carolina.

12 Q. Was he within his right to be carrying a gun in his
13 own house?

14 A. Right.

15 Q. Well, when you initially got there what did you tell
16 them the purpose of your visit was?

17 A. I told him that the initial investigator needed
18 information on the victim; that he was the one who knew
19 her the most. Most spit mat longest relationship more
20 about his sight life it's call victim object.

21 Q. You did got invited into the living room, and I
22 believe his Miranda rights?

23 A. Yes, sir. During the interview certain questions
24 provided some information based on my prior knowledge base
25 of his answers. And when I felt the interview was going

1 into asking accusatory I provided a copy of the rights.

2 Q. So it was not your intention to ask accusatory
3 questions?

4 A. No, it is not.

5 Q. So he was not a suspect at that point?

6 A. In a case like this I would have effected a suspect
7 until I find the appropriate information, but he was a key
8 person of interest that I needed to speak to.

9 Q. Very interesting point. Mr. Stewart, you recall in
10 the video mentioning that there is a marker?

11 A. Correct.

12 Q. You actually did talk to him at a later date?

13 A. I did.

14 Q. Do you recall stating that you knew about the case on
15 Thursday?

16 A. I was referring to the death of the victim.

17 Q. But so you did know that James was a suspect on
18 Thursday?

19 A. I didn't know on Thursday.

20 (WHEREUPON, equipment malfunction. Remainder of
21 testimony not included in this record.)

22

23 RANDALL HILLIARD, after being duly sworn,
24 testified as follows:

25

1 (WHEREUPON, equipment malfunction. Testimony not
2 included in this record.)
3
4

5 KRISTINA GAINEY, after being duly sworn,
6 testified as follows:
7

8 (WHEREUPON, equipment malfunction. Testimony not
9 included in this record.)
10

11 (WHEREUPON, exhibit presented.)

12 MR. FINNEY: At this time I would like to offer these
13 pictures?

14 MR. BRIDGES: Any post objections about relevance and
15 prejudice.

16 THE COURT: Okay. I'll overrule your objection and
17 I'll allow them in. Get them marked. State's Exhibit 66
18 and 67.

19 (WHEREUPON, State's Exhibit Nos. 66 AND 67 were
20 marked for identification and received into
21 evidence.)

22 THE COURT: Thank you, sir. Solicitor, call your
23 next witness.

24 MR. FINNEY: We call Ms. Rachael Salak.

25 RACHAEL SALAK, after being duly sworn, testified

1 as follows:

2 (WHEREUPON, equipment malfunction. A portion of this
3 testimony is not included in this record.)

4 BY MR. FINNEY:

5 Q. Very good. Thank you very much, Ms. Suzie. I'm
6 sorry, Miss Rachael. And that's all the questions I have
7 at this time.

8 THE COURT: Thank you.

9 SPEAKER 2: May we approach just to discuss
10 logistics, Your Honor?

11 THE COURT: Yes, sir.

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

15 THE COURT: Ladies and gentlemen, I want to confer
16 with the attorneys. Probably break for lunch right now.
17 After lunch come back and Defense counsel will have an
18 opportunity to cross-examine the State's witness. Be back
19 at two o'clock. Don't talk to anyone or allow anyone to
20 talk to you. I'll see you at two o'clock. Thank you.

21 (WHEREUPON, the jury panel was excused from the
22 courtroom at 2:31 p.m.)

23 THE COURT: Okay. We're going to break for lunch.
24 You can't talk about your testimony to the Solicitor,
25 okay, cause cross-examination by the Defense. So you can

1 talk about anything else. You can't talk about your
2 testimony, okay. I need you back here at two o'clock.
3 Okay. Anything before we break?

4 MR. FINNEY: Nothing from the State.

5 MR. BRIDGES: Nothing from the Defense.

6 THE COURT: Okay. See you at two o'clock.

7 (WHEREUPON, Court was in recess at 12:12 p.m. and
8 reconvened at 2:05 p.m.)

9 THE COURT: All right. State ready?

10 MR. FINNEY: Yes, sir.

11 THE COURT: Defense ready?

12 MR. BRIDGES: Yes, sir.

13 THE COURT: Okay. Bring me a jury.

14 (WHEREUPON, the jury panel enters the courtroom at
15 2:05 p.m.)

16 THE COURT: Thank you, sir. Ms. Salak, if you would
17 come back around and get back on the stand, please, ma'am.

18 MR. BRIDGES: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. BRIDGES:

21 Q. Good afternoon, Rachael. I'm Jason Bridges. I
22 represent Mr. James Ginther. You testified earlier today
23 that you did live with James in that trailer in Cherryvale
24 for a while?

25 A. Yes.

1 Q. You said you had some concerns about that area?

2 A. I told him quite dangerous.

3 Q. You thought you were living in a high crime area?

4 A. Yes.

5 Q. You had a -- when you were with James did you have
6 your own Facebook account?

7 A. Yes.

8 Q. Did you list your name as Rachael Salak or Rachael
9 Ginther?

10 A. Rachael Ginther, yeah.

11 Q. And as you had testified earlier you had plans to
12 marry James.

13 A. Yes.

14 Q. And you've got the marriage license on I believe it
15 was November 8th? I believe it was in early November?

16 A. Yes. I'm sorry.

17 Q. So that was before the events of the week of the 16th
18 happened?

19 A. Yes.

20 Q. And so you had plans of getting married before that
21 happened?

22 A. We planned the whole thing up the whole time we lived
23 in South Carolina and kind of back and forth. Not exact
24 plan, but, yes.

25 Q. And I believe you testified that the week of

1 Thanksgiving James had the children all week, and you were
2 intending on having a wedding ceremony then?

3 A. We talked about that and, yes, he contacted -- I
4 believe for that.

5 Q. And it was in -- then after you moved from Cherryvale
6 you lived in Virginia and then California with James?

7 A. Yes.

8 Q. And when you moved back to South Carolina it was in
9 Columbia?

10 A. Yes.

11 Q. And this was in early January?

12 A. Yes.

13 Q. Now, you had testified that you had quite a few
14 health problems and health complications?

15 A. Yes.

16 Q. You said you had bi-polarism?

17 A. Yes, I have bi-polar disease.

18 Q. Are you on disability for that?

19 A. Yes, currently.

20 Q. Have you been treated for that?

21 A. Yes.

22 Q. And your pregnancy had complications?

23 A. Yes.

24 Q. Did you have a bad allergic reaction from the C --
25 when you had the c-section?

1 A. Yes, sir.

2 Q. Was there -- yeah, you had a bad allergic reaction?

3 A. When they started to dissolve about four weeks later

4 I had a bad allergic reaction.

5 Q. Was this giving you adrenal fatigue?

6 A. I guess that's one of the things I probably had.

7 COURT REPORTER: Excuse me?

8 MR. BRIDGES: I asked her was this giving adrenal

9 fatigue.

10 THE WITNESS: I don't think that that's the normal

11 diagnosis, but something that the holistic medicine.

12 BY MR. BRIDGES:

13 Q. Okay. Was that causing you to have sleep problems?

14 A. In general sleeping is kind of all over the place

15 when you have a baby, but ...

16 Q. Were you health problems also affecting your sleep?

17 A. Yeah, sleep habits were kind of all around the baby

18 or I don't know, just sporadic. I don't remember any

19 exact timeframe, but, yes.

20 Q. And right around when Patrick was born that's when

21 James stopped working at his job?

22 A. Yes, he stopped to help me. Help me with the baby.

23 Q. Was taking care of Patrick full time during the day?

24 A. No. We were on and off. I can take care of him as

25 long I'm sitting down or, I don't know, there was no set

1 schedule. It was kind of all over the place. There were
2 a lot of various situations.

3 Q. Did he watch the baby at night?

4 A. He watched the baby at night quite a bit. Yes.

5 Q. Quite a bit.

6 A. Yes.

7 Q. In the regular routine for him to watch the baby at
8 night?

9 A. In September and October, but in October it started
10 to be -- I was increasingly more watching the baby to give
11 him a break at night time cause I could actually pick the
12 baby up then.

13 Q. And when he watched the baby would he be -- what room
14 would he be in?

15 A. Whoever was sleeping with the baby slept in our main
16 bedroom. So our bedroom. Not the children's bedroom.
17 There was only two.

18 Q. Okay. And would the baby occasionally be downstairs
19 during the night?

20 A. There was a couple times where I think the kids were
21 over and he slept with the baby downstairs. Yes.

22 Q. And the kids, meaning Emily and J.J?

23 A. Yes.

24 Q. And they came -- you saw them come to that house in
25 Columbia quite a bit?

1 A. Yes.

2 Q. Did they take items and bring items back and forth
3 between that house and the house in Cherryvale?

4 A. Not much if anything. Sometimes they would bring
5 like stuffed animals, but it was rare. We had one for
6 them. We were trying to prevent cross contamination with
7 the cats. I'm very allergic to cats.

8 Q. Did Suzie ever borrow anything from James or anything
9 from the house?

10 A. I don't think so.

11 Q. Did the kids have clothes that they brought in
12 between the houses?

13 A. We had our own set of clothes there. They would wear
14 clothes from her house to our house, and then they would
15 wear their clothes from our house back to their house. We
16 would wash them.

17 Q. And I don't know how much first hand knowledge you
18 have about that, but was there any of James' stuff there
19 still out there in North Lake Cherryvale?

20 A. At Suzie's house?

21 Q. Yes. Yes.

22 A. I think there were things that he might have left
23 when he California. He brought some stuff for Emily.

24 Q. Was it articles of clothing and other such things?

25 A. I don't know. It was stuff that he would bring. He

1 would give it to Emily. I don't know what it was. I have
2 no idea.

3 Q. And I think you testified earlier that James had
4 regularly visited Emily and J.J. in Cherryvale in March?

5 A. Yeah, I mean it wasn't a set thing for certain days,
6 but it had been.

7 Q. But it started in the beginning of the school year?
8 That didn't start in September?

9 A. No. No. It started when, I think it was around the
10 time the baby was born to give him more one on one time.
11 To have one and one time with him.

12 Q. So it started in August?

13 A. Yes.

14 Q. Okay.

15 A. It was kind of a chaotic time period. I also don't
16 have an exact timeframe.

17 Q. Okay. Do you have problems keeping timeframes
18 straight?

19 A. Right after having the baby and having major medical
20 issues and a lot of just stresses, yes, it's harder to
21 keep track of timeframes.

22 Q. So at that time, August through November 2017. You
23 were having problems keeping timeframes and sequences of
24 events?

25 A. Not sequences, per se, but timeframes and sequence.

1 Q. How would sequence and timeframe differ in your
2 opinion?

3 A. One is exact length of time something happens. And
4 the other one is the order in which things happen. So
5 those are totally different things.

6 Q. So you, after the baby was born, James quit his job
7 and was living -- would you say he was the full time --
8 would you describe him as the full time caretaker of the
9 baby?

10 A. No, cause I was also breast feeding. All of his
11 things need to be done at home to be done, but he wasn't
12 getting -- it was just too chaotic for me to try to leave
13 things like that. He was also starting his photography
14 business that was taking time.

15 Q. Yes. And about his photography business he -- you
16 referenced that he went to a wedding and a rehearsal
17 dinner. Was there also an engagement shoot involved with
18 that wedding?

19 A. Yes, sir.

20 Q. Was that earlier in late October or early November?

21 A. Somewhere in there. I think it was October. I don't
22 think it was in November.

23 Q. Did something happen when he was doing that where you
24 were concerned about the baby's health when you were alone
25 with the baby?

1 A. Nothing major that I can think of.

2 Q. So you don't remember having to call 911 because the
3 baby might have been having some problems?

4 A. Oh, that's not anything to do with any type of --
5 anything to do with photography. That was -- okay. Okay.
6 Okay. Yes. I ended up having to call 911 cause the baby
7 was asphyxiating, and I called James and he was on his way
8 home.

9 Q. And after that were you worried about having the baby
10 alone?

11 A. At different times my back was really hurting or just
12 at that point for those few days I just didn't want to
13 have anyone to leave the baby's side for a few days
14 because I was worried that he was going to spit up again
15 and choke on his spit up. So I wanted one of us to
16 constantly watch him while he slept until my dad purchased
17 an outlet monitor to monitor his oxygen and heart rate.

18 Q. So that incident required him to have a heart rate
19 monitor?

20 A. It didn't require it, but it definitely made it so
21 that I felt more okay with him sleeping. Yes.

22 Q. Would you have that monitor in your room at night?

23 A. I think for a while it was downstairs because we were
24 using the cell phones to have the monitor go through. And
25 he ended up upstairs cause it wasn't working with that

1 where the monitor was.

2 Q. But if the baby was downstairs would the monitor
3 still work?

4 A. I don't know how far -- I don't know the ranges on
5 these monitor, and the -- I think so. That would make
6 sense.

7 Q. I mean was the baby ever downstairs when you were
8 upstairs and the monitor is still working? Do you
9 remember any of that?

10 A. I can't recall specifics on it.

11 Q. So when James left -- now, we're talking Friday,
12 November 17th. He had to be -- actually, let's talk about
13 Thursday, November 16th. He had to do a photo shoot for
14 the engagement photos that day?

15 A. Thursday, I think was his -- he was doing the
16 rehearsal dinner?

17 Q. Right. Yeah, the rehearsal dinner. Sorry. And that
18 was in -- that was not in Columbia, correct? That was in
19 another location?

20 A. Yes. I think so. I don't remember if it was Ermo,
21 Lexington, which one.

22 Q. Yeah, and you were not familiar with the Columbia
23 area, probably at all?

24 A. Well, to this day I've lived there for a while before
25 I knew those names.

1 Q. Right. But it was a distance away from Columbia?

2 A. It wasn't very close.

3 Q. Is that why he would need to shower in the morning so
4 he could be presentable at this rehearsal dinner?

5 A. It never said -- like I never said why he was
6 showering or not. I think that would be ---

7 Q. I didn't ask you why he was showering. I was just
8 saying did he have that rehearsal dinner that -- not
9 reversal dinner. Did he have a rehearsal to go to from
10 the show that's why he needed a shower?

11 A. I don't know.

12 Q. Okay.

13 A. He showered most days. I mean ---

14 Q. Was it usually in the morning?

15 A. I don't know. Our schedule was kind of chaotic even
16 though it was not set.

17 Q. Now, on Saturday you testified and it's on video that
18 Investigator Stewart and Investigator Gainey came to the
19 house?

20 A. Yes, sir.

21 Q. You remember sitting in the living room with James
22 and the investigator and everybody just down in the living
23 room of your house?

24 A. Yes.

25 Q. Do you remember when Investigator Stewart asked James

1 what he was doing on the night of Wednesday, 15th? Both
2 him and you said that he was at home watching the baby?

3 A. I thought I remember him saying something about the
4 mother and he just kind of not really said much. I don't
5 know.

6 Q. But you did not correct him. You did not say he did
7 not watch the baby at that night at that time?

8 A. Cause at that time it was pretty surreal. I mean
9 just the whole -- the entire series of events. I find out
10 and then everything that happened it was extremely
11 overwhelming. I was kind of -- I was just like
12 overwhelmed at the moment.

13 Q. But you didn't say what you then said on Sunday on
14 Saturday?

15 A. I did not ---

16 Q. --- say any of that?

17 A. Yeah, I was not home either. I don't know. That was
18 kind of -- it was a very surreal and overwhelming moment.
19 I remember sitting there in the chair and my back hurting
20 and different things like that. It's been a long time.

21 Q. Did you also remember saying that you did not
22 particularly like Suzie during that conversation?

23 A. I said that she has always been kind to me. I didn't
24 say I didn't like her. She's always been kind. Yes. I
25 didn't really actually know her that well. So a lot of

1 that stems from things that I heard from James.

2 Q. You don't have to go into any more detail.

3 MR. FINNEY: Objection, Your Honor. He asked the
4 question. She should be allowed to answer the question
5 fully.

6 THE COURT: Okay. If you want to add anything else
7 to that question you can.

8 THE WITNESS: Okay.

9 THE COURT: The question was, "You didn't really like
10 Suzie."

11 THE WITNESS: Yeah, what I knew of Suzie was through
12 James, and the limited interaction I had with her there
13 were things I didn't like about her. But she was always
14 kind to me and we were always cordial so. And
15 increasingly began to like her after the baby. She was
16 being helpful with that.

17 Q. Was he generally positive, enthusiastic about you and
18 James having a baby?

19 A. At first I think it was hard for her because she
20 was -- she wanted more children with James in the past. I
21 don't remember her or James saying that, but she was kind
22 of not an enthusiastic person.

23 Q. She became more enthusiastic after the birth?

24 A. Yeah. Never directed towards me. It was more
25 towards James.

1 Q. So the morning -- so after Investigators Stewart and
2 Gainey leave you claim that then James starts acting
3 abnormally? He starts, basically, acting afraid?

4 A. Well, in hindsight, he was actually already acting --
5 kind of acting -- I mean it was a stressful time period.
6 He was definitely, as soon as he got the news -- as soon
7 as we got the new about her passing away and being very
8 like or them finding her -- okay.

9 So he had already been kind of freaked out at that
10 point, definitely. I was more just completely emotional
11 and not really paying much attention to James. There is
12 also the -- I mean I went to my neighbor's house because
13 of the fact that I needed more comfort to someone who
14 could actually be comforting.

15 And in hindsight it kind of just seems weird to me,
16 but at the time James was always kind of more -- me and my
17 family thought he was more like happy or something. Just
18 more ---

19 Q. You are not a doctor, correct?

20 A. No.

21 Q. Okay.

22 A. No. I'm just telling you.

23 Q. So you testified earlier you said habitually James
24 would carry that Glock firearm everywhere?

25 A. Yes, sir.

1 Q. And would he also clean his guns regularly.

2 A. Regularly but not that regularly especially since I
3 didn't like the chemical smells. I don't like it in the
4 house.

5 Q. But he did routinely clean his guns?

6 A. Yes.

7 Q. I mean all of this guns. Not just the Glock?

8 A. I think so. I don't think -- I don't remember him
9 using those guns, the other one, or having them out as
10 much. They were mostly in the closet.

11 Q. Was he known to keep it in a go bag or something like
12 that in his car?

13 A. No. Not that I can think of. No.

14 Q. That wouldn't have food and other tactical stuff?

15 A. Not in the closet.

16 Q. Not in the car, but in the house?

17 A. I don't think so. He had a lot of different
18 equipment and things that he was in to. I'm not into
19 military equipment or go bags and things like that.

20 Q. And did you suggest that he leave the house on
21 Sunday? I believe you testified to that?

22 A. I believe so. I was just trying to get me, myself --
23 or he had already been talking about leaving the kids. So
24 steering him away from that he eventually went towards
25 just leave without going to get the kids.

1 Q. Had you discussed with him maybe potentially living
2 in the Appalachians or Wyoming or at another location?

3 A. Definitely not Wyoming. I mean we sat down and the
4 idea of many different places. But my parents were either
5 going towards North Carolina, Greenville or that area and
6 that I was pretty set on staying in Columbia because I
7 liked it.

8 Q. And your parents were financing that house there?
9 And were they also helping with your medical bills?

10 A. They were helping quite a bit.

11 Q. They were helping him with his child support?

12 A. We didn't really keep separate finances in the way
13 that there were times when he needed like more money at
14 the moment, and it would come from other things. It was
15 not like they were financing his child support. It
16 usually comes from his work checks, usually. Yeah.

17 Q. But there was financial -- you had a financial
18 arrangement for your living situation?

19 A. Yeah.

20 Q. Was finances really an issue for him at that time?

21 A. For him?

22 Q. For you collectively as a family.

23 A. No, not really.

24 Q. And he had started the photography as a way to make a
25 side income?

1 A. Yes.

2 Q. And I think you were preparing to do that, too? You
3 have a business?

4 A. Yes.

5 Q. You were just finishing online school, correct?

6 A. Yeah, just begin initially. I was just finishing my
7 bachelor's degree.

8 Q. So when he -- he originally on Saturday, not saying
9 anything about showing up before dawn or washing his
10 clothes or anything like that?

11 A. I was overwhelmed with everything. Yes, I was
12 completely overwhelmed.

13 Q. So that night you woke up and you said you didn't see
14 him upstairs. But you weren't able to verify if he was in
15 the house or not?

16 A. When you are saying, 'that night' you mean?

17 Q. Wednesday the 15th?

18 A. Yeah, I can't verify if he was in the house or not.
19 I noticed that he wasn't there.

20 Q. And he could be downstairs playing video games or
21 watching the -- not watching t.v. but he could be in other
22 parts of the house?

23 A. That's what I assume at the time, yes.

24 Q. And he could have had -- you said the baby was with
25 you that night?

1 A. Yes, sir.

2 Q. Okay. There would be nights when he would have the
3 baby, right?

4 A. Yes, cause whoever had the baby was in the room. So
5 we had like a space heater cause it was cold at times.

6 Q. In the morning you woke up. What time did you wake
7 up.

8 A. I don't know exactly what time.

9 Q. Did you see him in the -- you said you saw him in the
10 kitchen?

11 A. I saw him as I was coming down the stairs coming from
12 the back area which is the kitchen.

13 Q. But you don't know if he was actually coming in the
14 house or not? You could not see that?

15 A. I could not see when he was coming in the house.

16 Q. Okay.

17 A. He just said he had been checking in on Suzie, and
18 they got into a fight.

19 Q. He said that, and would that -- he didn't say that
20 was in cursing or would they have fights over text
21 message?

22 A. Yes, they fought a lot.

23 Q. Was it over text message?

24 A. I didn't clarify what the fight was about. They
25 fight a lot. I assumed that since he said he was checking

1 in on her in person.

2 Q. Did he at any time say he actually killed Suzie?

3 A. He said that he could tell me how he did it, and he
4 said that he did it for the kids and for Patty and for me.

5 Q. But he never actually used the words, 'I killed her'?

6 A. I don't believe, but I'm also -- that's a semantics
7 type of thing to where I don't remember like the exact
8 wording. I don't. I don't know if he actually said those
9 words.

10 Q. He didn't tell you any details?

11 A. He said he could. He did not.

12 Q. But he did not tell you any details? And after
13 Investigator Stewart talked to him he was very worried
14 about potentially being charged?

15 A. He was worried about that. He, as soon as we found
16 out that Suzie's body had been found.

17 Q. Well, you were worried about potentially being
18 charged?

19 A. No.

20 Q. You even told the police something different on that
21 Saturday than you did on Sunday?

22 A. I'm not worried about being charged. I gave
23 information as it came to me. I said it. I saw it. You
24 can't put yourself in my shoes and said that. No. I
25 don't know. No, I was not worried about that. I was

1 worried about -- it was just a very shocking situation; a

2 I was more worried about getting away from James and
3 getting to a safer place and getting past what was just
4 happening right there. So I wanted to like make sure to
5 get ahold.

6 Q. You and James have a mutual friend named Mark Dennis
7 or his last name is also Monico?

8 A. Yes, someone that we knew or that I knew.

9 Q. Yes. Have you talked to him since James has been
10 arrested online?

11 A. Yes.

12 MR. BRIDGES: May I approach the witness, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. BRIDGES:

15 Q. I'm going to hand you what's been marked as
16 Defendant's Numbers Two and Three. If you can just read
17 these quickly. Are those your conversations with
18 Mr. Dennis?

19 A. May I finish reading it. Really, it's long.

20 Q. Yes. I don't want to rush?

21 A. It's a lot of stuff, so.

22 Q. Okay, I read it. And are those ---

23 MR. BRIDGES: May I approach to retrieve the
24 document?

25 THE WITNESS: I can sit them here.

1 BY MR. BRIDGES:

2 Q. I'll bring them back.

3 A. Okay.

4 Q. Are the blue text, is that you?

5 A. Yes.

6 Q. And this is from State's Exhibit Three. Is that a
7 discussion of you trying to help out James? And this is
8 now after James has been arrested?

9 A. It's not helping him out, per se. You go through a
10 lot of things like that happen. My therapist described it
11 as different levels of grief of ways of going through
12 grief. So I still cared about them at that time
13 timeframe. Even if it's hard to cut off care it's not
14 something you just go from -- like, I love James.

15 It's not like I even didn't want to be with him at
16 times. I love him or have love for him. So which part
17 are you talking about?

18 Q. Yeah. Now, I was going to ask that in a second.

19 A. All right.

20 Q. You talk about in there about how he could claim
21 Patty as a dependent to try to help his tax situation?

22 A. For the time I just felt bad for him and his family.
23 It's hard a thing to explain, but I still wanted to be
24 able to be there for him. Or like I knew his family was
25 trying to be there for him. And my father was taking on a

1 huge financial for his family.

2 You know, he didn't have the ability to do that, so I
3 felt like, I don't know. It's hard to explain my ...

4 Q. Did you ever try to give him financial assistance to
5 the jail? Sending money to him?

6 A. I sent a little -- so, around the time period that
7 there was a huge killing thing that happened in the
8 prisons out here in South Carolina it freaked me out. I
9 still didn't want him to be unsafe even if after all he
10 had done. I just -- I don't know.

11 It's a hard thing to explain. It took a long time to
12 get over the feeling you have for somebody even if there
13 are a lot of mixed feeling and there was a lot of -- so I
14 did end up sending some monies to his friend, Mark, and it
15 was just more of like I know they talked on the phone. I
16 just wanted to be able to be there for him. I was scared
17 he was going to get attacked in jail or prison. I don't
18 know why that timeframe, but I don't know.

19 Q. Now, I'm going to approach with Number Two. I'm
20 going to ask you about this messages right there?

21 A. Okay.

22 Q. Is that you saying, "It would be pertinent for
23 somebody to look into my medical history. I've had
24 delusions in the past?"

25 A. All right. So during that timeframe I had been

1 feeling increasingly like James was -- I use the term,
2 'possessed'.

3 Q. Can you please answer me yes or no first?

4 A. I'm sorry. Please rephrase.

5 Q. Is that your text saying you've had delusions in the
6 past?

7 A. Yes.

8 Q. Okay. Have you had delusions in the past?

9 A. Yes.

10 Q. Okay. Does that affect your ability to recall the
11 events?

12 A. Actually, I was trying to fully explain what it was I
13 was saying before about my asking.

14 Q. I don't think I asked to explain.

15 MR. FINNEY: I'm sorry. The witness was asked to
16 explain the answer, Your Honor.

17 THE WITNESS: I feel like you are asking too many
18 questions in a row. I can't fully explain each one so I
19 don't remember what you're actually asking. So if you
20 would please repeat the question.

21 THE COURT: Have you had delusions in the past? You
22 have a right to explain that.

23 THE WITNESS: I've had delusions at one point. What
24 was the original question when you asked me my about this
25 one.

1 BY MR. BRIDGES:

2 Q. Just the accuracy of that statement. You wrote that.
3 You said yes, and I asked you ---

4 A. You said, why something. I was feeling increasingly
5 like he was possessed at that time, during that timeframe
6 and different times. Everything just kept going wrong
7 with health and things and stuff like that.

8 So after talking with my psychiatrist about that he
9 thinks that it was not unusual at the timeframe and all
10 that that was more feelings of -- he said it was me
11 feeling things coming from him without fully understanding
12 or like causing me to fully understand what I was feeling
13 picking up the negative vibes and negative intentions of
14 him.

15 Q. All right. You did describe that as a delusion?

16 A. Huh?

17 Q. You described that as a delusion in your own words?

18 A. I would not describe that as a delusion in medical
19 terms which I have had since my early, early 20s. It's
20 more of a disfunctionality than a loss of -- I haven't had
21 one for -- since my early 20s.

22 Q. How old are you now?

23 A. I'm 31.

24 Q. Approach to collect the records. At this time I'd
25 like to offer Defense Two and Three in evidence?

1 THE COURT: What says the State?

2 MR. FINNEY: No objection.

3 (WHEREUPON, Defendant's Exhibit Nos. 2 and 3 were
4 admitted into evidence.)

5 THE COURT: They're in without objection.

6 BY MR. BRIDGES:

7 Q. Just briefly. You reiterated on here multiple times
8 both to me and to the Solicitor that James was a wonderful
9 father?

10 A. Yes.

11 Q. And was that just with Patty or was that your
12 observations with J.J. and Emily?

13 A. That was with all three of them, and with Emily and
14 J.J.

15 Q. And I know this has been very difficult. I know it's
16 very difficult to talk about, but it seems that you have
17 conflicted feeling of how you feel about James still?

18 A. Not still. No. That's more of like -- I don't know
19 how to explain it. It's a whole process. You don't go
20 from caring about somebody, having a child with somebody
21 to all of a sudden just not caring at all about them.

22 It's a back and forth. It was a very confusing time
23 period, but, no. No. I feel -- it's just overwhelming.
24 I don't know. I just want to feel -- not think of any of
25 this, actually. But I do not still have conflicting

1 feelings about James. No.

2 MR. BRIDGES: Court's indulgence, sir.

3 THE COURT: Yes, sir.

4 Q. No further questions. Thank you, Ms. Salak.

5 MR. FINNEY: Please the Court.

6 THE COURT: Yes, sir.

7 REDIRECT EXAMINATION

8 BY MR. FINNEY:

9 Q. Ms. Rachael, on the 15th, which was the Wednesday,
10 you said you heard him downstairs? You said you heard him
11 coming in?

12 A. Yeah, I thought I heard -- yes. The back area.

13 Q. All right. Tell the ladies and gentlemen about the
14 back area, what you heard?

15 A. Back area of our house, the entrance to the house had
16 like a back patio area. It had an extra door. It was
17 like a real squeaky, loud door. And then the door to get
18 to the house itself wasn't like super smooth. So I
19 thought I heard something which is why I was going down
20 there anyway.

21 Like I was going downstairs cause I thought James
22 would be either home or going to be down there and I heard
23 something going down there.

24 Q. And after you heard the noise is when you saw James?

25 A. Yes. I saw him coming back.

1 Q. All right. And that's when he was coming in the back
2 door?

3 A. Yes.

4 Q. Or coming from the kitchen area?

5 A. Yes.

6 Q. But the washroom, the washing machine is not in the
7 kitchen area?

8 A. No, it's in the living room. So he came from the
9 back area which you can't see the doors, but I'm pretty
10 sure I heard the door. He came in and threw his stuff
11 into the wash and went upstairs.

12 Q. You were still upstairs?

13 A. I was still upstairs.

14 Q. Okay?

15 A. The stairs, it's a very small place.

16 Q. Okay?

17 A. Yes.

18 Q. That back area that you were talking about you said
19 it was like a porch?

20 A. Yes.

21 Q. What did you all have back there?

22 A. I don't know. I know we had like different gardening
23 supplies back there.

24 Q. That's what I want to ask you about. Did you all own
25 shovels?

1 A. Yes.

2 Q. How many shovels?

3 A. Two shovels and maybe some hand shovels. There were
4 some bigger shovels and what nots.

5 Q. And shovels being the size?

6 A. For kids.

7 Q. Okay. And you had two regular shovels? Two adult
8 type shovels?

9 A. Yes.

10 Q. Let me ask you if you have ever seen this shovel
11 before?

12 A. Yes. I've seen it, and I purchased that shovel.

13 Q. All right. And where did you purchase this shovel?

14 A. At some type of big chain store.

15 Q. In Columbia?

16 A. Yes, in Columbia.

17 Q. Okay. So it would have been bought after you moved
18 back from California to Columbia?

19 A. Yes.

20 Q. And in the seven, eight, ten months you were in
21 Columbia you purchased this?

22 A. Yes.

23 Q. What did you purchase it for?

24 A. That -- and so James had a different, bigger shovel
25 and it was a lot harder to dig in our yard. Our yard is

1 like rocky and like really hard to shovel. Actually, we
2 got that and a pick ax because -- to break up the rocks
3 and actually dig in our yard.

4 Q. You said James had a bigger shovel?

5 A. Yes.

6 Q. It was taller than this shovel?

7 A. Yes. It was longer and it ---

8 Q. Did it have a handle on it like that?

9 A. No.

10 Q. It was just the straight stick part.

11 A. Yes.

12 Q. All right. And do you know where that shovel was
13 when James left that Sunday?

14 A. No. I didn't see it either way.

15 Q. Did you have to sign any papers when you left the
16 house going with your parents back to California as far as
17 the stuff that you left? You left a lot of stuff in that
18 house, didn't you?

19 A. Yeah, it was kind of hectic. Going back there I was
20 kind of freaked out. We had to find like my son's papers.
21 Couldn't find his birth certificate and it was taking
22 forever and I was starting to break down. So my parents
23 took the very, very basics and left everything else there.

24 Q. And you never have gone back for it or asked for it?

25 A. No.

1 Q. All right. The question was asked of you did James
2 tell you that he killed Suzie?

3 A. Okay.

4 Q. And the answer that you give to the lawyer was what?

5 A. Not in those exact words.

6 Q. Okay. Did you ever tell James that you did not want
7 to know the details of what he and Suzie had fought about?

8 A. I did not want to know the details.

9 Q. You told him that?

10 A. In that timeframe he was trying to convince me to
11 take the fall, and that was part of it. Explain how he
12 did it, the narrative with the police. And I definitely
13 didn't want to know.

14 Q. When the offices left you on Saturday afternoon at
15 your house and you called -- you talked to James about the
16 D.N.A.

17 A. Yeah, I was completely freak out that he didn't want
18 to give that. I didn't understand why he didn't want to
19 give his guns and the D.N.A.

20 Q. And then he came back and did the D.N.A?

21 A. Yes, he had them come back and do the D.N.A.

22 Q. If he had asked you to go down Sunday morning and get
23 married would you have married James Ginther on Sunday
24 morning?

25 A. No. I was waiting for my parents to be there anyway.

1 whether I was going to marry him or not I didn't want to
2 talk to him anyway. Even before all of this.

3 Q. They were coming in Sunday night?

4 A. Yes.

5 Q. Thank you, ma'am.

6 MR. BRIDGES: Brief recross, Your Honor.

7 THE COURT: On what?

8 MR. BRIDGES: About the house and the new issued that
9 were addressed.

10 THE COURT: Okay. You can go on only on the new
11 issues.

12 RECROSS-EXAMINATION

13 BY MR. BRIDGES:

14 Q. Two questions. You left very shortly after this to
15 go to California, right.?

16 A. Yeah, my parents came, and I went back with them.

17 Q. That's was November 20th? 21st?

18 A. I think we flew on Thanksgiving Day. I just don't
19 know what day that was.

20 Q. That would have been the following Thursday.

21 A. Yeah.

22 Q. And where did you turn -- did you leave your keys
23 with a neighbor?

24 A. Yes. At the time I left them with the next door
25 neighbor because she was support to help kind of -- I mean

1 she was making sure the area was locked and that -- cause
2 his rifles were still in there.

3 And I left her -- I don't remember. I don't actually
4 remember fully, but I left her the keys to try to kind of
5 help clean up things and give them to the owner. And we
6 were just chaotic.

7 Q. Thank you. No further questions.

8 THE COURT: You can step down.

9 MR. FINNEY: The next witness will be Dr. Kim
10 Collins.

11 THE COURT: Okay. Is she here?

12 MR. FINNEY: She's down the hall.

13 THE BAILIFF: Left hand on the bible. Raise your
14 right. State your name.

15 THE WITNESS: Kimberly Ann Collins.

16 KIMBERLY COLLINS, after being duly sworn,
17 testified as follows:

18 THE BAILIFF: Step around. Watch your step. State
19 your name for the record and spell your last name, please.

20 THE WITNESS: Dr. Kimberly Ann Collins.
21 C-O-L-L-I-N-S.

22 DIRECT EXAMINATION

23 BY MR. FINNEY:

24 Q. Good afternoon, Dr. Collins?

25 A. Good afternoon.

1 Q. Welcome to Sumter.

2 A. Thank you.

3 Q. Is this the first time that you have testified in
4 this court house?

5 A. I believe it is.

6 Q. Very good. Tell us what you do for a living.

7 A. I'm a medical doctor, and I went to medical school in
8 Augusta, Georgia and received my M.D. And I decided I
9 wanted to specialize in pathology, and so I did a five
10 year pathology residency at Wake Forest University School
11 of Medicine. And you've probably all been treated by a
12 pathologist. If you've had blood drawn, urine samples,
13 pap smear, anything taken off of your body.

14 And then I went further to do a fellowship in
15 forensic pathology using all of those laboratories in the
16 pathology aspect of a hospital. Using all of this
17 laboratory, especially the autopsy laboratory, to
18 investigate cause of death, manner of death and also to
19 identify any diseases that the individual might have had
20 during life.

21 Q. Dr. Collins, after becoming a medical doctor and
22 studying pathology do you have to become board certified
23 in that area?

24 A. Yes.

25 Q. Have you done that?

1 A. Yes, I have.

2 Q. And do you have to recertify yourself every year or
3 every five years to keep that certification?

4 A. It's voluntary. For individuals that are currently
5 just now getting their board certification they will have
6 do recertify in ten years.

7 Q. Now, you have done how many examinations at the
8 autopsy?

9 A. I would estimate about 3,500.

10 Q. All right. And have you -- are you presently working
11 in Charleston with a group that does pathology autopsies?

12 A. Yes, we have a coroner state, and 46 coroners decide
13 where we send the bodies. And so I work in the Charleston
14 County Coroner's Office and work with Dr. Ross doing
15 autopsies in Charleston.

16 And then sometimes I will go to out to Newberry where
17 I've worked for several years and work with Newberry Group
18 for other counties and Sumter that would be bringing their
19 deceased bodies to the hospital in Newberry.

20 Q. All right. And have you been qualified as an expert
21 witness in the field of pathology for Court purposes in
22 South Carolina?

23 A. Yes, I have.

24 Q. Would you say dozens of times?

25 A. If you include my depositions I have been qualified

1 by state, federal and military courts about 300 times.

2 Q. All right?

3 MR. FINNEY: I would offer Dr. Collins as an expert
4 if the field of pathology, forensic pathology.

5 THE COURT: What says the Defense.

6 MR. BARNES: No objection.

7 THE COURT: Okay. The Court so finds.

8 BY MR. FINNEY:

9 Q. Thank you, Dr. Collins.

10 A. Thank you.

11 Q. Okay. Did you perform an autopsy on a Suzette
12 Ginther brought to you from Sumter County on November the
13 18th 2017?

14 A. Yes, I did.

15 Q. And was that autopsy performed in Newberry?

16 A. Yes, it was in the Newberry Autopsy Suite at the
17 Newberry Memorial Hospital.

18 Q. Would you tell us about the case history as far as
19 the female that you examined? How old? How tall was she?

20 A. The case history that the coroner provided was that
21 she was a 27 year-old white female. And she was last seen
22 when she went to work on November 16th at 4:00 in the
23 morning. Later that day she car was discovered, and she
24 was not with her car. And then a few hours later there
25 was a hunter who was in the woods far from the car

1 location. And he -- there was a swampy part by a ditch
2 and she was buried in that area except for a portion of
3 her foot was visible. And he realize it was a human and
4 he called 911.

5 Q. Can you tell us how much she weighed and how tall she
6 was?

7 A. Yes. She was 5'6" and a half. She weighed
8 approximately 155-pounds.

9 Q. And how was she clothed?

10 A. She was clothed in a black short sleeved tee shirt, a
11 blue zip up jacket, a pair of kaki pants, a black cloth
12 belt, a green bra, a pair of black socks and a pair of
13 black sneakers.

14 Q. All right. And she also -- I believe it says that
15 she may have had one of those new watches?

16 A. Right. A Garmin G.P.S. fitness watch was on her left
17 wrist.

18 Q. All right.

19 A. And on her right wrist she just had an elastic band
20 or elastic hairband.

21 Q. All right. As far as your examination you go through
22 a protocol? It's like a checklist. You check, basically,
23 everything from head to tow on the body?

24 A. Exactly. No matter what we think the cause of death
25 is, for instance, gunshot wound to the head, we're going

1 to look at all of the organs throughout the body just as
2 we would with any complete autopsy.

3 Q. In this case examination from the external part of
4 the body were you able to note any bruises? Scrapes?
5 Contusions? Trauma to the body from the outside?

6 A. Yes. She was covered in mud, and we did note after
7 taking her clothes off she didn't have a bruise on her
8 right kind of posterior buttock or butt region or the top
9 of her thigh.

10 It was 2 by 2 inches, and we noticed that her eyes
11 themselves -- we call them raccoon eyes because the upper
12 and lower lid that surround the eye lid, as if you had
13 sunglasses on, all of this was purple.

14 And that usually indicates -- of course, you think of
15 black eye, but it also usually indicates there was a
16 fracture inside of her head, inside of her skull. We then
17 noticed on her head, pretty much at the top of the head, a
18 little bit in the back, that she had what we thought was a
19 entrance gunshot wound.

20 So we shaved that off and looked at that, and we
21 performed full body x-rays on the body. So we see what we
22 think is a gunshot wound. It may not always be, but we
23 are going to go ahead and not only x-ray her head, but
24 x-ray arms, legs, torso, abdomen, everything.

25 Q. And as far as the x-rays were concerned they didn't

1 show you any broken bones, broken arms, anything like
2 that?

3 A. Only broken bones were those in the head.

4 Q. Okay.

5 A. There were none below -- from the neck down there was
6 nothing broken.

7 Q. All right. You have, if you don't mind me using this
8 as a model, can you show the ladies and gentlemen of the
9 jury where you found the gunshot?

10 A. Do you want me to put a pin or point it out?

11 Q. Yes, ma'am, just point to it.

12 A. Okay. So the wound was only -- here's the top. The
13 wound was only an inch below that toward her feet, so we
14 measured from an inch down to here. And it was just a
15 little bit to the right of midline. So I'm moving my
16 finger over to the right a little bit. And that's where
17 the bullet went.

18 Q. Was there a directional path to the bullet?

19 A. Yes, the bullet was predominantly back to front.
20 There wasn't any deviation like it went to the left or
21 right or it went up or down. It went straight in because
22 was found to bullet fragments in this area of her right
23 skull. And if you kind of connect the dots you can have a
24 trajectory that goes backwards to forwards.

25 Q. And were you able to determine whether there was any

1 elevation? Was she was below the barrel of the gun?

2 Above the barrel of the gun? Was it anything like that?

3 A. No. You can think of different circumstances. If
4 she's kneeling, the gun would be head down. The gun could
5 be pointed this way and get that same trajectory, back to
6 front.

7 So you can place the decedent and the gun in
8 different positions and still have that same straight on
9 trajectory.

10 Q. Very good. Now, as far as the injury to the head
11 would it have caused death? The injury to the head?

12 A. Cause death?

13 Q. Would it have caused death?

14 A. Yes.

15 Q. And in this case do you believe in your medical
16 opinion that it did cause the death of Suzette Ginther?

17 A. Most definitely, yes.

18 Q. All right. Were you able to perform a surgical
19 examination inside her head to determine if the bullet was
20 there?

21 A. Yes, and that's exactly what an autopsy is. It's a
22 post-mortum surgical examination. And so we did look at
23 the head. We noticed there were multiple fractures
24 throughout the head, and then we saw four pieces of a
25 bullet. And when you go through the skull it's not

1 unusual for the bullet to come out of the jacket because
2 you're going to a hard material.

3 And so we found a coppered colored jacket. We found
4 a gray projectile, a gray bullet that was dented and
5 deformed a little bit. And then we found two other pieces
6 of gray metal. So there are four pieces total that were
7 inside the head. None of them exited the head. They were
8 all in the front here.

9 Q. Do you find in your examinations that different types
10 of ammunition will react differently when it goes into a
11 person's body?

12 A. Yeah, different ammunition, different guns, you know,
13 Magnum has more gunpowder. It's not always the size of
14 the bullet, but it is the velocity of the bullet that
15 creates that energy. And so different bullets and
16 different guns are going to have a different velocity of
17 speed and when it goes into the head it pulls that energy
18 with it.

19 And even though the bullet maybe, say, let's pretend
20 it's this big. The damage can be all over the brain
21 because as the bullet makes its tunnel it is making damage
22 on all these nearby tissues.

23 Q. Dr. Collins, when you examined Suzie you found the
24 gunshot. Could you tell from your examination on the
25 surface of the head whether the gun was close to her or

1 distant away from her when she was shot?

2 A. It was difficult in this case because she was in a
3 swampy water and mud. We did not see any soot which is
4 what you would see at contact or maybe 8 inches back from
5 the head. We did not see any unburnt gunpowder which is
6 when the gun is about 18 inches from the head.

7 And any further than that you will not see soot or
8 gunpowder. So we did not see anything, soot or gunpowder,
9 but then again, it's important to understand that we had a
10 lot of artifact, dirt, water, mud, and those can wipe off,
11 totally wipe off soot.

12 Q. Very good. In your diagnosis on the front page I
13 notice that Number Nine -- I'm sorry. Number Eight, you
14 have a term that says, 'menstrual endometrium'. Would you
15 help me understand and the ladies and gentlemen of the
16 jury what that is?

17 A. When I said we do a surgical procedure, that's more
18 than look at everything. We look at everything, and so we
19 look at the ovaries, the uterus, the liver, the kidneys,
20 even though that does not have anything to do with her
21 cause of death.

22 So as I mentioned I look at the uterus. I opened it
23 up, and the inside of the uterus where like a baby would
24 implant to grow, the inside of the uterus is called endo
25 for inside, metrium. And the endometrium of her uterus

1 was red, thickened, kind of boggy looking. And to me it
2 looked like a menstrual, having your period uterus.

3 Or it could be a little bit thickened because some
4 people have breakthrough bleeding between periods and they
5 are familiar with that. And so either she could have been
6 on her period or having a little breakthrough bleeding.
7 And that would be explained. She had some tampons on --
8 in her clothing on her person.

9 Q. So it wouldn't have been usual for a woman in the
10 medical condition that you found Suzie to be carrying
11 tampons?

12 A. Oh, none, whatsoever. I'm sure she knew that she was
13 either having her period or expecting some breakthrough
14 bleeding, and so she was prepared.

15 Q. Very good. And the last term down there,
16 'periorbital ecchymosis?

17 A. Yes, that is what I discussed. We call it raccoon
18 eyes where everything is purple from your upper lid to
19 your lower lid, and it looks like a raccoon or a pair of
20 sunglasses. That is because the bullet caused the floor
21 of the brain to fracture so much and all that blood that's
22 in the brain drains around your eyes.

23 And when you see that you pretty much know there has
24 been a fracture on the inside in the floor of the brain.
25 That's damage from the bullet.

1 Q. Your findings after the examination were your medical
2 opinion that Suzie Ginther met her death as a result of
3 what?

4 A. As a single, penetrating meaning the bullet didn't
5 come out. Stayed in there. Remember, we mentioned the
6 four pieces. Single, penetrating, indeterminate range.
7 We didn't see soot or powder so we have to call it
8 indeterminate range gunshot wound to the head.

9 Q. And did would, as a matter of course and procedure,
10 turn over the bullets to an investigator at the end of the
11 examination?

12 A. Yes, we photograph them. We measure them and then we
13 turn them over to law enforcement.

14 Q. Would you also have turned over samples of her urine,
15 blood, D.N.A.

16 A. Yes. We did a sexual assault examination which is
17 something we do on more -- many cases suspicious. A woman
18 is found in the woods, and so we turned that over to law
19 enforcement. We turned blood over for toxicology testing,
20 drugs and alcohol. We have D.N.A. to preserve cause crime
21 scenes need D.N.A. And so we have all these specimens and
22 we freeze some and then we turn those over to law
23 enforcement so they can create or their -- reconstruct
24 their crime scene and match up what they may find.

25 Q. Very good.

1 MR. FINNEY: May I have a moment, Your Honor?

2 THE COURT: Yes, sir.

3 BY MR. FINNEY:

4 Q. Doctor, I believe in your report there is an
5 examination of the respiratory system on Page Five?

6 A. Yeah.

7 Q. Could you tell the ladies and gentlemen of the jury a
8 little bit about what you are looking at when you examine
9 the respiratory system and what you found on Suzie?

10 A. Okay. The respiratory system is your trachea, you
11 breathe in, and your bronchi. It separates right and
12 left. And then we look at the lungs. And so the first
13 thing we do is to separate the lungs from the body. And
14 then we look at the airway, the bronchi and the trachea.

15 And we saw that in the upper airway, the trachea and
16 bronchi, there was mud that was inside of her airway. And
17 then looking at the lungs themselves they look normally
18 developed, but she did have both hemo-aspiration, meaning
19 that she was able to take a few breathes after that
20 gunshot wound cause blood to go into your nose and down
21 the back of your throat and you're able to take a few
22 breathes and inhale some of that blood.

23 That's called hemo-aspiration, and then we looked at
24 the bottom of the left lung. I cut all the way down.
25 Dissected the bottom of the left lung. She also had mud

1 deep down in those airways.

2 Q. Would that give you a picture of how she passed away?
3 Her last minute on earth alive as far as whether she was
4 taking -- was it just the blood from the internal
5 injuries? Also, did you find -- and the mud, you say?

6 A. Yes.

7 Q. That would come from an external source?

8 A. Yes.

9 Q. And if she had been put into ---

10 MR. BARNES: Your Honor, I object. This is a very,
11 very leading question.

12 MR. FINNEY: I haven't asked a question.

13 MR. BARNES: No, because you're prefacing it with an
14 hour long story.

15 THE COURT: Just tell me -- ask her her findings but
16 don't lead.

17 MR. BARNES: Thank you, Your Honor.

18 THE COURT: Don't testify. Just ask her concerning
19 whatever you're asking.

20 BY MR. FINNEY:

21 Q. You found -- did you find any mud or water in her
22 lungs?

23 A. Yes.

24 Q. Did you find blood in her lungs?

25 A. Yes.

1 Q. Would that give you reason to believe anything about
2 the way she died after being shot?

3 A. She also had dirt and mud in her mouth. I can say
4 hemo-aspiration has a different look than just bleeding in
5 the lungs. It has a different look with the naked eyes.

6 And so we know that some breathes were taken from
7 that blood that was from her head, came through the
8 fractures and entered her lungs. So a few breathes were
9 taken, and she also inhaled this dirt that was in her
10 mouth.

11 I want to say that the dirt in the deep lung does not
12 get there just by being in the woods. It doesn't -- the
13 mouth, you think, well, the mouth may get dirt in it, but
14 to get the dirt in the deep part of the lungs you've got
15 to inhale.

16 Q. Thank you, doctor. Your witness.

17 CROSS-EXAMINATION

18 BY MR. BARNES:

19 Q. Good afternoon, Dr. Collins?

20 A. Good afternoon.

21 Q. My name is Jack Barnes and I represent Mr. Ginther.
22 I appreciate your being here today. Other than the --
23 hold on one second. I left my notes. Other than the
24 gunshot wound that you described ---

25 A. Yes, sir.

1 Q. And a bruise on her buttocks, was it like here?

2 A. On the right near the thigh.

3 Q. So that would be more like right in here?

4 A. Correct.

5 Q. Other than the gunshot wound and the bruise you did
6 not notice any other scratches or anything like that on
7 the body?

8 A. The only thing that we found was a splinter in the
9 palm of her right hand, and I resected the skin with the
10 splinter and we transferred that to law enforcement. I
11 don't know what the results of that was, but other than
12 that, correct, there were no other injuries.

13 Q. And you didn't draw any conclusion as to what caused
14 that bruise or why that splinter was there?

15 A. No, I did not.

16 Q. Okay. And you didn't see any scratch, like road burn
17 or anything like that on her body anywhere?

18 A. Correct.

19 Q. And you don't know what that bruise was caused from,
20 do you?

21 A. It was non-specific, non-pattern.

22 Q. Okay. No evidence that she was choked or restricted
23 in her airway in any way?

24 A. No. We dissected out her strap muscles which look
25 like little straps in your neck. We dissected those

1 individually. There was no hemorrhage and no fracture in
2 her neck.

3 Q. Okay. There were nothing around her wrist or
4 anything like that appeared -- that appeared she would
5 have been restrained in any way?

6 A. No.

7 Q. You talked about doing the examination of her genital
8 area. There was no evidence of any kind of sexual trauma,
9 was there?

10 A. That's correct. We did an entire sexual assault
11 examination and turned over everything to law enforcement
12 and we found no evidence of trauma to that area.

13 Q. Now, let me preface my question by asking you to
14 explain to the jury the idea of lividity and what that
15 means?

16 A. Okay. When we died and the circulation ceases in our
17 blood, so the blood is just in all of our blood vessels.
18 It's not pumping. Gravity will pull the blood down. Of
19 course, gravity. So whatever your position is -- if
20 you're on your belly it pulls it towards your belly. If
21 you're on your back it pulls it towards your back. It
22 really starts to settle where you can see this red purple
23 color within about 30 minutes, lividity does.

24 And if you poke on it it will blanch like if you have
25 sunburn and you poke on it and it turns white and then you

1 let it go. But after 12 hours it will no longer do that.
2 We call that fixed, and that's what lividity is.

3 Q. Okay. And because of the time that it happened from
4 the time of death until you actually did the autopsy you
5 were not able to make any sort of assessment based on that
6 as to the time of death or anything like that, correct?

7 A. That's correct. We were not asked to go to the
8 scene.

9 Q. Okay. Did you review any photographs from the scene
10 of the body when it was unearthed?

11 A. I may have. I know that we took photographs, and I
12 don't think any of these are photographs of the
13 photograph. Let me see. No, I don't recall that all.

14 Q. Okay.

15 A. I just have my own photographs.

16 Q. Okay. But I think we can both agree there was no
17 assessment as to the time of death?

18 A. Right. I think they just know when she was last seen
19 and when she was found.

20 Q. Yes, ma'am. And as a result of the lack of
21 findings -- with regard to livor mortis, is that another
22 way of talking about lividity.

23 A. Yes.

24 Q. Okay. You were not able to make any assess as to
25 what position the body was in at the time of death, are

1 you?

2 A. That's correct. The lividity which is blood going
3 with gravity if you lose a lot of blood you don't have
4 much to make lividity. And so in this case lividity was
5 difficult to assess, secondary to blood loss.

6 Q. And you also weren't as a result -- does that also
7 sometimes go to whether or not bodies are perhaps shot
8 someplace and then moved to somewhere else and you are not
9 able to make a determination as to that either, were you?

10 A. That is correct, no.

11 Q. Now, you and the Solicitor had some discussion
12 about -- some discussion about I guess the bullet coming
13 in here and then being lodged somewhere in here, and you
14 said it was basically a straight shot?

15 A. Yes.

16 Q. And then you talk about different angles and all
17 those sorts of things, but I want to be real clear. You
18 did not make a determination of where the bullet came
19 from, what angle or anything like that? You were not able
20 to determine that, correct?

21 A. Right, because we hold the body in an anatomical
22 position and we say it went from back to front.

23 Q. Okay?

24 A. Now, you could turn a body in many ways: Up, down,
25 seated, leaning over. And you can turn the gun different

1 directions. So based on the autopsy you're not allowed --
2 excuse me. You're not able to tell the position of the
3 assailant, the gun or the victim.

4 Q. And that's what you made -- you had no ability to
5 make any of those determinations?

6 A. That is correct.

7 Q. Okay. And with regard to the range from which the
8 bullet was shot you also have no ability and did not make
9 a determination about that either, correct?

10 A. In this particular case. In other cases we have the
11 ability to, but not in this particular case, no artifacts.

12 Q. Okay. If I understand you correctly if there is soot
13 or some sort of gunpowder residue on where the entrance to
14 the bullet was that would seem to indicate that the person
15 was within -- what did you say? What range?

16 A. Contact would have been 8 inches.

17 Q. Okay.

18 A. But I do want to add that when you have hair a lot of
19 times hair can take up some of that soot.

20 Q. Okay.

21 A. So we look at individuals that have hair which she
22 did. And that's, again, something that can hinder your
23 interpretation.

24 Q. But the biggest factor in this particular case is
25 that she was in water, correct? Do you believe that the

1 water was the deciding factor in your inability to see any
2 soot or gunpowder residue?

3 A. Water and just the getting of the soil that came in
4 contact with her as she was placed in that partial burial
5 area.

6 Q. Okay. So at the end of the day you made no finding
7 as to the distance from which a bullet was fired into her
8 head, did you?

9 A. That is correct. That's why I called it
10 indeterminate.

11 Q. And, perhaps, this is sort of self evident, Dr.
12 Collins, but can you don't know who shot Ms. Ginther, do
13 you?

14 A. No, I do not.

15 Q. Okay. And you didn't make any determination or could
16 you whether this was some sort of pre-meditated or
17 personal killing?

18 A. No. Not just on the autopsy, no.

19 Q. Okay. Just one second.

20 MR. BARNES: Beg the Court's indulgence?

21 THE COURT: Yes, sir.

22 BY MR. BARNES:

23 Q. Doctor Collins, I think I asked you about restraints,
24 and actually pointed to my wrist when I said that?

25 A. Yeah.

1 Q. But just to be a little bit more clear you didn't see
2 any indication of any type of restraint like on her hands?
3 I mean it didn't appear that perhaps her hand was -- had
4 been smashed together or anything like that, did you?

5 A. No. We didn't see any restraint marks on her hands,
6 on her wrist, on her underarm area place, ankles. We
7 didn't see anything. There were no restraint marks.

8 A. Thank you.

9 MR. BARNES: That's all I have.

10 THE COURT: Solicitor.

11 MR. FINNEY: Thank you, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. FINNEY:

14 Q. Dr. Collins, we appreciate your being here this
15 afternoon.

16 A. Thank you.

17 Q. Thank you?

18 THE COURT: Any reason she can't be dismissed.

19 MR. FINNEY: May she be allowed to be excused?

20 THE COURT: May she?

21 MR. BARNES: No objection.

22 THE COURT: Thank you. Y'all need a break? Anybody
23 need a break? Okay.. If you need one raise your hand.
24 You got another witness, Solicitor.

25 MR. FINNEY: Nick Sprouse from S.L.E.D. is next, Your

1 Honor.

2 THE COURT: Okay.

3 THE BAILIFF: Left hand on the bible. Raise your
4 right. State your name.

5 THE WITNESS: Nick Sprouse.

6 NICHOLAS SPROUSE, after being duly sworn,
7 testified as follows:

8 THE BAILIFF: State your name for the record and
9 spell your last name, please.

10 THE WITNESS: Nicholas Sprouse. N-I-C-H-O-L-A-S.
11 S-P-R-O-U-S-E.

12 DIRECT EXAMINATION

13 BY MR. FINNEY:

14 Q. Agent -- is it Sprouse?

15 A. Yes, sir.

16 Q. How are you today?

17 A. I'm doing fine.

18 Q. Appreciate you coming to Sumter. Were you put as the
19 agent in charge of the Crime Scene Unit for a missing
20 person who was discovered in our forest in Sumter County
21 in 2017.

22 A. Yes, sir, I was.

23 Q. All right. Did you have a team working with you when
24 you were dispatched to come over to Sumter?

25 A. Yes, sir.

1 Q. Let me first of all recognize your profession. How
2 long have you been with S.L.E.D.

3 A. I've been with S.L.E.D. for three years and three
4 months.

5 Q. Okay. And are you assigned now to the Crime Scene
6 Unit?

7 A. Yes, sir, for the whole time I've been assigned.

8 Q. And what is your mission at the Crime Scene Unit?

9 A. My specialty is blood stain pattern analysis,
10 shooting, accident reconstruction and crime scene
11 reconstruction.

12 Q. All right. And when you came over tell us what are
13 the first three or four things that you would do when you
14 come to a crime scene?

15 A. First, we get notification of a crime scene. We will
16 kind of get a brief briefing of what's going on. Once we
17 arrive at the scene we do an initial walk through which is
18 just strictly walking through the scene to see what we've
19 got. See if we can identify any kind of obvious evidence
20 before we start taking a plan of action as far as moving
21 forward from there.

22 Q. All right. Did you all take pictures of the crime
23 scene when you arrived?

24 A. Yes, sir.

25 Q. All right. And are you familiar with those pictures

1 in terms of having reviewed them?

2 A. Yes, I have reviewed our pictures.

3 Q. All right, sir. Sumter County would have gone in a
4 little bit before you did and put down markers. Do you --
5 the pictures that you have reviewed did the markers that
6 are down are they Sumter markers?

7 A. Yes, sir, S.L.E.D. did not place any markers.

8 Q. All right. So when I show you State's Exhibit 25,
9 and we're looking at Marker Number 2 that's a Sumter
10 marker that you came in and confirmed the location of the
11 marker and confirmed what it was identified?

12 A. Yes, sir.

13 Q. All right. Very good. Could you tell me a little
14 bit about what you did after you got there? I've got
15 pictures if you want to describe the pictures, what you
16 see in the pictures. If you took control of the crime
17 scene tell us what you did there and what you actually
18 picked up and put in the plastic bag to take along as
19 evidence?

20 A. Yes, sir. There were eight markers there upon our
21 arrival. We at S.L.E.D. only collected two items of
22 evidence from those markers. One being Marker Number 4
23 and Marker Number 7. That's what we collected. We
24 utilized the markers that were already placed by Sumter.
25 Given that they were areas of interest by them we felt

1 that it was necessary to keep that because ultimately it
2 would be their case.

3 So we wanted to do everything we could to possibly
4 assist them and in the coming days. So therefore, we left
5 their markers there and we documented it through
6 photographs.

7 Q. All right. Now, I've showed you what was in that
8 photograph a minute ago?

9 A. Yes, sir.

10 Q. With Marker Number 2. That was the shoe?

11 A. Yes, sir.

12 Q. And as far as you didn't take possession of the shoe
13 because the shoe was left on the body going to the
14 autopsy, is that correct?

15 A. Yes, sir. And at the scene that shoe was still on
16 the body. So, yes, sir, we didn't did not collect at the
17 scene.

18 Q. All right, sir. You said that -- did you say
19 something about Marker Number 3?

20 A. No, sir. Marker Numbers 4 and 7 is what S.L.E.D.
21 corrected.

22 Q. State's Exhibit Number 26, there is a Marker 3 which
23 appears to be what the officers there took a picture of?

24 A. Yes, sir.

25 Q. What was it described as on your report?

1 A. As a suspected blood stain area.

2 Q. All right. Do you know if anybody collected that
3 blood?

4 A. Yes, sir, the Sumter County Sheriff's Office, I
5 believe Crime Scene Unit, collected swabs from that area.

6 Q. Very good. What was the two that you say you picked
7 up?

8 A. We collected one cartridge case head stamped, 'Win
9 Nine Millimeter Luger'. And we collected one gray glove
10 that was rolled up from the scene.

11 Q. All right, sir. Showing you State's Exhibit Number
12 17 and Marker Number 7. What does that appear to be?

13 A. That is the item of evidence that I just described.

14 Q. All right, sir. And so you would have taken
15 possession of the gray glove?

16 A. Yes, sir.

17 Q. Showing you State's Exhibit 27 with Marker Number 4.
18 What does that appear to be?

19 A. That is a cartridge case.

20 Q. All right. So you took possession of the gray glove
21 and the cartridge cae and took them back to S.L.E.D. to be
22 analyzed?

23 A. Yes, sir.

24 Q. All right. And they would have gone to different
25 parts of your laboratory?

1 A. Correct.

2 Q. All right. Where would the cartridge casing go?

3 A. Cartridge casing would go to our Firearms Department.

4 Q. All right. And where would the gray glove go?

5 A. It would have gone to our D.N.A. Department.

6 Q. All right. Very good. To your knowledge did those
7 pieces of evidence get transferred to those laboratories?

8 A. Yes, sir.

9 Q. All right, sir. Very good. Now, as a part of your
10 crime scene analysis did you take any measurements or
11 anything like that?

12 A. Typically, what we do when we're on scene to get
13 measurements is we look at some sort of fixed point to
14 have a reference point so we can come back and put markers
15 in certain places.

16 However, this being an area of woods there was really
17 no fixed point we could go to. So we used G.P.S.
18 coordinates at that time.

19 Q. All right. All right. Okay, were you there when the
20 body was removed?

21 A. Yes, sir.

22 Q. All right. Did you escort the body to the morgue in
23 Sumter?

24 A. No, sir. I helped retrieve the body, but that was
25 all the Coroner's Office.

1 Q. All right. To your recollection those, the Marker 4,
2 where you collected the casing ---

3 A. Yes, sir.

4 Q. --- how far was that from the body?

5 A. Not far. It was in -- the markers were so close
6 together that the G.P.S. coordinates would not change, and
7 they were ---

8 Q. Just a few feet apart?

9 A. Yes.

10 Q. All right. Now, the glove, which was in Marker
11 Number 7, it was in a different location?

12 A. Correct, yes, sir.

13 Q. All right. And I see you have some sketches and
14 maps, but I wondered if you might look at the sketch we
15 have on the board. Yes, sir. If you could orient
16 yourself. One of our witnesses described how at 763 in
17 Sumter County coming down to the Burnt Gin Road where you
18 make a left turn?

19 A. Yes, sir.

20 Q. And this would be bring you down to the spillway and
21 a creek, a parking area?

22 A. Okay. I'm oriented now. Yes, cause we actually come
23 in this way. That's why -- okay.

24 Q. Yes, sir.

25 A. Which one were you referring to again?

1 Q. The glove.

2 A. Number Seven, there is a parking area. This would be
3 Burnt Gin Road. It's a dirt road. Here this is like a
4 little parking area that's just dirt. Just a pull-off
5 little area, but vehicles you can tell come in and out of
6 it.

7 Here is where Marker Number 7, and I want to
8 believe -- I don't want to misspeak, but I believe there
9 was another marker there. There is a disturbance area. I
10 want to say it was Marker Number 6.

11 Q. Yes, sir. I can show you Six.

12 A. Yes, sir. And it was.

13 Q. Okay.

14 A. Yes, sir. And Six and Seven was in this area right
15 here in this parking area. And directly across the street
16 you would have this wooded area there. And you have this
17 creek area, and you would walk along the bank to you come
18 to the incident area where the body was located with other
19 items of evidence, the blood, suspected blood areas and
20 the cartridge casing.

21 Q. All right, sir. How long would you say you stayed
22 out there, Agent?

23 A. We arrived on the scene at approximately 10:00 a.m.
24 that morning, and we departed at 12:00 p.m. So two hours.

25 Q. All right, sir. During the two hours was the Sheriff

1 in control of that area in terms of traffic or did you
2 notice any vehicles going up and down?

3 A. No, sir, I did not notice any vehicles. It was a
4 very rural dirt road area. There were law enforcement
5 vehicles blocking the roadway on both ends to prevent that
6 issue.

7 MR. FINNEY: One moment, Your Honor, please?

8 BY MR. FINNEY:

9 Q. Did you go to the Newberry autopsy for Ms. Suzie
10 Ginther?

11 A. I did, sir.

12 Q. Did you receive any items at the end of the autopsy
13 from the doctor up there?

14 A. Yes, sir, I did.

15 Q. Tell us what you received.

16 A. It's standard that we receive toxicology, which we
17 did. We did receive fluids from the descendent as well as
18 fingernail clippings from the descendent as well. And I
19 just want to double check. And we did receive a bottle
20 containing two envelopes with bullet fragments collected
21 from the descendent as well.

22 Q. Toxicology, fluids, fingernail clippings, and the
23 bullet fragments?

24 A. And a C.S.C. kit, sir, and that is a criminal sexual
25 conduct kit.

1 Q. All right. And those were all the items you took to
2 the S.L.E.D. headquarters?

3 A. Yes, sir, that I took possession of at the autopsy
4 back to the forensic laboratory.

5 Q. That would have been Saturday, the 18th, I believed.

6 A. Yes, sir, it was November 18th.

7 Q. Thank you very much.

8 MR. FINNEY: Nothing further.

9 MR. BRIDGES: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. BRIDGES:

12 Q. Good afternoon, Agent?

13 A. Good afternoon.

14 Q. You just testify that you collected the gray glove.
15 I believe that's at Marker Number 7, State's Exhibit 17.

16 A. Yes.

17 Q. When you collected this did you notice was there any
18 blood or any other kind of fluids on it?

19 A. Not that I can recall, sir.

20 Q. Did you ever check it or test it for gunshot residue
21 or fingerprints?

22 A. No, sir. That would have been the decision of the
23 lab at that time.

24 Q. And then, just briefly, the blood spot that is
25 mentioned, is that the only location out there that you

1 observed that on?

2 A. That was the only location that I found. Obviously,
3 it was hard to see in that area, but that was actually a
4 blood pool area so that stood out more so that if we would
5 have found smears.

6 Q. And you didn't find blood anywhere else in your
7 investigation?

8 A. Only on the decedent.

9 MR. BRIDGES: No further questions.

10 THE COURT: Anything from the State?

11 MR. FINNEY: Nothing further. Thank you, Officer,
12 for coming.

13 THE COURT: Thank, you.

14 MR. FINNEY: May we approach?

15 THE COURT: Yes, sir.

16 (WHEREUPON, a bench conference was held off the
17 record in the presence of the jury, but out of the
18 hearing of the jury.)

19 THE COURT: Ladies and gentlemen we're going to take
20 a break. Ten or 15 minutes. It may be longer, but I'll
21 get you back out as quick as I can. Don't discuss the
22 case.

23 (WHEREUPON, the jury panel was excused from the
24 courtroom at 3:12 p.m.)

25

COLLOQUY

1 THE COURT: All right. You wanted to take a break
2 and then put stuff on the record or do you want to put
3 stuff on the record now?

4 MR. FINNEY: I expect my next witness will be Chad
5 Smith from the Firearms Department at S.L.E.D.

6 THE COURT: Okay. You want to deal with something
7 now about that?

8 MR. BRIDGES: Yes, sir. Two matters. There is two
9 ballistic reports. I've been provided with -- there is
10 one we got at preliminary. There is one involving Item
11 One and Item 25, 25.1, 26, 26.1, and 26.2. I don't know
12 that the State is going to introduce those, but those
13 involve -- from a scene that was collected in North Lake
14 Cherryvale. That is just not stuff that is relevant
15 during evidence. I was just making the State aware that
16 -- the Court aware that report wouldn't be relevant.

17 THE COURT: What's your position on that,
18 Mr. Solicitor?

19 MR. FINNEY: I don't think he intends to go into that
20 until we go to reply testimony.

21 THE COURT: Okay.

22 MR. BRIDGES: And then my other objection will be
23 with the report. The other report where Item One -- where
24 basically the forensic examiner tested the cartridge case.
25 He claims that matching an individual identifying

1 characteristics were found and it was concluded that Item
2 One was fired by Item 19.

3 My objection would be that -- I've consulted with an
4 expert, my own, Richard Earnest. Through my consultation
5 with him and also through my -- now, this is not South
6 Carolina precedent, but there is a case; united States v.
7 Green Federal Case. That kind of language that that
8 firearm fired that cartridge case to the exclusion of
9 other firearms in the world I think -- I don't know if he
10 can actually make that claim.

11 I think that's beyond the scope of what he can say.
12 He can say that there are things that match up. There are
13 things that are consistent, but I don't think he can say
14 that conclusory language. If that report itself comes
15 into evidence I will object to that at that point.

16 THE COURT: Okay.

17 MR. FINNEY: Your Honor I don't think I intend to put
18 in his report, the written report. But I do plan on
19 asking him whether the cartridge found that near the body
20 was examined and compared to the gun taken from the
21 Defendant. And my anticipation is he's going to say it
22 was examined microscopically and determined to be fired by
23 that gun.

24 THE COURT: Okay.

25 MR. BRIDGES: That's when I would say my objection.

1 THE COURT: I understand. Whatever he says you can
2 cross-examine him on it. I mean based on what information
3 you have. I mean I'm assuming the question is proper and
4 you can object to the question or form of the question,
5 but it's his opinion if he's qualified to give one you can
6 obviously cross examine him on that. Whether it's
7 accurate or not or whatever.

8 MR. BRIDGES: Okay.

9 THE COURT: Based on your information.

10 MR. BRIDGES: Thank you, Your Honor. My main concern
11 was just the report coming in as is, and if he doesn't
12 introduce the report I think that will cut down.

13 THE COURT: So what about the chain? He's going on
14 close this chain hole up?

15 MR. FINNEY: The officer just testified he took it
16 from the crime scene to the lab.

17 THE COURT: He didn't say who he give it to. I mean
18 I assume you're going to have somebody going to say how
19 they got it to the lab.

20 MR. FINNEY: Yes, sir. That's what the man coming in
21 now.

22 THE COURT: Okay. I mean I assume he's going to
23 establish the change, but make a comparison from a bullet
24 to a bullet.

25 MR. FINNEY: No cartridge.

1 THE COURT: A casing.

2 MR. FINNEY: Yes, sir.

3 THE COURT: The gun.

4 MR. BRIDGES: He did one to the bullet, too. He
5 tested the bullet that was removed during the autopsy.

6 THE COURT: Okay. And I -- so I -- but the gun,
7 there is nothing in the gun that's been offered. How can
8 he make that comparison if the gun is not in evidence?

9 MR. FINNEY: Good question, Your Honor.

10 THE COURT: Okay. We'll take a ten minute recess and
11 be back and see what happens.

12 (WHEREUPON, Court was in recess at 3:36 p.m. and
13 reconvened at 3:58 p.m.)

14 THE COURT: Anything further for the record?

15 MR. FINNEY: After having gone over the notice in
16 this case it appears that the cartridge casing was picked
17 up by S.L.E.D. at that scene and taken directly to the lab
18 as Mr. Sprouse has said. Mr. Chad Smith, the examiner,
19 got it from the lab and examined it. The firearm was
20 actually brought back with the Defendant by Investigator
21 Stewart from Kentucky. So he can talk about bringing the
22 firearm back. He turned the firearm over to the Sumter
23 County Sheriff's custodian who took it to S.L.E.D. He
24 will be here in five minutes.

25 THE COURT: Okay.

1 MR. FINNEY: So I'm going to call Mr. Stewart. Then
2 I have to call Evidence Custodian Soloman and then I have
3 to call Chad Smith.

4 THE COURT: Anything from the Defense?

5 MR. BRIDGES: Nothing at this time, Your Honor.
6 We'll deal with this when the time comes.

7 THE COURT: Okay. All right. Sir, are you ready to
8 call the name and get started?

9 MR. FINNEY: Yes, sir.

10 THE COURT: Okay.

11 (WHEREUPON, the jury panel enters the courtroom at
12 4:00 p.m.)

13 THE COURT: Okay, Solicitor.

14 MR. FINNEY: Your Honor, at this time I'd like to
15 recall Randall Stewart.

16 THE COURT: I remind you that you're still under
17 oath.

18 THE WITNESS: Yes, Your Honor.

19 RANDALL STEWART, after previously being duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FINNEY:

23 Q. Mr. Stewart, Investigator Stewart, did you happen --
24 you were in the courtroom when you heard the testimony of
25 Ms. Rachael Salak?

1 A. Yes, sir.

2 Q. Did you receive a phone call from Mr. Rachael Salak
3 on Sunday, November 18th 2017?

4 A. Yes, sir. The 2:10 p.m. I received a call from Ms.
5 Salak advising me of an emergency, urgent need to talk.

6 Q. All right. And did you respond to that call by
7 calling someone?

8 A. Yes, sir, I advised my lieutenant of a sudden
9 development change in the case, and I contacted Agent
10 Gainey. She already had a rapport with her. And since I
11 was not -- for jurisdictional purposes because I was still
12 in Sumter County, Agent Gainey went straight and
13 interviewed her.

14 Q. All right. And while that interview was going on did
15 you learn certain details -- let me just say after the
16 interview did Agent Gainey call you back and talk to you?

17 A. Agent Gainey completed the interview and brought a
18 recording, and we sat in my office that evening and
19 rewatched that recording within an hour of her recording.

20 Q. As a result of the information you learned that day
21 did you take any steps to secure an arrest warrant?

22 A. Absolutely. So that evening I sought legal counsel.
23 Reviewed the known facts. We determined that we had
24 established sufficient probable cause that he had left the
25 area. I met with the judge that night late in the

1 evening. Got a warrant signed.

2 It was approximately between midnight and 1:00 a.m.
3 by the time all the paperwork was taken care of. I went
4 to the 911 Dispatch Center and provided all the paperwork
5 and hand delivered it a 911 supervisor who then entered
6 James Ginther into N.C.I.C. as wanted.

7 And in the N.C.I.C. system you establish certain
8 miscellaneous information to go along with that. So since
9 I had already recorded the serial number when I
10 interviewed him and I already knew what his vehicle and
11 license place was I then entered him in by name, by
12 vehicle license plate number, and the gun he may be in
13 possession of with this serial number.

14 Q. All right. And the gun, do you have to describe the
15 kind of gun that you're looking for the suspect to have?

16 A. Yes, sir. It's a narrative type text that the 911
17 operator puts in. Specific make, model, serial number and
18 generic whatever. It's just a fill in the blank.

19 Q. All right. And do you remember the serial number of
20 gun?

21 A. Absolutely.

22 Q. Would you tell the ladies and gentlemen what it was?

23 A. As I read it out loud in my interview it was Poppa
24 Echo Romeo, 046, P-E-R, 042.

25 Q. All right. Now, after the --

1 A. P-E-R, 042.

2 Q. After the nine -- after you entered the information
3 about be on the look out you have a warrant entered to
4 arrest of James Ginther?

5 A. Yes, sir.

6 Q. Did you get a call from certain law enforcement
7 people related to James Ginther?

8 A. Being a long weekend as it was, I got back from 911
9 somewhere around 2:00 a.m. from the Dispatch Center. I
10 had to be to work at eight o'clock the next morning. At
11 4:30 my phone rang, and a Lo Louisville deputy woke me up
12 and said, "I just took ---

13 MR. BRIDGES: Objection. Hearsay.

14 BY MR. FINNEY:

15 Q. All right. Don't say way the officer said.

16 A. I was notified that he was taken into custody by a
17 law enforcement official from Louisville, Kentucky.

18 Q. And after he was taken into custody in Louisville did
19 you have the responsibility to drive to Louisville to pick
20 up Mr. Ginther?

21 A. Yes, sir. That's the next step after the extradition
22 process, and once that was confirmed which is a legal step
23 then once that was taken care of we established
24 transportation. And then, because of Thanksgiving
25 holiday, we waited. And then myself and Agent Gainey and

1 a drive drove from here to Louisville, Kentucky and
2 transported Mr. Ginther back here. And all the personal
3 belongings with him at that time.

4 Q. All right. As a part of the personal belongings that
5 Mr. Ginther had in Louisville did he have a Glock Nine
6 Millimeter Caliber Handgun?

7 A. Yes. His personal ID, his wallet, etc, the clothes
8 he had on to include the firearm by that same serial
9 number which was taken by Louisville, did evidence
10 transfer at a Louisville station when we were picking him
11 up. And then I hand carried that back her to Sumter, an
12 once he was secured at Sumter Lee Regional Correctional
13 Center I went straight to the Sheriff's office and turned
14 it in to evidence.

15 Q. All right. And can you identify what's in this box
16 that I'm about to show you?

17 A. It's a Glock Model Nine Millimeter Firearm, Serial
18 Number P.E.R. 046, to include a holster and a magazine.

19 Q. And is that the same handgun that you first saw in
20 Mr. Ginther's living room in Columbia, South Carolina on
21 the 17th of November?

22 A. Yes, sir, this is the firearm that I handled and
23 recorded the serial number on Saturday the 18th.

24 Q. All right, sir. And you took that firearm from
25 Kentucky back to the Sumter County Sheriff's Department?

1 A. Yes, sir.

2 Q. And then you transported -- excuse me. Then the
3 evidence custodian transported that firearm to the
4 S.L.E.D. lab?

5 A. Correct.

6 Q. All right. And after S.L.E.D. did its analysis do
7 you know how the firearm got back to Sumter?

8 A. The same custodian that transfers regular goes back
9 and forth from Sumter to Columbia. Because of the long
10 drive I believe he make more than one run a week and turns
11 in evidence unless it's an emergency rush which this was.
12 He took it immediately the next morning and turned it in.

13 Q. Besides the gun you also received a number of other
14 items from Louisville at the time you went to pick up Mr.
15 Ginther?

16 A. Yes, sir. His personal effects that were on him at
17 the time of his arrest.

18 Q. All right. And did you or Louisville take pictures
19 of the personal effects?

20 A. Yes.

21 Q. Could you go, if you don't mind, sir, would you go
22 through these photographs and explain to us what you are
23 seeing in the photographs and where you first saw those
24 items?

25 A. These items right here, this is a hiking backpack and

1 Louisville, Kentucky took the backpack that they
2 discovered at the scene where the car wreck was. And they
3 laid all the items out and photomapped all the items to
4 show a complete inventory of it.

5 And then, due to its size and weight, they packaged
6 it up and actually shipped it to me through a tracking
7 number. And these are the items that once we received
8 them here in Sumter County. I also turned all those in,
9 and they're still in Sumter County Sheriff's Office?

10 Q. And those photographs were taken by Louisville?

11 A. Yes, sir.

12 MR. FINNEY: Your Honor, we're looking at several
13 photograph. I'd like to publish them to the jury starting
14 with State's Exhibit 38.

15 THE COURT: What says Defense?

16 MR. BRIDGES: No objection, Your Honor. The firearm
17 is not been offered in evidence?

18 MR. FINNEY: I'm waiting on the officer to come.

19 THE COURT: All right.

20 MR. BRIDGES: I'll reserve my objection to that.

21 THE COURT: So the photographs are in without
22 objection?

23 MR. BRIDGES: That is correct, Your Honor.

24 THE COURT: Okay.

25

1 (WHEREUPON, State's Exhibit Nos. 38 through 52 were
2 previously admitted into evidence.)

3 MR. FINNEY: That would be the backpack in State's
4 Exhibit 38 that you --

5 BY MR. FINNEY:

6 Q. You didn't see this in Louisville? Louisville took
7 these pictures?

8 A. Louisville took that.

9 Q. All right, sir. And I think what I'll do is I'll let
10 you describe these items. If you don't mind you started
11 off describing that, Item 38? That's the backpack?

12 A. Yes, sir. That's a fully packed backpack.

13 Q. All right.

14 A. And then through photo -- photograph while
15 disassembled you can see what's inside of it.

16 Q. State's Exhibits 40 and 41?

17 A. This includes non-perishable food items.

18 Q. State's Exhibits 42, 43, and 44?

19 A. And these are various accessory items. This is a
20 zoom in photograph which includes -- looks like a
21 batteries, possible a GPS Garmin device, some socks,
22 binocular. Also a night light, some type of vision
23 device.

24 Q. State's Exhibits 45 and 46? Forty-six is a zoom in
25 version of what you see in 45.

1 A. These are first aid kits. Tourniquet, bandages,
2 knife sharpening, gloves, knife, tape.

3 Q. State's Exhibits 47 and 52?

4 A. That's stretch XXX can often be used for exercise, a
5 Garmin G.P.S. device. In a mesh bag with tennis balls
6 which could be used for washing clothes or washing items.

7 Q. State's Exhibit 39?

8 A. A variety of clothing.

9 Q. State's Exhibits 48 and 49. State's Exhibits 50 and
10 51.

11 A. One hundred rounds of ammunition, a gun cleaning kit
12 and a printer paper road atlas.

13 Q. State's Exhibit 53, how many rounds?

14 A. One hundred in the photo.

15 Q. State's Exhibits 54 and 55? In addition to these
16 items he had some personal effects like a wallet, driver's
17 license and things like that?

18 A. Bank cards with C.W.P. and other personal items.

19 Yes, sir.

20 Q. All right, sir. Thank you.

21 MR. FINNEY: Nothing further at this time?

22 MR. BRIDGES: Thank you, Your Honor.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. BRIDGES:

1 Q. Mr. Stewart, when you drove to Louisville did you
2 personally tell James at the that he was being charged?

3 A. Yes, sir. Agent Gainey and I met with him in an
4 interview rime at the Louisville Station.

5 Q. Do you recall telling him he was going to have to
6 make a choice?

7 A. Yes, sir.

8 Q. Is the choice between the needle and the chair?

9 A. Yes, sir.

10 Q. You words. What do you mean by that?

11 A. That's just an opening statement to an interview to
12 get his attention.

13 Q. And at that point you did not feel that you had been
14 emotionally compromised by how you felt towards Mr.
15 Ginther?

16 A. It's not personal, sir. I had no emotions toward Mr.
17 Ginther. No, sir.

18 Q. But you did ask him to choose between the needle and
19 the chair?

20 A. That was an opening statement to the interview. Yes,
21 sir.

22 Q. Thank you.

23 MR. BRIDGES: No further questions.

24 MR. FINNEY: No further questions. We call Mr. Deron
25 Solomon to the stand.

1 THE BAILIFF: Left hand on the bible. Raise your
2 right. State your name.

3 THE WITNESS: Deron Solomon.

4 DERON SOLOMON, after being duly sworn, testified
5 as follows:

6 THE BAILIFF: Thank you very much. Step around,
7 please. State your name for the record, and spell your
8 last name.

9 THE WITNESS: Deron Solomon. S-O-L-O-M-O-N.

10 DIRECT EXAMINATION

11 BY MR. FINNEY:

12 Q. Good afternoon, Officer Solomon?

13 A. Good afternoon.

14 Q. Tell us what you do in Sumter County Sheriff's
15 Department?

16 A. I assist with the Crime Scene Unit. My primary end
17 job is I go out and help in processing crime scenes.

18 Q. All right. Do you have a recollection of a crime
19 which occurred in Sumter County in November of 2017
20 involving a young lady who was buried in the Burnt Gin
21 Area of Sumter County?

22 A. Yes, sir.

23 Q. All right. As a result of evidence that was
24 recovered did you have a firearm turned over to the
25 evidence room in Sumter County?

1 A. Yes, sir.

2 Q. You know who turned that evidence in? Who turned the
3 gun in?

4 A. I believe Investigator -- one of the investigators
5 turned it into the evidence.

6 Q. Investigator Randall Stewart?

7 A. Yes, sir.

8 Q. Would he have been?

9 A. Yes, sir.

10 Q. All right. What do you know -- what is your process
11 or protocol regarding turning in evidence that he brings
12 to you to the evidence room?

13 A. The process is the officer or whoever the primary on
14 that they receive the evidence first. They log it into
15 the RMS System. Once they log it into RMS they -- what it
16 does is keeps a record of where it comes from, who
17 received it, and who it's going to.

18 And on that it will have a section where you can put
19 what you want specifically done with it as far as sent to
20 S.L.E.D, analyzed in the drug lab, so forth and so on.

21 Q. I'm going to show you what's a firearm in a box, and
22 I'd like to ask if there is anything on this box that you
23 can identify coming from your office?

24 A. Yes, sir.

25 Q. All right. Tell the ladies and gentlemen of the jury

1 what it has on there?

2 A. It has a PR sticker which is a property room sticker
3 that has all the information about the case number, the
4 building room number, and what item number it is.

5 Q. All right. Is that something you would have put on
6 the box when you first received the handgun?

7 A. Yes, sir.

8 Q. All right. Can you tell us from looking at this when
9 you took this item to S.L.E.D.?

10 A. Not -- it was received at S.L.E.D. on 12/17 -- I mean
11 12/7/2017.

12 Q. Twelve?

13 A. December 7th 2017.

14 Q. Okay. All right. And once it's logged -- once it's
15 taken to S.L.E.D. you have a certain protocol procedure
16 you have to leave it at S.L.E.D? You have to fill out
17 some paperwork or whatever?

18 A. Yes, sir. I entered in the S.L.E.D. lab. Then I
19 transported it over to S.L.E.D. S.L.E.D. gives me a
20 receipt and once I receive that receipt I bring it back to
21 my office and wait that time period until trial and you
22 tell me to bring it back.

23 Q. Okay. Now, once the lab is finished was the gun do
24 they call you up or notify you to come pick it up?

25 A. Yes, sir, they send me an e-mail to my Sheriff's

1 Office e-mail saying that a lab number that's been
2 completed and at that point I can come get it.

3 Q. All right. Do you know from looking at this box when
4 you might have picked the weapon up?

5 A. May I open it?

6 Q. Yes, sir.

7 A. Not from looking at the box I can't. I signed for it
8 for their chain of custody. Then they give me another
9 chain.

10 Q. And to your knowledge has this box, this gun, been
11 back at Sumter County since you received it and got the
12 evidence receipt?

13 A. Yes, sir.

14 Q. Back in the evidence room at Sumter County?

15 A. Yes, sir.

16 Q. And you were responsible for bringing it today?

17 A. Yes, sir.

18 Q. For bringing it to Court today?

19 A. Yes, sir.

20 MR. FINNEY: Your Honor, at this time I would move
21 this handgun into evidence?

22 MR. BRIDGES: Your Honor, I respectfully object to
23 giving potential issue with the chain of custody. There
24 has not been any testimony about how this firearm was
25 obtained in Louisville and what state it was in when it

1 was obtained in Louisville.

2 There has been testimony about how it was transported
3 back, but because there is no testimony about that initial
4 condition I would object to it for chain of custody
5 reasons.

6 THE COURT: Okay. And I overrule your objection in
7 this case because this handgun is a non-pungible item that
8 based on the prior witness' testimony the serial numbers
9 were recorded from your client. And those are the same
10 serial number on this gun today. He testified that he got
11 it Louisville. So I will override your objection.
12 Overrule your objection. I'm sorry, and allow it into
13 evidence.

14 MR. BRIDGES: Thank you, Your Honor.

15 THE COURT: But it is noted for the record.

16 (WHEREUPON, State's Exhibit Nos. 68 THROUGH 73 were
17 marked for identification only.)

18 MR. FINNEY: Thank you, Your Honor.

19 THE COURT: You got any questions of this witness?

20 MR. BRIDGES: I have no questions of this witness,
21 Your Honor.

22 THE COURT: Thank you, sir. You may step down.

23 MR. FINNEY: Call Chad Smith from S.L.E.D.

24 THE BAILIFF: State your name.

25 THE WITNESS: Chad Smith.

1 CHAD SMITH, after being duly sworn, testified as
2 follows:

3 THE BAILIFF: Step around, please. State your name
4 for the record, spelling your last name, please.

5 THE WITNESS: Chad Smith. S-M-I-T-H.

6 DIRECT EXAMINATION

7 BY MR. FINNEY:

8 Q. Agent Smith, good afternoon?

9 A. Good afternoon.

10 Q. Tell the ladies and gentlemen where you work?

11 A. I'm employed by the South Carolina Law Enforcement
12 Division commonly know as S.L.E.D. Specifically I work at
13 S.L.E.D's Forensic Services Laboratory in Columbia.

14 Q. All right. And how long have you been connected with
15 the Forensic Service Laboratory?

16 A. Little over ten and a half years now.

17 Q. And have you testified before in Court in matters
18 concerning forensic laboratory analysis?

19 A. Yes, sir, I have.

20 Q. All right, sir. Did you have occasion to receive
21 evidence from Agent Sprouse who had attended an autopsy of
22 in Newberry? I believe the case number was L1717534?

23 A. Yes, sir.

24 Q. What did -- what items did you receive in that case
25 number?

1 A. I received several pieces of evidence. I evidenced
2 a -- one nine millimeter caliber Luger cartridge case as
3 well as some bullet pieces, a jacket fragment, a bullet
4 core and some lead pieces.

5 I received a firearm, a nine millimeter Luger Glock
6 semi-automatic pistol along with magazine and a holster.
7 And there were several other items that I received later
8 on.

9 Q. All right. Agent, I'm just concerned with those
10 items you named right there not the supplemental report?

11 A. Yes, sir.

12 Q. All right. Could we start, sir, by asking you to
13 identify the weapon that you received from Sumter County?

14 A. Yes, sir.

15 Q. All right. You say it was a nine millimeter Luger?

16 A. Glock.

17 Q. All right, sir. I'm going to show you what we have
18 marked as State's Exhibits 68, 69 and 70 and you to
19 examine them?

20 A. Jam. If it hadn't been said before I just inspected
21 this firearm. It is safe for handle. Yes, these are the
22 pistol, holster and magazine I received.

23 Q. All right, sir. When did you do your examination on
24 that pistol?

25 A. I evidence was opened on December 5th 2017.

1 Q. All right, sir. Now, going to another item. You
2 said you received a metal cartridge casing?

3 A. Right, fired cartridge case.

4 Q. All right. Would you look at this item and see if
5 you can identify it?

6 A. Yes, sir, this is the fired nine millimeter Luger
7 cartridge case that I receive.

8 Q. All right, sir. And also look at this and tell me if
9 you have that item listed on your report as being part of
10 this case.

11 A. Yes, sir. This is the pieces of the bullet as well
12 as a lead fracture that I also received for examination?

13 Q. All right, sir.

14 MR. FINNEY: At this point, Your Honor, I would move
15 in the bullet fragments and the shell casing.

16 MR. BRIDGES: No objection, Your Honor.

17 THE COURT: Okay. They're in without objection.

18 (WHEREUPON, State's Exhibit Nos. 71 and 72 were
19 admitted into evidence.)

20 BY MR. FINNEY:

21 Q. Agent Smith, when use examined the gun did you find
22 it to be operating properly, and did you use like test
23 fire it?

24 A. Yes, sir. The gun was in proper working order. I
25 used the submitted magazine that came with the gun to test

1 fire the firearm.

2 Q. And do you normally check not only to see if the gun
3 is operating, but also to test fire so you can compare the
4 test fired casing to the casing that you have submitted?

5 A. That would be correct. One thing we do in our
6 examinations is we try to determine if a specific firearm
7 ammunition component, such as a bullet or a cartridge
8 case, was fired by a particular firearm.

9 In order to do that, in this instance, we have a
10 firearm to compare to. We would have to test fire that
11 gun and collect our test specimens and compare those test
12 specimens with the submitted evidence.

13 Q. All right. Now, Agent, because a lot of people don't
14 deal with firearms all the time could you give us a little
15 show and tell about what a bullet is, what part do you
16 call it in the lab, so we'll know.

17 We understand a bullet goes in the gun and you pull
18 the trigger. What happens then?

19 A. First of all, a lot of people just assume that the
20 bullet is the whole round or unit of ammunition which is
21 technically incorrect. You've got a cartridge case, which
22 I have a visual aid right here. This is a model of a
23 cartridge case. So this would be the container for all
24 the other components of that cartridge.

25 So inside here would be where we place the gunpowder.

1 Then the bullet, the projectile; that's the part that
2 actually goes down on the barrel would be placed at the
3 mouth -- the top of the cartridge case.

4 The rear of the cartridge case, the base of the
5 cartridge case, is the primer. This would be this gray
6 area here, represented here. That's the part that's
7 struck by the firing pin of a gun which causes a,
8 basically, a controlled explosion. A small, little
9 explosion that ignites the gunpowder. When that happens
10 the gunpowder is ignited. It creates a volume of gas
11 inside this cartridge case.

12 That gas expanding causes the bullet, the projectile,
13 to leave the cartridge case and travel down the barrel.
14 So what that happens you have the projectile leaving the
15 gun. You've also got the spent or fired cartridge case.

16 Q. Now, tell the ladies and gentlemen a little bit --
17 the difference between a revolver and a semi-automatic?

18 A. Revolver, if you've ever seen any of the old western
19 type movies that's usually what they would use. Revolver
20 has what's known as a cylinder. It's basically a round
21 shaped piece that had holes in the cylinder which are
22 called chambers. Each chamber can hold a round of
23 ammunition.

24 And so a revolver, when you pull the trigger or you
25 can, depending on what type of revolver, you can cock the

1 hammer back manually. And then it rotates that cylinder
2 into alignment so that the chamber is in alignment with
3 the bore which is basically the hole inside the barrel so
4 it's ready for firing. So every time you pull the
5 trigger, you know, you have to rotate -- that cylinder
6 would have to rotate for another round to be fired.

7 Semi-automatic pistols typically uses what's called a
8 detachable box magazine which would be represented here.
9 Magazine would be loaded with ammunition inside the
10 magazine. So the magazine is placed in the firearm inside
11 here. So it would be loaded with ammunition and placed
12 here inside the firearm and then the firearm would
13 actually have to be cycled to load that cartridge into the
14 chamber, the rear part of the part barrel, and it's ready
15 for firing.

16 So a semi-automatic pistol, every time you fire one
17 pull of the trigger fires one round of ammunition. And
18 then the bullet goes down the barrel. The cartridge case
19 is extracted out of that chamber and basically kicked out
20 of the firearm. The slide goes forward again taking
21 another round of ammunition from the magazine, and it's
22 ready for firing again.

23 Basically, you would have a spent cartridge case
24 ejected from the gun. Whereas a revolver you would have
25 to manually take those cartridge cases out of the cylinder

1 when you're done firing.

2 Q. The gun you have in your hand, that Luger, is that
3 considered a semiautomatic?

4 A. Yes, sir. Glock, this is a semiautomatic pistol.

5 Q. And will that gun eject the cartridge casing every
6 time a projectile is fired?

7 A. Right. As long as the gun is in proper working order
8 it would extract and eject that cartridge case and then
9 every time you pull the trigger that would basically
10 happen after firing.

11 Q. Does that gun, the Luger that you have in your hand,
12 have a firing pin?

13 A. Yes, it did.

14 Q. Does the firing pin come in contact with the back of
15 that casings as you explained in your demonstration?

16 A. Yes, sir. The rear here, this would actually be a
17 representation of a fired cartridge case. That means that
18 is had been fired. The bullet would have left the
19 cartridge case.

20 Represented here would be a firing pin impression.
21 So that would be the actually impression of the firing pin
22 of the gun striking that primer and making that mark?

23 Q. All right. Does the firing pin of that Luger leave
24 an impression on the cartridge that you could determine in
25 your lab that a certain fired cartridge was fired out of a

1 particular gun?

2 A. I think I understand the question correctly. What we
3 would do is look for the marks on the primer area. We can
4 look for them elsewhere as well, but when we look for that
5 firing pin impression we can look for exterior firing pin
6 impressions and try to determine if those marks were made
7 by a particular gun by comparing the cartridge cases
8 submitted with my test fired cartridge cases.

9 Q. And did you do that in this case with the fired
10 cartridge case that is in State's Exhibit Number 72?

11 A. Yes, sir, I did.

12 Q. All right, sir.

13 THE COURT: He cannot testify about that. He has not
14 been qualified as an expert. You've got to do that.

15 MR. FINNEY: All right, sir.

16 BY MR. FINNEY:

17 Q. As you have worked at S.L.E.D. in the Firearm's Lab
18 have you gained experience in the handling and examination
19 of firearms?

20 A. Yes, sir, I have.

21 Q. And have you taken classes after getting the job to
22 be certified to be a firearm's examiner?

23 A. Well, the certification for the authorization to
24 perform the work I do comes from S.L.E.D. itself. That's
25 through the training program which is basically an

1 apprenticeship type program that is taught and supervised
2 inhouse at S.L.E.D.

3 And that training program lasts between three to five
4 years. It involves extensive reading and studying. There
5 are multiple examinations and tests given during that
6 time. I also attended various classes and seminars and
7 helped the other examiners prepare their case work.

8 Prior to my final examination, which I successfully
9 completed, and then I began to receive my own case work.
10 But I also attend further training and classes after being
11 signed off to perform my own cases.

12 Q. The analysis that you do on a day to day basis by
13 your lab is it reviewed by a supervisor?

14 A. It's reviewed by another court qualified analyst in
15 the Firearms Department. And then that is to ensure
16 quality control for each of our work.

17 Q. And before you are able to make an opinion on your
18 examination do you have certain factors you have to
19 consider certain -- the number of impressions, the number
20 of marks or anything that you are looking at to use to
21 make sure that you, before you make an opinion, you have
22 enough evidence there to say, yes, this is based on a
23 certain quantitative data?

24 MR. BRIDGES: I object to the form of that question.

25 THE COURT: It's leading?

1 MR. FINNEY: Yes, Your Honor.

2 THE COURT: Okay. Rephrase your question.

3 MR. FINNEY: All right, sir.

4 BY MR. FINNEY:

5 Q. How do you come about -- are there case where you
6 examine evidence and you don't reach a conclusion?

7 A. Right. We have several conclusions that we can
8 reach. We can reach a positive identification which means
9 we would match a cartridge case or a bullet back to a
10 particular firearm.

11 We can have a negative conclusion which means we can
12 negate a certain firearm from having fired a particular
13 ammunition component.

14 We can have inconclusive which is, basically, we
15 can't tell. It could have fired that particular bullet or
16 cartridge case or it might not have. Just based on -- a
17 lot of times it's damaged related to a particular bullet,
18 and then maybe there may not be enough marks or quality
19 marks that are left on the bullet or the cartridge case.
20 Just isn't enough to make a positive or negative
21 identification.

22 And then we also have unsuitable conclusion which
23 means, basically, there are no marks of value on a
24 particular item. So it's just unsuitable for
25 identification with a particular firearm.

1 Q. And I apologize. I thought I had asked you this
2 earlier, but have you testified in Courts of General
3 Sessions across the State of South Carolina and in federal
4 courts?

5 A. General Session, yes, sir. I have.

6 Q. A number of times? How many times?

7 A. Over 50 times.

8 MR. FINNEY: I would offer this witness as an expert
9 in the field of forensic firearms examination?

10 MR. BRIDGES: No objection, Your Honor.

11 THE COURT: Okay. Court so finds.

12 MR. FINNEY: Thank you, Your Honor.

13 THE COURT: Yes, sir.

14 BY MR. FINNEY:

15 Q. Agent Smith, based on your examination of the fired
16 cartridge casing in -- I think it's Item 72?

17 A. Yes, sir.

18 Q. Did you compare that casing to the test fired
19 cartridges that you ran when fired the Luger handgun?

20 A. Yes, sir, I did. I compared that particular piece of
21 evidence, the firearm cartridge case, with my test fired
22 cartridge cases that I collected during my test firing.

23 Q. Did you also examine the Luger firing pin in
24 connection with the impressions that you found on the
25 fired cartridge casing?

1 A. Well, the impressions that would have been on the
2 test firing itself I would have compared to the evidence
3 carriage case.

4 Q. All right. Did you come up with a conclusion as to
5 whether that fired casing was fired by that Luger?

6 A. Yes, sir, I did.

7 Q. And what was your conclusion?

8 A. I was able to conclude that ---

9 MR. BRIDGES: Raise my previous objection.

10 THE COURT: Okay. It's so noted. Go ahead.

11 THE WITNESS: Yes, sir I was able to conclude that
12 the fired cartridge case submitted as State's Exhibit 72
13 was fired by this particular firearm, State's Exhibit 68.

14 Q. What type of ammunition, if you can tell us, was that
15 casing associated with?

16 A. Well, the cartridge case itself, going back to this
17 model here, a lot of times manufacturers will put what is
18 known as a head stamp on the cartridge case. Basically,
19 that's information such as the manufacturer who made the
20 ammunition or cartridge case as well as the caliber. Just
21 easy identification so you can look at the base of the
22 cartridge case and say this particular caliber and then
23 particular brand of ammunition.

24 In this particular case the fired cartridge case,
25 State's Exhibit 72, had a Winchester, W-I-N, impression or

1 head stamp on the base of the cartridge case. So that
2 would indicate that this was a Winchester brand cartridge
3 case.

4 Other than the type of cartridge case it was a brass
5 construction and as well had a brass primer. Now,
6 sometimes you can see cartridge cases that will have
7 nickle finish, a silver finish, as well as a nickel
8 primer. So realize it doesn't matter. It just depends on
9 what particular type of -- whether the manufacturer wants
10 nickle or brass construction.

11 Q. Agent Smith, the other item that was turned into your
12 laboratory were bullet fragments from the body of Suzie
13 Ginther. They are located in Exhibit 71. Did you examine
14 these bullet fragments?

15 A. Yes, sir, I did.

16 Q. And this piece of lead?

17 A. Correct.

18 Q. And is it in you're opinion because they came to you
19 all from the autopsy? The piece of lead is connected to
20 or part of the bullet pieces that you received?

21 A. Forensically, I couldn't tell if all of those were
22 one bullet at one time. They could have been or they
23 could have been pieces of other items. But forensically I
24 could not determine if those lead pieces came from, you
25 know, as a whole bullet.

1 Q. All right. And were you able to make any conclusions
2 as to whether these fragments came out of Item 72, the
3 shell casing, that you did examine?

4 A. No, sir. We were unable to make that sort of
5 connection. Forensically we don't offer that type of
6 service. We can't make a determination if a particular
7 bullet, which would have been the projectile, came out of
8 a particular cartridge case.

9 Q. We have a picture here, State's Exhibit 37, showing
10 the fragments at the autopsy that was obtained and laid
11 out on the table and photographed. In State's Exhibit 37,
12 one, two, three, four, the four pieces that are in this
13 envelope would you agree that they look similar to or the
14 same items that you saw in your laboratory?

15 A. Yes, sir. They definitely look similar as to what
16 items I would have received.

17 Q. All right. Now, based on what you see in this
18 picture, State's Exhibit 37, can you explain to the jury
19 why there is a piece that looks like it is made out of
20 copper and what that is and what the other pieces are?

21 A. Yes, sir. This particular piece here, the copper
22 looking piece of metal, is a fired bullet jacket.
23 Basically, what that means is if you -- everybody is
24 familiar with an M&M Chocolate Candy. If you consider the
25 outer coating, the hard coating of an M&M, that's the

1 jacket. That's the, basically, the part that covers an
2 inner surface.

3 The inner surface of a some bullets that would have a
4 core which is usually made out of lead. So a jacketed,
5 again, would have a bullet. Would have a harder, denser
6 surface. Usually made out of copper or some type of brass
7 alloy. And there would have lead interior, the core
8 interior.

9 And in this specific instance I would have received
10 the jacket as well as a core and then there is this lead
11 piece here and then a lead piece here.

12 Q. Agent Smith, can you tell us whether or not you could
13 identify the bullet fragment as coming from a hollow point
14 or a ball-type ammunition.

15 A. It definitely, in it's damaged condition, I really
16 couldn't make a determination. It could have come from a
17 hollow point-type bullet or it could have come from some
18 other type. Basically, just on the damage alone, with it
19 missing some of the surfaces of the jacket, I couldn't
20 make a conclusion.

21 Q. Are there more than those two types? Do you have
22 other types of ammunition besides the ball type and the
23 hollow point type?

24 A. Yes, sir. There are different types: Jacketed,
25 hollow points. There are full metal jacket, total metal

1 jacket and others. This could have been something else
2 other than a hollow point. Again, just based on the
3 damage alone so I couldn't tell.

4 Q. All right.

5 MR. FINNEY: Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 BY MR. FINNEY:

8 Q. Thank you, Agent. Answer any questions they may
9 have.

10 A. Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. BRIDGES:

13 Q. Good afternoon. When you do a cartridge case firearm
14 comparison do you examine the striations and appature
15 shear of the firing pin?

16 A. That is one area that we look at. Referring to the
17 appature shear this area here around the firing pin
18 impression, but you can see its rectangular shape. This
19 is -- this specific model with this type of primer and
20 firing pin markings is supposed to be what a Glock firing
21 pin appature shear would look like.

22 We do look at those examinations. The appature shear
23 is basically the bridge case here along the slide is the
24 part that supports the cartridge case during firing. So
25 in that breach face is there is hole. That hole is where

1 the firing pin protrudes through the breach face and
2 strikes the primer setting off the course of events that
3 would off the firing pin.

4 So what happens is in some guns, and depending on
5 what type of ammunition cartridge cases you may have it
6 may show up. The primer when it's struck sort of flows.
7 That metal sort of flows into that hole, that appature or
8 that hole where the firing pin protrudes during firing.
9 Basically, that's just caused from heat and stress and
10 pressure of the cartridge case being fired.

11 And going back to the shear part what happens is when
12 the gun is cycled this specific part, again semiautomatic
13 pistol, it's a Glock. It has a lot of designs that it
14 shares with other semi automatic pistols. But in this
15 particular instance as the cartridge case -- as the slide
16 is being pulled back rearward during firing the barrel of
17 this gun tilts a little bit to allow the barrel and the
18 slid to unlock.

19 So what happens is when that cartridge case is still
20 stuck in the chamber of that barrel and during the tilting
21 action when that metal sort of flows into the appature a
22 little bit that movement shear or basically cuts. There
23 is 15 motion here that's happening to some of that
24 material, and that would be represented if you can see the
25 striations or these marks, microscope marks, represented

1 here.

2 So going back to your original question, that was one
3 area that we would look at particularly on Glocks that are
4 very well, especially when it comes to firing pin appature
5 shear.

6 Q. And is that what you used when you made your
7 identification?

8 A. That is one area. I also used the firing pin
9 impression as well.

10 Q. Do all Glocks leave a firing pin appature?

11 A. Sometimes we get some Glocks that don't mark as well.
12 Typically, on Glocks what we see is some very nice firing
13 pin appature shear that we can make our collusions with.
14 Depending on what type of ammunition, sometimes ammunition
15 for whatever reason, has a harder material. The cover is
16 made out of a harder material or something -- it just
17 doesn't show that shear as well. And, again, some guns
18 don't mark as well as others.

19 Q. And you only tested one Glock as part of this
20 analysis?

21 A. Correct. We would only compare test fires from the
22 gun that would be submitted to the evidence that was
23 submitted.

24 Q. So you did not compare firing pin appature to that
25 Glock to any other Glocks that you have -- any other

1 Glocks for purposes of this test?

2 A. No, sir.

3 Q. Was there anything to distinguish that firing pin
4 appature of that Glock to the firing pin appature of that
5 Glock to any other Glock?

6 A. Well, the firing pin appature shear, again, it's a
7 hole made in the breach face. A rectangular hole made for
8 that Glock firing pin to protrude through. Basically,
9 during the machining processes and the other finishing
10 processes of during the manufacturing of the slide is when
11 these individual markings are created. Basically, just
12 during the machining process of metal on metal. Cutting
13 that metal surfaces and creating individual marks is what
14 we're using to base our conclusions on.

15 Q. And those are know as tool marks, correct?

16 A. Correct. Tool being the part that's manufacturing
17 and then the substrate would be what the marks are being
18 transferred on to.

19 Q. And then you observed the striations, you said, of
20 the firing pin appature?

21 A. That is correct.

22 Q. Do other firearms, other than Glocks, leave
23 striations similar to that?

24 A. There is one other gun that we know of. Smith and
25 Wesson made for a number of years a model called Cigma

1 which uses basically the same type of -- it was basically
2 a copy of a Glock so much so that Glock sued Smith and
3 Wesson over the design.

4 But it leaves similar markings as far as the type of
5 appature shear; that rectangular design. But individually
6 they would have been different.

7 Q. But the leave similar marks, and it's not a Glock?

8 A. Similar, right. Class marks as in the type of marks.

9 Q. And would other Glocks leave have very similar firing
10 pin appature shear?

11 A. Again, they would have the same type of class marks.
12 The overall characteristics would be similar, but once you
13 start looking at the microscope level. In looking at the
14 striations, basically the scratches, they would be
15 different.

16 Q. And let's talk about that examination. When you look
17 at a firing pin, you look at those striations, are there
18 always tool marks -- there are only certain tool marks
19 that you use for identification, correct? There are over
20 tool marks that you have to exclude or you don't consider?

21 A. What we consider, basically, in the case of cartridge
22 cases all the areas of where the gun would come in contact
23 with during firing we can use for analysis. And then, you
24 know, we take the totality of what we're seeing and try to
25 make a determination.

1 Q. And is there a known standard that this many
2 striations equals a match? Is that a subjective call on
3 your part?

4 A. The subjectiveness would come into play in the
5 interpretation of what those striations mean. So the
6 striations are on the cartridge case. We look at the
7 striations under a microscope and try to determine, you
8 know, what sort of -- us ut identification or other kind
9 of conclusion. But what we're looking for, again, are
10 those individual marks that are created by the firing
11 during the firing.

12 Q. And, now, turn to the bullet you examined and just to
13 reiterate certain testimony you were not able to determine
14 the caliber of the bullet due to the damage on it?

15 A. I was able to determine a certain characteristics.
16 Not specific caliber, but based on just the examination
17 weighing that jacket fragment, again, here, I can weigh
18 it. I can measure the diameter of the base, try to get a
19 caliber. I was able to determine that it was most
20 consistent with being a nominal .38 caliber. And when I
21 say, 'nominal 38 caliber', that's basically a class of
22 caliber. It would include a nine millimeter Luger as well
23 as other calibers.

24 But, basically, just based begin on the damage of it
25 I couldn't narrow it down to the specific caliber.

1 Q. All right. So there is a range of caliber and also
2 type of pistol that can fire that type of ammunition?

3 A. Correct.

4 Q. So that includes way beyond this Glock nine
5 millimeter in category?

6 A. Correct. And then going back to the, trying to make
7 any kind of conclusions on the core, again, which would be
8 the interior part of the jacketed bullet, basically, I
9 determined that it was nominal .38 or larger caliber.
10 And, again, that can include nine millimeter Luger or a
11 lot of other caliber.

12 Q. And you couldn't determine which gun that bullet had
13 been fired from due to the damage and other factors?

14 A. Correct. It was inconclusive when I compared -- now,
15 basically, just the jacket fragment would have to markings
16 created during firing because that's the part that comes
17 in contact with the bore, the interior of the barrel.

18 The core did not have any markings on it, but looking
19 at the markings that were on here it was very limited and
20 as well as being damaged. It was inconclusive with that
21 particular gun.

22 Q. And this would just be a general question about
23 firearms. Is a Glock 19 a fairly common model firearm?

24 A. A Glock 19 is. In this particular, this is a Glock
25 17 here. But a Glock 19 would also be another very

1 common gun.

2 Q. And is a Glock 17 a fairly common gun?

3 A. It is.

4 Q. So there is hundreds of thousands or potentially
5 millions of these guns in circumstance?

6 A. I don't know the exact number, but there are a lot of
7 Glockes in circulation.

8 Q. Thank you for your time, Agent Smith.

9 REDIRECT EXAMINATION

10 BY MR. FINNEY:

11 Q. Agent Smith, just to be clear cause that was a lot of
12 technical information. Your expert opinion is that that
13 Glock firearm fired that casing and made the impressions
14 on the back of that casing?

15 MR. BRIDGES: Renewing my objection, Your Honor.

16 THE COURT: Okay. Overruled. Go ahead.

17 THE WITNESS: Correct. That would be my conclusion
18 that State's Exhibit 72, that would be the fired cartridge
19 case I received was fired by this particular gun.

20 Q. And based on your examination of the fired bullet,
21 the fragments, it could have been that that bullet came
22 out of that casing, but you don't have enough evidence to
23 say that with expert opinion?

24 MR. BRIDGES: I would object to the form of that
25 question.

1 THE COURT: Okay. No leading.

2 BY MR. FINNEY:

3 Q. Do you have enough evidence to connect that -- those
4 bullet fragments with that shell casing?

5 A. No, sir.

6 Q. But based on your weighing it and look at it and
7 measuring it could it have come out of that casing?

8 A. It could have come out of that cartridge case.

9 THE COURT: Yes.

10 MR. BRIDGES: Just briefly.

11 RECROSS-EXAMINATION

12 BY MR. BRIDGES:

13 Q. It could have come out of that gun, but it also could
14 have come out of a whole host of gun that you named; that
15 there are many different guns that are capable of firing
16 that type of ammunition?

17 A. That is correct. That is, basically, two different
18 questions being asked here. If the bullet itself could
19 have come out of that particular cartridge case I have no
20 way of knowing. And if that particular bullet was fired
21 by this particular gun, that's inconclusive. So it could
22 have been, but it also may not have been.

23 MR. BRIDGES: Thank you, Agent Smith.

24 MR. FINNEY: No further questions. Thank you, Agent.

25 THE COURT: Sir, you can step down.

1 THE WITNESS: Thank you.

2 MR. FINNEY: Thank you, sir.

3 THE COURT: Now, Solicitor, it's five o'clock. Have
4 you got somebody that you can get up and down in a
5 reasonable period of time? What are you going to do?

6 MR. FINNEY: Yes, sir. We have some Samuel Stewart
7 from the Forensic Lab at S.L.E.D. We'd like to call him
8 at this time.

9 THE COURT: Okay.

10 THE BAILIFF: Left hand on the bible and raise your
11 right hand. State your name.

12 THE WITNESS: Samuel Stewart.

13 SAMUEL STEWART, after being duly sworn,
14 testified as follows:

15 THE BAILIFF: Thank you, sir. Step around, please.
16 State your name for the record and spell your last name,
17 please.

18 THE WITNESS: Samuel Allen Stewart. S-T-E-W-A-R-T.

19 DIRECT EXAMINATION

20 BY MR. FINNEY:

21 Q. Good afternoon?

22 A. Good afternoon.

23 Q. Tell us where you are employed?

24 A. I work with the South Carolina Law Enforcement
25 Division commonly known as S.L.E.D.

1 Q. And how long have you been an agent with S.L.E.D.

2 A. Seven years.

3 Q. And what field are you in at S.L.E.D.

4 A. I'm a forensic scientist that is assigned to the
5 D.N.A. Department.

6 Q. All right, sir. And is that under the Forensics Lab?

7 A. Yes, it is.

8 Q. All right, sir. And as a result of a request by our
9 office did you have a chance to examine evidence that was
10 placed in the S.L.E.D. Lab as the result of a death in
11 Sumter County in 2017?

12 A. Yes, sir, I was.

13 Q. All right. The S.L.E.D. Lab Number is L1717534. Do
14 you have that case number?

15 A. Yes, sir, I do.

16 Q. All right, sir. Could you tell us what was submitted
17 under that case number for D.N.A. or serology analysis?

18 A. Okay. What was given to me in Item 2.1, a swab from
19 interior of glove.

20 Q. All right.

21 A. A hair from glove.

22 Q. All right?

23 A. Item 14.1, one swab from fingernail clippers. Item
24 14.2, swabs from the fingernail clippers of Suzette
25 Ginther. Swab from lip of water bottle. That was Item

1 29. Item 30, swab from lip of the same water bottle.
 2 Item 31 was from swab lower lip of back hatch of victim's
 3 vehicle. Item 32, swab from steering wheel of victim's
 4 vehicle. And Item 33, swab from driver's headrest of
 5 victim's vehicle.
 6 Q. All right, sir. Did you have certain items submitted
 7 to you, D.N.A. samples, from several different
 8 individuals?
 9 A. Yes, sir, I was.
 10 Q. All right, sir. And could you tell us who those
 11 individuals were?
 12 A. Yes, sir. I have a dried blood standard from Suzette
 13 Ginther.
 14 Q. All right, sir.
 15 A. A buccal swab from James Ginther.
 16 Q. All right.
 17 A. A buccal swab from Warren Dundero.
 18 Q. All right.
 19 A. And a buccal swab from Rachael Salak.
 20 Q. All right. First of all, before I go any further,
 21 let me qualify you, please, sir?
 22 A. Yes, sir.
 23 Q. You have been a S.L.E.D. agent working in the D.N.A.
 24 Lab for several years?
 25 A. Seven years.

1 Q. Seven years. As part of your course of study do you
2 have to pass certain examinations to be qualified as an
3 expert in Court?

4 A. Yes, sir, I do. I had to pass a written exam and an
5 oral examination, a competency and a mock trial before I
6 was deemed competent as a D.N.A. analysis. That's
7 training that took a year and a half.

8 Q. All right. After you completed and graduated from
9 that course work do you take over trainings on a regular
10 basis, annual basis, to keep up your certification?

11 A. Yes. We are required to have eight hours of
12 continuing education courses every year.

13 Q. Eight hours?

14 A. Yes, sir.

15 Q. All right, sir. Is your work reviewed in the lab
16 before you sign off on a report? Do you have a supervisor
17 review your results?

18 A. My work is, before any report that goes out by
19 S.L.E.D, is reviewed by a fellow analyst and a senior
20 analysis. That's prior to any report been being released.

21 Q. All right.

22 MR. FINNEY: At this time I would offer S.L.E.D.
23 Agent Stewart as an expert in the field of D.N.A.
24 analysis?

25 MR. BRIDGES: No objections, Your Honor.

1 THE COURT: All right. The Court so finds.

2 BY MR. FINNEY:

3 Q. Agent Stewart, let me show you what is -- do you have
4 a record of receiving a glove in your lab? Some type of
5 work glove?

6 A. Yes, sir. The glove was item Two, S.L.E.D. Item 2,
7 but I never saw the glove. It was processed by our
8 serologist, Veronica Reyes, and she swabbed the glove for
9 me, and then I tested the swab for D.N.A.

10 Q. All right, sir. So she swabbed the glove and sent
11 the swabs to you?

12 A. Yes, sir, that is correct.

13 Q. And you tested the swabs that were sent to you from
14 her lab?

15 A. Well, her---

16 Q. You're all in the same lab?

17 A. Yes, sir.

18 Q. All right. So you never actually saw the glove?

19 A. That is correct.

20 Q. All right, sir. Did you take the swabs that were
21 received from the glove and use a D.N.A. analysis on them
22 to compare them to standards that you had received from
23 law enforcement? 6.1 is one standard and 27 is the other
24 standard?

25 A. That is correct.

1 Q. All right, sir. And what did you determine, if
2 anything, after you did your examination?

3 A. As my report states the D.N.A. profile is a mixture
4 of three individuals. The partial D.N.A. profile of the
5 major component is consistent with being from two
6 individuals. James Ginther is included as a possible
7 contributor to the major component.

8 The probably of selecting a random, an unrelated
9 individual who could contribute to the major component to
10 the mixture is one in 15 million.

11 Suzette Ginther, Warren Dundero and Rachael Salak are
12 excluded as contributors to the major component, and due
13 to the inability to detect a statistic no further
14 interpretation would be offered regarding major component.

15 Q. All right. Let's make that a little bit simpler. On
16 the two samples that you saw, dried blood from Suzette
17 Ginther and dried blood from James Ginther, those two
18 samples were compared to the swabs that you received that
19 came from the inside of the glove?

20 A. That is correct, and if I can explain it. I make
21 sure that we have more than one individual contributing to
22 the D.N.A. So in this case and same as Item 2.1, the swab
23 of the interior of the glove, I identified three
24 individuals.

25 And like many times we're able to extract individuals

1 who contributed blood D.N.A. to that item. That's the
2 major component, and the major component consisted of two
3 individuals. I was able to identify two individuals
4 within than mixture that contributed significantly more
5 D.N.A.

6 Once I compared those, those individuals to that
7 major component, I found that James Ginther could not be
8 excluded as a major component, and I was able to exclude
9 the other individuals as a contributor to the major
10 component.

11 Q. All right, sir. So the individuals that were
12 excluded were Suzette Ginther, Rachael Salak and Warren
13 Dundero?

14 A. From the major component, that is correct.

15 Q. All right. And James Ginther was one of the two
16 people that contributed to the major component?

17 A. That is correct.

18 Q. All right. Now, when you do the scrapings inside the
19 glove you use a Q Tip just like the buccal swab?

20 A. That is correct, a sterile swab is used.

21 Q. A sterile swab, and what are you looking for? For
22 example, can you pick up on that sterile swab -- what are
23 you hoping to pick up?

24 A. Any kind of skin cells. As individuals we give our
25 skin cells on a daily basis. And so whenever we wear

1 anything or potentially touch something skin cells from
2 our body can come off.

3 Q. Do you know when you processed the glove or when the
4 glove was processed? You said that the Q Tip -- what do
5 you call that?

6 A. A sterile swab.

7 Q. A swab. The swab was done on the inside of the
8 glove, on the inside of the fingers?

9 A. The interior of the glove as well. That is correct.

10 Q. All right. And that's the swabs that were examined
11 by you and run through the D.N.A. analysis?

12 A. That is correct.

13 Q. Now, you also gave us a very large number that that
14 ---

15 A. Yes, sir, I can explain that. So my statement was
16 the probability of randomly selecting an unrelated
17 individual who could contribute to the major component, to
18 this mixture, is one in 15 million. What that statement
19 means is that if I took a random person's D.N.A. profile
20 and I compared it to that major component there would be a
21 one in 15 million chance that a random person could be
22 included as a major component.

23 Q. All right and the D.N.A. probabilities have been
24 worked out over time based on the population, based on
25 your ratio makeup? A lot of factors went into those

1 ratios and profiles; is that correct?

2 A. That is correct. We do a frequently of how often we
3 see certain types of D.N.A. So we have a database that we
4 use.

5 Q. All right. And based on to database Mr. Ginther's
6 probability of being the contributor was very high?

7 MR. BRIDGES: I'm objecting to the form.

8 THE COURT: Okay.

9 MR. FINNEY: Let he rephrase the question.

10 BY MR. FINNEY:

11 Q. Can you say to a reasonable degree of certainty that
12 Mr. Ginther's D.N.A. was inside that glove?

13 A. Yes, I can.

14 Q. And what do you base that on?

15 A. My statistics.

16 Q. And the findings that came through the swab and
17 chemical -- Do you have a chemical analysis that you do
18 with the swab when you're doing the D.N.A. testing?

19 A. Yeah, we do add chemicals to the swab to extract the
20 D.N.A. actually, the D.N.A. that we have here, and go
21 through the process of creating many copies of the D.N.A.
22 to develop a D.N.A. profile.

23 Q. All right. Did you develop some D.N.A. profiles on
24 those swabs that wasn't enough to develop a profile?

25 A. The minor component?

1 Q. Yes.

2 A. The minor component, it was minor. And if I don't
3 have a sufficient enough of a representation of D.N.A. and
4 we can't put a statistic to it, we won't do any kind of
5 interpretation with that.

6 Q. All right. So it has to be a certain amount there
7 for you to put it in your report as being a contributor?

8 A. That is correct.

9 Q. All right. And you say you have minor contributor,
10 which is a little bit?

11 A. It's D.N.A. but not enough of genetic information for
12 us to have statistics.

13 Q. So if you had my D.N.A. sample and you found skin
14 cells in a glove and you found that they were mine -- they
15 reached the level of minor you couldn't identify it to me
16 cause it wasn't enough?

17 A. That is correct. I can't do any type of comparison
18 to that minor component?

19 Q. But if there are more cells and you can develop a
20 profile then could you put me in a contributor to that
21 D.N.A?

22 A. It just depends on that profile. If I have enough
23 genetic information where I feel confident enough to do a
24 statistic to it then I will. But if I do not, as in this
25 minor contributor, I will not do the statistics with it.

1 Q. Is there any level of greater than being a major
2 contributor? I think you said minor and major. Is there
3 any?

4 A. It would be a single source which just means one
5 person contributed their D.N.A. That could be the only
6 thing greater than that.

7 Q. Would you need more D.N.A. to develop a profile to
8 call it a single source?

9 A. No. More than one person contributed their D.N.A.

10 Q. You had enough D.N.A. of Mr. Ginther to put him in as
11 a major contributor?

12 A. I was able to include him as a contributor to that
13 major component. So there was enough D.N.A.

14 Q. Was there any analysis -- I believe there is
15 something -- there was some hair also turned in?

16 A. Yes, sir, our Item 2.2 was the hair on the glove.

17 Q. As you examined it ---

18 A. 2.2.1.

19 Q. As you examined the hair from the glove were there
20 any results obtain by your lab?

21 A. My results say no STR D.N.A. profile developed, and
22 what that means is that there was just really low D.N.A.
23 and we just couldn't do anything with it.

24 Q. All right. Answer any questions the Defense may
25 have, sir.

CROSS-EXAMINATION

BY MR. BRIDGES:

Q. Good afternoon, Agent Stewart?

A. Good afternoon.

Q. First, let's clarify. Your report says the D.N.A. profile listed James Ginther as a possible contributor. Can you explain what that means?

A. It means that he's a contributor. That's just the wording that we have for it.

Q. Now, there is also at least three other individuals were identified in this mixture?

A. That is correct.

Q. And how do you decide what is the major component and the minor component?

A. We have a criteria that we have that we go through with every profile which is single source, one person; mixture, multiple people. And each area of location that we have with that D.N.A. profile has to meet that criteria for us to be able to identify a major component.

Q. When doing analysis on a mixture or more than two individuals is it increasingly difficult to do analysis of a mixture that has multiple contributors?

A. It just depends on the profile.

Q. But I mean is that more difficult than if there is a single source?

1 A. Yes, it would be more difficult than a single source.

2 Q. Is it more difficult than if it's two sources?

3 A. It just depends on that profile.

4 Q. And did the statistics say, "Randomly selecting an

5 unrelated individual who could have contributed." Does

6 that factor in related individuals?

7 A. It does not. Well, if I had a related person that

8 they thought that they could do I may do it's not

9 impossible for me to exclude that individual. I just need

10 to see the profile and see if I can exclude them or not.

11 Q. But that would be a different calculation of a

12 related individual?

13 A. No, it would be the same. I can do the same one, but

14 I just need to see it. We can't say with 100 percent

15 definitively whether or not it is unrelated.

16 Q. Cause I don't know if you are aware but James and

17 Suzette had biological children together. Would they have

18 D.N.A. that would be similar to either of them?

19 A. Yes, they would because we get our D.N.A. from our

20 mother and father. But that does not necessarily mean

21 that I would not be able to exclude them from that

22 profile. I would just need their D.N.A. for comparison

23 purposes.

24 Q. And you did not have samples of them for comparison

25 purposes?

1 A. I did not.

2 Q. Okay. And also the one in 15 million, now I'm going
3 to ask you some statistic questions here. Population of
4 the earth is more than 7.15 billion?

5 A. Yeah, around 7 billion.

6 Q. So by my math, and I'm an attorney so please forgive
7 me. That's about 500 individuals on earth? Is that one
8 in 15 million ratio?

9 A. I'm sorry. Could you repeat that?

10 Q. The one in 15 million, that ratio over the population
11 of 7.5 billion is about 500 individuals?

12 A. I don't know. I would have to do the math. I can't
13 do it in my head.

14 Q. But that's a non zero, given the population actually
15 are -- it's not a number that exceeds the population of
16 the earth?

17 A. No, it does not.

18 Q. And D.N.A. is not -- does now tell you what time Mr.
19 Ginter or anybody else had handled those gloves or
20 anything?

21 A. It does not.

22 Q. And it does not tell you at what location they
23 handled those, those objects?

24 A. It does not.

25 Q. And you said it was skin cells? That's what mostly

1 you recovered?

2 A. Yes, sir.

3 Q. And, now, there is at least -- there are two
4 individuals in the major component. You did not have a
5 profile on this other individual?

6 A. Yeah, yeah, that's correct. If I don't have a
7 profile to compare that to I would not be able to identify
8 that individual.

9 Q. So there is an unidentified person's D.N.A. in that
10 major contributor?

11 A. That is correct. There should be another one.

12 Q. And then there were possible more individuals in the
13 minor component? You just didn't have enough -- you
14 weren't able to determine exactly how many people were in
15 the minor component?

16 A. It was just one. To my understanding and to my
17 interpretation of it it is just one more individual, the
18 minor. And because it is so low and I don't have enough
19 genetic information I won't do any kind of interpretation
20 on it.

21 Q. And you did not have any -- you tested the hair from
22 the glove. You said you could not find -- there wasn't
23 enough D.N.A. to make any kind of analysis?

24 A. That is correct.

25 Q. And none of the other -- you didn't test D.N.A. for

1 any of the other objects or services related to this case?

2 A. Other than the items I stated about the water bottle
3 and some fingernail clippings.

4 Q. Yeah. And there was no -- you weren't able to find
5 any conclusive results on those?

6 A. I was not.

7 Q. And there was no other -- there was no blood sample
8 on the glove or anything else like that?

9 A. We did not do any blood testing.

10 Q. It was just the skin cells that you did the D.N.A.
11 analysis?

12 A. That is correct.

13 Q. You did not have samples from the biological children
14 of James and Suzette for this case?

15 A. I did not.

16 MR. BRIDGES: Court's indulgence?

17 THE COURT: Yes, sir.

18 MR. BRIDGES: No further questions. Thank you, Agent
19 Stewart.

20 MR. FINNEY: One question, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. FINNEY:

23 Q. Agent, do you believe that skin cells will age to the
24 point where they will not give off a D.N.A. profile?

25 A. It just depends on what kind of different factors

1 that it is exposed to I should say.

2 Q. All right. If you touch something yesterday and
3 leave skin cells would it be easier to collect them and
4 read them than if you were trying to get something from a
5 year ago?

6 MR. BRIDGES: I'm going to object to the form.
7 Leading.

8 THE COURT: I will allow the question.

9 MR. BRIDGES: Except it is two questions.

10 BY MR. FINNEY:

11 Q. Would your answer both of my questions?

12 A. I believe it would be easier to collect something
13 that may have been deposited yesterday rather than a year
14 ago.

15 Q. Thank you.

16 MR. BRIDGES: Just a little follow-up on that.

17 RECROSS-EXAMINATION

18 BY MR. BRIDGES:

19 Q. But you can still, if somebody touched a glove at any
20 point in time, there could be chance that their D.N.A.
21 could be in there?

22 A. That is correct.

23 Q. And D.N.A. does not -- the analyst and the analysis
24 that you do does not tell you anything about time duration
25 or location of when that person touched that object?

1 A. It doesn't.

2 MR. BRIDGES: Thank you.

3 MR. FINNEY: Nothing further.

4 THE COURT: Thank you, sir. You can step down.

5 THE WITNESS: Yes, sir.

6 COLLOQUY

7 THE COURT: Okay. Do we quit or have you got
8 somebody to get up next?

9 MR. FINNEY: I've got a room full, Judge?

10 THE COURT: I'm just trying to keep from going into
11 next week, but Atlanta cuts the lights out in here a six
12 o'clock?

13 MR. FINNEY: I'm ready for the day. I'll be starting
14 ready to go in the morning.

15 THE COURT: Okay. So you want to quit. If you have
16 a real short witness that's one thing. But if you've got
17 one that is going to last past 6:00.

18 MR. FINNEY: I don't have a short one.

19 THE COURT: All right. Then we will quit for the
20 day. Ladies and gentlemen, I remind you, if you don't
21 know the drill by now, don't talk about it. I'll see you
22 at 9:00 in the morning. Thank you very much. And I'm
23 sorry for keep going this late, but I'm trying to get rid
24 of this week.

25 (WHEREUPON, the jury panel was excused from the

1 courtroom at 5:18 p.m.)

2 THE COURT: Okay. Anything we need it do before we
3 break?

4 MR. FINNEY: Nothing from the State, Your Honor.

5 THE COURT: So you think we can finish the State's
6 case tomorrow?

7 MR. FINNEY: Yes, sir. For sure tomorrow.

8 THE COURT: Okay.

9 MR. FINNEY: I was hoping by noon. I'll do my best.

10 THE COURT: All right. See you in the morning at
11 9:30.

12 END OF TRANSCRIPT OF RECORD

13

14

15

16

17

18

19

20

21

22

23

24

25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HATTIE O. GORDON, Court Reporter

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF SUMTER) 2018-GS-43-00206

STATE OF SOUTH CAROLINA)
) PLAINTIFF)
) vs.) TRANSCRIPT OF RECORD
)
 JAMES L. GINTHER)
) DEFENDANT)

April 8-12, 2019
 Sumter, South Carolina
 Volume No. 4 of 5

B E F O R E:

THE HONORABLE R. FERRELL COTHRAN, JUDGE; and a jury.

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

ERNEST A. FINNEY III, DEPUTY SOLICITOR
 Attorney for the State

JASON E. BRIDGES, PUBLIC DEFENDER
 Attorney for the Defendant

ALLEN J. BARNES, PUBLIC DEFENDER
 Attorney for the Defendant

BILLY PARKER,
 CAMERON PRESCOTT,
 AMY YARBOROUGH,
 SUSAN AYCOCK,
 MICHAEL MCCAULEY,
 DONALD VICKERS,

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

WARREN DUNDERO,
JOHN BATES,
MARK SJOLUND,
DAVID GAYLE,
RANDALL STEWART,
KRISTINA GAINNEY,
RACHAEL SALAK,
RANDALL HILLIARD,
KIM COLLINS,
NICHOLAS SPROUSE,
DARREN SOLOMAN,
CHAD SMITH,
SAMUEL STEWART,
ERIC GRABISKI,
DARON SOLOMON,
CHASE BARNETT,
JEFF BISHOP,
JACOB VETO,

HATTIE O. GORDON
Circuit Court Reporter

COLLOQUY

1
2 MR. FINNEY: Your Honor, the first witness this
3 morning would be S.L.E.D. agent talking about cellular
4 analysis of the phone records, and we have a disc we'd
5 like to mark and put into evidence so that he can show on
6 the screens his analysis. The records are of James
7 Ginther's phone calls and Suzette Ginther's phone calls
8 for the month of November.

9 MR. BRIDGES: I don't have any objections to that.

10 THE COURT: Okay. Go ahead and mark. I have been
11 informed by the Clerk's Office that one of the jurors
12 called in. I think it's the young lady that's been
13 sitting on that far end corner. She is sick and her baby
14 is sick. So she's not coming. So I had the Clerk put the
15 two alternate's names in some kind of container and draw
16 one of them out to replace that juror. And my
17 understanding is his office has done that. And who is the
18 new juror?

19 CLERK OF COURT: Tamika Miller, Number 103. She's
20 actually the first alternate.

21 THE COURT: She will sit in the slot of the juror
22 that was removed, okay? All right, sir, you ready for the
23 jury?

24 MR. BRIDGES: Your Honor, just a procedural thing.
25 For most of these witnesses I do not anticipate, other

1 than the Louisville Police reports, there's a pre-existing
2 Jackson v. Denno motion. When the witness for the jail
3 calls is introduced, I do have objections about those jail
4 calls. And I don't know if you would like me to do that
5 now or wait until we get to that point in the trial.

6 THE COURT: Okay. Well, tell me what you are
7 objecting about the jail calls?

8 MR. BRIDGES: Thank you. Okay, Your Honor. I've
9 been provided with a list of seven jail calls with
10 timeframes. So Mr. Finney provided me with these on
11 Monday. I've reviewed them. There's an overall objection
12 to all of this. They're highly prejudicial. He, Mr.
13 Ginther, is discussing the -- shows up to the jail, of
14 course, and gets his warrants. He gets a supplemental
15 report about it.

16 He start speaking with family members. You know, he
17 basically says he suspicious of Rachael because he's, you
18 know, seen the statement now that Rachael has made a
19 statement on.

20 In Call Number Two he -- when he initially talks to
21 his mom he uses offensive language that would be very
22 prejudicial to this case.

23 In Call Number Three it would be Call Number 16 on
24 their list, his voice intro is creepy stalker. So, again,
25 that would be something that would be extremely

1 prejudicial and not ---

2 THE COURT: Wait a minute. Say that again?

3 MR. BRIDGES: Well, every jail call they have to say
4 this is a call from, their name.

5 THE COURT: Um hum.

6 MR. BRIDGES: He refers to himself as creepy stalker.
7 That's when he's talking to his sister, I believe. Again,
8 I think that would be irrelevant and extremely
9 prejudicial. Same thing when he first talks to his mom.
10 I can hand you the transcripts of the ---

11 THE COURT: I got a copy.

12 MR. FINNEY: You don't have a transcript of the call.
13 You just have an outline.

14 THE COURT: Oh, Okay.

15 MR. BRIDGES: And the call, Call Number 17, that's --
16 he talks to his sister. Again, it's -- from my reading
17 this he doesn't make any statements against interest. I
18 mean, he does express, you know, his theories about who he
19 thinks is involved in this.

20 He does express concerns about some missing
21 property. He's concerned about his gun. But that's not
22 his making an admission saying I had my gun there or
23 something. He does discuss the ballistic evidence with
24 his father.

25 And then Call Number 18, which is the second call

1 with the father, again, he refers to himself as creepy
2 stalker, the name. He talks about his meeting with me.
3 His -- things that I discussed with him about his upcoming
4 preliminary hearing. I don't think that would appropriate
5 or admissible. That's for a part of that video.

6 He also makes a reference to intimate history between
7 him and Suzie. The question that he was asked about the
8 history between him and Susie which wasn't admissible on
9 the video. So there's just a lot of issues I'd have with
10 redactions ---

11 THE COURT: Well, I didn't say it wasn't admissible
12 on the video. You excluded it and the Solicitor. I
13 didn't rule on anything on that video whether it was
14 admissible or not admissible. You asked to exclude it and
15 the Solicitor agreed. So I wasn't asked to determine
16 whether it was admissible.

17 MR. BRIDGES: It's from the excluded part of the
18 video, and the reason I didn't object to for relevance
19 because it refers to their question about their sexual
20 history. It's all been done in a very crude way that
21 could be flamboyant, in his words.

22 And then the final call is actually discussion
23 between Mr. Ginther and his father about a newspaper
24 article and what was in it. And because the media reports
25 are not relevant to this case I would argue that would be

1 prejudicial because that would raise discussions of media
2 articles and also it might encourage the jury to look into
3 what those articles in fact say.

4 You know, you instructed them not to, but that brings
5 that up as an issue. The final call is basically his
6 father saying what he read in an article, and he's
7 discussing that with James.

8 THE COURT: Okay.

9 MR. BRIDGES: So I don't know if you want to, you
10 know, listen to them ---

11 THE COURT: How long before we gonna have somebody
12 testify about that?

13 MR. FINNEY: I'm not sure, Your Honor. I'll give you
14 plenty of notice because ---

15 THE COURT: Okay. I'll look over this, and if you
16 want to give me any transcript I'll be glad to be looking
17 over it while we ---

18 MR. BRIDGES: Certainly, and would you like for me to
19 make a copy for you?

20 MR. FINNEY: Copy of?

21 MR. BRIDGES: Of the transcripts.

22 MR. FINNEY: I think I have them.

23 MR. BRIDGES: I used these ---

24 THE COURT: Where did you get them from?

25 MR. BRIDGES: Oh, I just made these after I was

1 received a list of calls. But that's the only other
2 matter I think that might require a hearing outside of the
3 jury, Your Honor.

4 THE COURT: All right. Anything else before we bring
5 the jury in?

6 MR. FINNEY: If you don't mind, give me one second.
7 I want to make sure the system is up.

8 THE COURT: Okay. All right. All right, sir. Are
9 you ready?

10 MR. FINNEY: Yes, sir, we're ready.

11 THE COURT: The Defense ready?

12 MR. BRIDGES: Defense is ready, Your Honor.

13 THE COURT: All right. Bring in the jury.

14 (WHEREUPON, the jury panel enters the courtroom at
15 9:47 a.m.)

16 THE COURT: Okay. Ladies and gentlemen, y'all
17 probably realized you lost somebody overnight. Ms. Belk
18 called in and she was sick and her child was sick. So I
19 had the Clerk's office put the two alternate names in a
20 hat and draw one out, and Ms. Miller, you have been drawn
21 out as the new juror.

22 So you will be seated at this point as a regular
23 juror, okay. All right, Mr. solicitor, you may call your
24 next witness.

25 MR. FINNEY: Good morning, Your Honor. Good morning,

1 ladies and gentlemen. Eric Grabski, S.L.E.D. agent.

2 THE BAILIFF: Place your left hand on the bible and
3 raise your right. State your name.

4 THE WITNESS: Eric Grabski.

5 ERIC GRABISKI, after being duly sworn,
6 testified as follows:

7 THE BAILIFF: Thank you. Step around. State your
8 name for the record and spell your last name, please?

9 THE WITNESS: Eric Grabski. My last name is spelled
10 G-R-A-B-S-K-I.

11 DIRECT EXAMINATION

12 BY MR. FINNEY:

13 Q. Good morning, Agent.

14 A. Good morning.

15 Q. Where do you work, sir?

16 A. I work for the South Carolina Law Enforcement
17 Division.

18 Q. And is that commonly known as S.L.E.D?

19 A. Yes, sir.

20 Q. And are you headquartered in Columbia?

21 A. Yes, sir.

22 Q. All right. How long have you been a S.L.E.D. agent?

23 A. I've been a S.L.E.D. agent for just a little over
24 three years now.

25 Q. All right, sir. And do you work in a particular

1 department at S.L.E.D.?

2 A. I do. I work for the State's Surveillance
3 Intelligence Unit. It's housed in the Fusion Center.

4 Q. All right, sir. And is that a multi-disciplinary --
5 you all have a lot of different things going on in the
6 Fusion Center?

7 A. That's correct.

8 Q. All right. Do you have a specialty in the Fusion
9 Center?

10 A. I do. So the State's Surveillance Intelligence Unit
11 is kind of another name for a Fugitive Unit/that's where
12 I'm assigned. The team that I'm assigned to that unit,
13 our specialty is cell phone technology primarily the cell
14 site location information.

15 Q. All right, sir. And have you studied, taken
16 certifications of testing in cell phone technology?

17 A. I have. I have over hundred hours of training
18 specializing in cell phone technology.

19 Q. All right. In order to keep your status as an expert
20 in or someone who does this all the time, do you have to
21 go to trainings, classes to keep up with the latest
22 technology?

23 A. Yes.

24 Q. All right. You've been at S.L.E.D. for three years.
25 Is this the department that you started in?

1 A. No. I started at the University of South Carolina
2 Police Department. I worked there for two years.

3 Q. All right. As a result of your training in
4 specialty, have you testified before?

5 A. I have.

6 Q. All right. And have you been qualified as an expert
7 on those occasions?

8 A. I have.

9 Q. Q.All right. And is your qualification in cell phone
10 analysis, cell phone record analysis?

11 A. That's correct.

12 Q. All right.

13 MR. FINNEY: Your Honor, I would offer Agent Grabski
14 as an expert in the field of cell phone record analysis.

15 MR. BRIDGES: No objection, Your Honor.

16 THE COURT: Okay. The Court so finds..

17 BY MR. FINNEY:

18 Q. Agent, did you have an occasion to be asked to
19 investigate some records based on phone data that Randy
20 Stewart from Sumter sent you in connection with a missing
21 persons case over here in Sumter?

22 A. Yes.

23 Q. In November of 2017, do you know when you were
24 connected to the case after November?

25 A. Sometime later this year or in January I was sent the

1 records.

2 Q. All right, sir. And did you have the occasion to
3 review the records and perform an analysis on them?

4 A. Yes.

5 Q. Before we get into the technical stuff could you tell
6 the ladies and gentlemen of the jury, maybe you have a
7 little Power Point you can look at the records and talk at
8 the same time. Tell us a little bit about cell phone
9 technology and how it works. Did you receive records from
10 one, Suzette Ginther?

11 A. That's correct. For her -- for her cell phone.

12 Q. And were those records for about the month of
13 November?

14 A. That's correct.

15 Q. 2017?

16 A. That's correct.

17 Q. Did you also receive records for James Ginther for
18 his cell phone?

19 A. That's correct.

20 Q. And that was also for the month of November?

21 A. Yes.

22 Q. All right. Based on the records that you looked at,
23 could you tell us about how cell phone technology works,
24 just briefly, a little bit, and then we'll talk about
25 those two records.

1 A. So the majority of our records that you're gonna see
2 on any kind of cell phone is based on usage of the phone.
3 So if I was constantly putting out, when it's powered on,
4 it's constantly putting out a signal to the network of
5 towers around and the towers, as long as they are in
6 service, are also putting out technology and putting out
7 frequencies to -- for anywhere for you to be able to use a
8 phone.

9 So the records that we're going to see here are when
10 you have a tower location that means the phone was used.
11 So it's either gonna be -- for Sprint records which as
12 you'll see, it's voice calls only that connected to the
13 tower. Texts are routed through a different system and,
14 they don't have any location information for text
15 messages.

16 Q. All right.

17 MR. BRIDGES: This is the disc that you had used
18 earlier ---

19 MR. FINNEY: Yes, sir.

20 THE COURT: Without objection?

21 MR. BRIDGES: Yes, sir.

22 THE COURT: What's the number on it? Do you know?

23 MR. FINNEY: Seventy-one, I think.

24 COURT REPORTER: Seventy-three.

25 MR. FINNEY: Seventy-three.

1 THE COURT: And that's without objection, Mr.
2 Bridges?

3 MR. BRIDGES: That's correct, Your Honor.

4 THE COURT: Okay. Thank you, sir. Go ahead.

5 (WHEREUPON, State's Exhibit No. 73 was admitted into
6 evidence.)

7 BY MR. FINNEY:

8 Q. Agent Grabski, is your screen on?

9 A. No, it is not.

10 Q. Can you operate the disc from where you are?

11 A. No.

12 Q. No. Okay. All right. Let's start with this picture
13 that's on the screen now. Tell us what that is a picture
14 of?

15 A. That's a picture of a basic cell phone tower as you
16 can see. What you're seeing here is it's divided into
17 three sectors. The majority of the towers are divided
18 into three sectors. In fact, all of the towers on the
19 records that we're gonna go through are divided into three
20 sectors. They create a 360 degrees route.

21 Q. All right. Anything on that slide do you want to
22 tell us about? Because the three sectors, each are at an
23 angle that receives a signal from a cell phone?

24 A. That's right. And they're also putting out a signal.
25 That's correct.

1 Q. All right. And so if you are able to connect a phone
2 to a tower do the records that you look at tell you which
3 tower was connected to and what time it was connected to
4 it?

5 A. That's correct. Correct. As well as what sector.

6 Q. And sectors means? How many sectors are there?

7 A. There's three sectors on a tower. Usually,
8 generally, Sector 1 is going to face in a northern
9 direction, but sometimes that kind of gets a eastern or
10 western direction. Sector 2 will be just below that going
11 clockwise, and then Sector 3 on the other.

12 Each sector, it has what we call a beam of the 120
13 degrees which three, you know -- three times 120 is 360.
14 That completes the circle of the sectors. For these
15 Sprint records you see Sector 2. That's gonna be actually
16 Sector 1. Sector 3 and Sector 2 and Sector 3 is actually
17 Sector 4. That's just a little minor thing that Sprint
18 does. It's a little different.

19 And so Sector 2 usually going to intervene that
20 northerly direction.

21 Q. All right. Next slide. Let's go to the next slide.
22 So this is Target Number 316-6679. Do you know whose
23 number that is?

24 A. I believe that was the number that was provided for a
25 Suzette Ginther.

1 Q. All right, sir. And she had a Sprint phone?

2 Basically, Sprint service?

3 A. That's correct.

4 Q. All right. And you analyzed her phone records from
5 November 15th through the 16th, on 2017?

6 A. That's correct.

7 Q. All right. And you had three possible locations?

8 A. Location of interest, yes, sir.

9 Q. All right. And those were provided to you by Mr.
10 Stewart of Sumter County?

11 A. Yes.

12 Q. All right. One was her house and one was the
13 location where she was found?

14 A. Correct.

15 Q. And the other one was a address on Babette where her
16 vehicle was found?

17 A. Correct.

18 Q. Did you find from your analysis that the cell phone
19 tower nearest her house had a particular number? Do they
20 have a number? Towers have a number?

21 A. Yes.

22 Q. What tower number is nearest to her house?

23 A. I believe it was Tower 262, if I remember correctly.
24 Yes, Tower 262.

25 Q. All right. Tower 262. What did your analysis on her

1 records show you for November 15th and 16th?

2 A. So this is an example of what we're about to see.

3 The green tower map right there are footprints.

4 Essentially right there next to Shaw Air Force Base is

5 gonna be -- it's going to light up. It's gonna be

6 highlighted like that when the tower was used, and I will

7 have the tower sector and the time next to it.

8 The other towers in the area that are not being used

9 are signified by that small tower icon that says Tower

10 186, if you look off to the left there. That's gonna be a

11 network tower that's in the area, but that wasn't being

12 used when the green sector is highlighted. If that makes

13 sense. And then the location of interest will also be on

14 that.

15 Q. All right. And just for the record so that we are

16 all on the same page, we have State's Exhibit 56 showing

17 the map of the month of November. And so if the records

18 that you're talking about are for the 15th and 16th of

19 November that would be Wednesday and Thursday?

20 A. Correct.

21 Q. All right. What do her records show?

22 A. So on November 15th from 8:00 a.m. -- from 8:18 a.m.

23 until 12:58 p.m. she was located at -- near 4400 Fort

24 Jackson Boulevard in Columbia, South Carolina on Tower

25 157, Sector 2.

1 Q. All right. So the first tower that we talked about a
2 minute ago was -- I think you said 262?

3 A. That's right.

4 Q. That was in Sumter? That's Cherryvale?

5 A. That's correct.

6 Q. In that area?

7 A. Yes.

8 Q. The information you're giving me now is that her
9 phone was on the network in Columbia eight o'clock in the
10 morning on November 15th?

11 A. Yes, 8:18 a.m. to 12:58 p.m.

12 Q. To 12:58 which is almost one o'clock in the
13 afternoon?

14 A. Correct.

15 Q. All right. Did the phone go to a different area
16 after one o'clock?

17 A. Yes. The phone utilizes this Tower 255, Sector 2 at
18 1:55 p.m.

19 Q. What does that indicate to you?

20 A. That indicates movement. That indicates that the
21 phone went from that Tower 157, and I believe it's the
22 next transaction that was recorded was recorded on Tower
23 255, Sector 2. So that would mean that the device between
24 12:58 p.m. and 1:55 p.m. moved to that area that you're
25 seeing on the bottom half.

1 Q. And if I'm -- how many minutes does this record show
2 that we are looking at on this record?

3 A. Between, but -- I'm sorry.

4 Q. Is that what -- between 12:58 and 1:55 how many ---

5 A. It's about an hour. It read just about an hour.

6 Q. Okay. Now, Tower 255 is located -- can you tell
7 where that's located? Does that say what city that's in?

8 A. I believe that's gonna be 378 near Pineview Road if
9 I'm looking at it correctly.

10 Q. Okay. Very good. So it's it's not in Columbia?

11 A. Lower Richland.

12 Q. Okay. Very good. And what did the next record show?

13 A. The next records show that at 4:16 p.m. the device
14 utilized Tower 169, Sector 3. It looks like that tower is
15 servicing the West Sumter area.

16 Q. All right. And so it would show -- based on your
17 analysis was Ms. Suzette using the phone by receiving
18 calls? Can you tell whether -- could you tell from your
19 records was she receiving calls or text messages or
20 sending calls or text messages?

21 A. Yes. It's based on the C.D.R, call detail record.

22 Q. And how does the call detail record express that?

23 A. It will -- there's a call for incoming and outgoing
24 calls as well as a called number call and a calling number
25 of the call.

1 Q. All right. The next slide, is at what time?

2 A. At 4:39 p.m. and 7:27 p.m.

3 Q. All right. Now, is that a range from 4:39 to 7:27?

4 That whole period of time was the phone on the network?

5 A. I can't say if the phone was on the network the
6 entire time, but I can say that at 4:39 p.m. and at 7:27
7 p.m. the phone was on network and utilizing Tower 262,
8 Sector 2.

9 Q. Now, show the ladies and gentlemen of the jury why
10 it's important for that tower with that green footprint
11 that you called it, what side or what sector of the tower
12 is being utilized by her phone?

13 A. Sector 2.

14 Q. Okay. And if she moves out of that 120 degree
15 footprint will it switch over to a another sector?

16 A. It will, yes.

17 Q. All right. And depending whether she's going left or
18 right or north or south that sector will show up as
19 being -- receiving the signal from that phone?

20 A. That's correct. If a call is made during that
21 movement or during that time then you will see a different
22 sector highlighted.

23 Q. All right. Now, that photograph shows her house at
24 North Lake Cherryvale Drive in the Sector 2?

25 A. Correct.

1 Q. And if she used the phone between those hours we were
2 talking about, between 4:30 and 7 p.m., it was used in
3 Sector 2?

4 A. I believe. I would need to look at the call detail
5 records to see if she was using it. I don't believe that
6 there were any -- I'll need to look. So during that
7 timeframe it seemed there was no voice calls recorded. So
8 it would be consistent with the phone staying in that area
9 or if the phone did move we would have no record of that.

10 Q. All right. Next slide. The next slide is November
11 16th. Now, we're at Thursday morning, and what time does
12 that show?

13 A. 5:15 a.m.

14 Q. So are we still on the same tower the next morning at
15 5:15 a.m?

16 A. Yes.

17 Q. Are we still on Sector 2 of that tower?

18 A. Yes.

19 Q. And at 5:15 a.m. is there some activity to that
20 phone?

21 A. Yes. I believe that was an incoming call. Yes, that
22 was an incoming call made at 5:15 a.m. and registered to
23 that tower.

24 Q. All right. And can you tell us who that call came
25 from?

1 A. That call came from 803-463-8701.

2 Q. All right. And was that call -- could you tell from
3 it was an incoming call to Suzie's phone?

4 A. Yes, that is correct.

5 Q. From the number that you just gave us?

6 A. Yes.

7 Q. All right. Now, after that call at 5:15 in the
8 morning, can you tell us specifically about that call
9 anything in particular? For example, did they, the
10 people, the person who made the call and the person who
11 received the call, did they talk?

12 A. It does not appear that way. The call type, the
13 incoming versus outgoing versus routed, this call was
14 routed and it registered to a tower.

15 Q. All right. The call was routed. Please tell the
16 ladies and gentlemen, what that means?

17 A. Generally, that means that the phone -- that the call
18 went to voice mail. That's generally what that means or
19 that the phone is disconnected from the network meaning it
20 could be powered off or it could be in some type of an
21 airplane mode where it's not actively receiving signals.
22 Generally, we see routed calls when the phone is off which
23 it's going straight to voice mail.

24 Q. But the other thing you said was that it registered
25 to a tower?

1 A. That's correct. So in this case it's not uncommon.
2 I've seen it on previous phone record before, but this
3 would be consistent with somebody call forwarding,
4 basically. So when you forward a call somebody calls you
5 and you don't want to speak to them you hit the red button
6 or, you know, get rid of it, it will registered that it
7 routed because it then went to voice mail. It didn't
8 complete the entire transaction.

9 Q. All right. Would the fact that that call came to
10 Suzie's phone, showed up on her records as a routed call
11 and attached to a tower, would that tell you something
12 about -- did it have a duration?

13 A. Yes. I believe the duration is 21 seconds.

14 Q. Twenty-one seconds. Would you, analyzing the records
15 that you have, expected that that call rang the phone?

16 A. Yes. Because it connected to a tower I would say
17 that the phone, at the minimum, registered that, hey, I'm
18 receiving a call.

19 Q. All right. And once the phone rang are you able to
20 say because the call was routed that whoever had that
21 phone pushed the red button to send it to voice mail?

22 A. These records -- these records are consistent with a
23 call forwarded -- a call routed being manually hung-up.

24 Q. If the call to Suzie's phone was answered, would it
25 show up on the record like that?

1 A. No. It would say incoming in that call rather than
2 routed.

3 Q. All right. After -- between, if you have the
4 records, between the hours of midnight on Wednesday night,
5 the 15th and that call Thursday morning at 5:15, were any
6 other calls coming into Suzie's phone?

7 A. I do have an incoming call at -- no, from midnight
8 you said?

9 Q. Yes, sir.

10 A. No, I do not see any calls coming in.

11 Q. All right. And what was the last activity on
12 Wednesday night on Suzie's phone, the last activity that's
13 registered and tell us whether it was texting or a voice
14 call?

15 A. It looks like there was an incoming text at 5:15,
16 possibly, a.m.

17 Q. Is that 5:15 our time or ---

18 A. Our time. But it does not look like it registered at
19 the tower. I won't be able to see if that text came
20 through or not.

21 Q. Okay. And when was that?

22 A. That was at 5:15 a.m. on the 16th.

23 Q. Okay. Was that associated with a number? Could you
24 tell where that call came from?

25 A. No. No, there's no -- it looks like it could have

1 been that the phone was off. That's possible, or
2 disconnected from the network or something happened with
3 the transaction. But I don't have ---

4 Q. Are you talking about Suzie's phone, was off?

5 A. That's correct. Yeah.

6 Q. Okay. Before the last time Suzie communicated by
7 text with anyone on Wednesday, what time was that?

8 A. We have the text message at, I believe it's gonna be
9 8:12 p.m.

10 Q. P.m.?

11 A. Yeah.

12 Q. Wednesday night 8:12 p.m.?

13 A. That's right, an outgoing text.

14 Q. An outgoing text from her phone to someone else's
15 phone?

16 A. That's correct.

17 Q. And that's the last time she texted on Wednesday
18 night? That's the last time she had a voice call with
19 anybody?

20 A. The voice call would've been at 7:27.

21 Q. P.m.?

22 A. That's correct.

23 Q. Was that outgoing or incoming?

24 A. That was incoming.

25 Q. All right. So she got a call from somebody at 7:20

1, p.m.?

2 A. At 7:00 -- yes, sir.

3 Q. How long was that call?

4 A. That call was three seconds. So it's possible it
5 rang to voice mail or it was just a very, very brief phone
6 call.

7 Q. And after that no more phone calls that evening?

8 A. We had a routed call which would be consistent with
9 the phone been off the network because it did not register
10 a tower. That was that at 7:27 just after that earlier
11 7:27 transaction.

12 Q. All right.

13 A. And then that incoming text at 5:15 a.m. on the 16th.

14 Q. All right. On the 16th of November that morning at
15 that 5:15 call you just said came in, was there anything
16 else on Suzie's phone after that?

17 A. After the 5:15 call?

18 Q. Yes, sir.

19 A. No. Everything else is routed after that.

20 Q. And is it routed. As far as you're concern there's
21 no more contact with her phone after that?

22 A. That's correct. The tower -- it's not connected to a
23 tower at all. So every transaction that is happening,
24 which judging by the records, it was all incoming
25 transactions because the calling number it's never her

1 number that called. The dialed digits are all her number,
2 and all those since 5:59.

3 So at 5:59 I believe we had an incoming call here
4 from (803) 463-8701. All the way through 3:47 that day
5 the incoming calls did not go through.

6 Q. And there were no calls from her phone going out?

7 A. No outgoing calls.

8 Q. All right.

9 A. The phone is not connected to a network during that
10 time.

11 Q. All right. Now, the number -- if you don't mind I'm
12 going to use this bulletin board up here. It might --
13 tell us the number of the last text that Suzie got on the
14 night of the 15th?

15 A. The number of the last text message that came in or
16 went out?

17 Q. Yes. That came into her. I'm sorry. The last text
18 message she sent Wednesday ---

19 A. The last tower ---

20 Q. --- Wednesday night?

21 A. Wednesday night the 15th.

22 Q. What time was it?

23 A. That would have been at 8:12 p.m.

24 Q. And what was the number that it was texted to?

25 A. (980) 721-0222.

1 Q. 7-2-1?

2 A. 0-2-2-2.

3 Q. All right. Since you don't have any more information
4 on Suzie's phone after Thursday morning it went off the
5 network; is that correct?

6 A. That's correct.

7 Q. Tell us about the analysis of James Ginther's phone
8 starting Wednesday the 15th?

9 A. Wednesday, the 15th?

10 Q. Yes, sir.

11 A. I apologize. I got it now.

12 Q. All right.

13 A. On Wednesday the 15th the number associated with
14 James Ginther, (980) 721-0222.

15 COURT REPORTER: Slow it down.

16 THE WITNESS: I'm sorry.

17 COURT REPORTER: Thank you. If you can go again,
18 please?

19 THE WITNESS: (980) 721-0222.

20 COURT REPORTER: Thank you.

21 THE WITNESS: Yes, ma'am. That number utilized Tower
22 157, Sector 4 at 9:43 a.m., 3:30 p.m., and 4:30 p.m.

23 Q. And that was on the 15th? That would be Wednesday
24 morning, early afternoon, getting into 4:30 in the
25 afternoon?

1 A. Correct.

2 Q. That tower is in Columbia?

3 A. Correct.

4 Q. And the address that you had submitted to you as far
5 as where Mr. Ginther lived, was that address reflecting on
6 that tower ---

7 A. Yes.

8 Q. --- as far as -- which sector of the tower would that
9 address be in?

10 A. Sector 4.

11 Q. And the calls that you are showing, are those -- at
12 those times are some activity on the phone?

13 A. That's correct.

14 Q. All right. So some activity on the phone. All the
15 activity on that day on that phone number occurred on
16 Sector 4 of Tower 157?

17 A. Yes.

18 Q. All right. And the next activity you have later on
19 that day?

20 A. I'm not sure if we have any activity on that phone
21 there on that day. I believe it was the next day.

22 Q. There was no other activity on that phone after about
23 4:30 in the afternoon on the 15th?

24 A. Correct.

25 Q. All right. If the number that Suzie Ginther texted

1 at 8:12 p.m. was 980-721-0222, Mr. Ginther didn't get that
2 call right away? Didn't get that text right away?

3 A. I can't say that.

4 MR. BRIDGES: I'm going to object to the form of the
5 questions. Leading.

6 THE COURT: Okay. No leading.

7 BY MR. FINNEY:

8 Q. All right. If we have a call from Suzie Ginther's
9 phone and you have records of Mr. Ginther's phone, can you
10 tell whether a connection was made between those two?

11 A. I can when it's a voice call. When it's a text
12 message I'm not gonna see any tower information.

13 Q. All right.

14 A. So I would not be able to tell accurately if it was
15 completed. I can tell you that likely it was completed,
16 but I can't tell you what towers were used and I can't
17 coincide that. I can't say her phone texted this number,
18 you know, his number, at this time she texted from this
19 sector and he received it on this sector.

20 Because the way Sprint does it's records we're only
21 able to see voice calls.

22 Q. So you wouldn't have a record showing that he
23 received a text at a certain time?

24 A. I should, yes. It will show on his call detail
25 records that an incoming text came through, but again, I

1 won't be able to tell if he actually viewed it or ---

2 Q. Do you have that on your record? Do you have the
3 call detail?

4 A. I don't have the record detail records in front of me
5 because of the size of the file, but I do.

6 Q. Let me -- these are the additional records that go
7 with that analysis?

8 A. So I have an incoming text from 803-316-6679 which is
9 Suzette Ginther's number.

10 Q. All right.

11 A. At 8:12.

12 Q. So it didn't register on his phone at 8:12 p.m. on
13 Wednesday?

14 A. That's correct.

15 Q. All right. There were no other texts on her phone
16 after that period. Do you have other phone data on his
17 phone Wednesday night after 8:12 p.m?

18 A. No.

19 Q. No other data?

20 A. No. It's all -- after 8:12 p.m. until the 16th there
21 is -- there are no transactions.

22 Q. All right. When is the next time that James
23 Ginther's phone registers a transaction?

24 A. That would've been at 2:54 a.m. on the 16th. It
25 looks like it was an incoming text so ...

1 Q. Two ---

2 A. Fifty-four.

3 Q. Fifty-four? A.m.?

4 A. I'm sorry. It would have been 3:54 a.m.

5 Q. All right. 3:54 a.m. It's a text?

6 A. That's correct.

7 Q. And it's a text to his phone?

8 A. An incoming text, yes.

9 Q. All right. Now, is there any way to tell from the
10 records where his phone was when that text came into his
11 phone?

12 A. No.

13 Q. Okay. After that text we just talked about 3:54
14 a.m., does the phone register on a tower any time Thursday
15 morning between, let's say, 6:00 a.m. and 8:00 a.m.
16 Thursday morning? Between 6:00 a.m. and 8:00 a.m?

17 A. Yes.

18 Q. And where is the tower information for that as far
19 as -- can you tell from those records?

20 A. That's right. It's a voice call at 7:31.

21 Q. 7:31 is an incoming call?

22 A. Outgoing call.

23 Q. So James Ginther's phone is making a call outgoing?

24 A. That's correct. That's the next time I have anything
25 registered at any tower.

1 Q. At 7:31 a.m. on the 16th?

2 A. That's correct.

3 Q. And is that the first call that those records show
4 any use of the phone?

5 A. I have some outgoing text messages beginning at 5:22
6 a.m, but I don't have any towers connected with that
7 because they're outgoing text messages.

8 Q. Okay.

9 A. So the next time it connects to a tower is at 7:31
10 a.m.

11 Q. 7:31 a.m. Do you know the number that he called at
12 7:31 a.m?

13 A. Yes.

14 Q. Give me the number, please, sir?

15 A. (276) 395-4441.

16 Q. (276) 395-4441. And that's an outgoing call from his
17 phone?

18 A. Correct.

19 Q. But you don't know what tower -- can you tell what
20 tower he was on?

21 A. I can, yes.

22 Q. What tower?

23 A. 157, Sector 4.

24 Q. And that's the one that's near Beltline Boulevard?

25 A. That's correct.

1 Q. All right. Very Good. After Thursday morning is
2 there a lot of activity on Mr. Ginther's phone, incoming
3 and outgoing?

4 A. I don't know what a lot of activity would be.

5 Q. Okay. Can you tell us are there calls, incoming and
6 going out, the phone is being used -- is it being used in
7 different locations on that same tower, Tower 157?

8 A. It looks like it's on that same tower all day
9 until -- let's see. I believe it's gonna be 2:55 p.m. the
10 last time I had anything on that tower. Yes.

11 Q. On Friday the 17th is the phone on the network?

12 A. I'm sorry. On the 16th it looks like the phone
13 didn't move from that tower location. I apologize.

14 Q. All right.

15 A. So 2:55 it was on 157, Sector 4. And then at 6:22
16 p.m. and 6:17 p.m. it looks like it was utilizing possibly
17 bouncing between two towers in Lexington, South Carolina.

18 Q. In Lexington in the evening of Thursday -- I mean ---

19 A. On the 16th.

20 Q. --- on the 16th, Thursday evening?

21 A. Yes.

22 Q. All right. And on Friday the 17th was the phone on
23 the network?

24 A. The phone is not registered to a tower on the 17th
25 until -- I think just one it 7:59 a.m. and 9:16 p.m.

1 Yeah, so we had one call coming -- call at 7:59 a.m. Tower
2 157, Sector 4. And then another call at 9:15 and 9:16.
3 It's stating Tower 218, Sector 3 and that's gonna be on
4 the November, 17th.

5 Q. All right. Do you see a change in the usage of the
6 phone that Mr. Ginther had after the 18th which is
7 Saturday? Was the phone on the network on the 18th and
8 the 19th?

9 A. Yes the phone was on the network on the 18th and
10 19th.

11 Q. All right. And when was the last time you can tell
12 where the phone was used if it -- did the phone ever stop
13 being used around that period of time?

14 A. If it wasn't being used I wouldn't be able to tell
15 if, you know, if it's not being used. I can just only
16 tell the transactions that were on the tower, voice calls
17 on the tower.

18 Q. All right. Let me take you back for a little bit on
19 November the 16th in the early morning hours. Was there
20 any change in the activity that you noticed in terms of
21 the records showing different information?

22 A. It -- I'm not able to speak to that just because of
23 how the change. It can be the way that people use their
24 phones. That morning on the 16th there's no activity
25 between 4:23 p.m. on the 15th until 7:31 a.m. on the 16th.

1 Q. All right.

2 A. So it's not connected to the network or it's not
3 being utilized.

4 Q. It's not connected to the network between Wednesday,
5 late Wednesday afternoon, and early Thursday morning?

6 A. Fifteenth through the 16th, that's correct. Yes. So
7 at 8:12 p.m. there was an incoming text from Suzie
8 Ginther.

9 Q. Right.

10 A. And the phone is not receiving another -- any other
11 transactions until 3:54 a.m.

12 Q. All right.

13 A. And those are consistent with the phone being turned
14 off or off the network. The incoming text messages aren't
15 showing any phone numbers that are going through.

16 Q. And the next time that you show that it is connected
17 to the network is when?

18 A. 7:31 a.m. on the 16th.

19 Q. And when it's connected to the network it's in
20 Columbia on that tower nearest the house?

21 A. Correct.

22 Q. Okay. Do you have any information about James
23 Ginther's phone being used after the 19th of November?

24 A. No, I do not believe I do.

25 Q. All right. Very good. Now, I know we've been kind

1 of very technical. Text messages, if I text your phone
2 will it show up on the record that you received a text?

3 A. Yes. So if the phones are on you'll see the incoming
4 number. On my record you will see the incoming text
5 message. Depending on the carrier you should see a tower
6 or if it's Sprint you're not gonna see a tower with text
7 messages.

8 Q. All right. With Sprint you won't see which tower was
9 used ---

10 A. For text messages.

11 Q. Okay. If a person had a phone and left it at his
12 house, he can go anywhere, the phone is going to stay on
13 the network as long as it's on?

14 MR. BRIDGES: Object to the form of that question.

15 THE COURT: Don't lead. Rephrase the question.

16 MR. FINNEY: All right. I'll rephrase the
17 question.

18 BY MR. FINNEY:

19 Q. Will a phone stay connected to the network as long as
20 it's on?

21 A. Yes, as long as it's on and within range of a tower.

22 Q. All right.

23 A. You know, elevators, basements.

24 Q. If a person turns the phone off would that affect it
25 being read by -- is that ---

1 A. Yes. So when the phone turns off the phone --
2 actually, if you turn your phone off, physically turn it
3 off, the phone is gonna register with the network around
4 it, towers around it, and basically say, good-bye. I'm
5 off the network at this time.

6 Q. All right.

7 A. So any incoming or outgoing calls -- it would only be
8 incoming. Any incoming transactions won't be recorded on
9 any tower.

10 Q. So if I turn the phone off and put it in my car, I
11 can drive all around anyplace, will it connect to the
12 network?

13 A. No.

14 Q. Will it connect to a tower?

15 A. No.

16 Q. Will I be able to send a text or make a call without
17 being connected to the tower -- to the network?

18 A. If the phone is off.

19 Q. If the phone is off?

20 A. If the phone is off, then, no. If the device is
21 turned off there's no way to use it.

22 Q. All right.

23 A. To connect to a tower.

24 Q. All right. Is there a different connection to the
25 tower between a text and a voice call?

1 A. No. Generally, no. In these Sprint records it's all
2 about how the carrier views that transaction and what they
3 record and what they don't record.

4 It's a difference between a voice call, obviously,
5 because you're going to be on the line for some time. So
6 there is a difference. But, generally, it's gonna use the
7 same technology to accomplish both tasks.

8 Q. And the last time Suzie Ginther's phone was connected
9 to the network that call was routed to her voice mail?

10 A. That's right. I can't say if it went to voice mail
11 on the line, but the transaction that I saw with it being
12 a routed call and connecting to the network it's
13 consistent with it being forwarded to voice mail.

14 Q. And that call shows on her records as being connected
15 to a tower?

16 A. That's correct.

17 Q. And that's the tower right there, Cherryvale, near
18 her house?

19 A. Correct.

20 MR. FINNEY: I beg the Court's indulgence.

21 BY MR. FINNEY:

22 Q. Thank you. Answer any questions the Defense may
23 have.

24 CROSS-EXAMINATION

25 BY MR. BRIDGES:

1 Q. Good morning, Agent Grabski.

2 A. Good morning.

3 Q. When you reviewed the cell phone records for this
4 case did you review all of the exigent data from Sprint?

5 A. Exigent data?

6 Q. Yes, there is. I don't know if you are aware, but
7 there were multiple search warrants served. There was an
8 exigent search warrant, and then there was another round
9 of warrants for the phone. Did you only receive the
10 second, I guess, of that?

11 A. I'm unsure. I know that there have been records that
12 I received from Randy Stewart were the call detail
13 records. I don't know if he obtained those via search
14 warrant or by exigent circumstances. I believe it was via
15 search warrant.

16 Q. And so you did not see a record that had not just
17 phone and text but an entire log of data activities for
18 these date ranges in question? You did not see any of
19 that?

20 A. I don't know what you're speaking about.

21 Q. There was ---

22 A. I'm sorry. Is there some type of report?

23 Q. Well, yeah, you were not present for that testimony.

24 A. Well, I was ---

25 Q. Investigator Stewart testified that he was able to

1 run an exigent check on these records and he compiled his
2 own spread sheet about that.

3 A. Okay. I wouldn't -- I have not seen that.

4 Q. Okay. Just to clarify, and from what you testified,
5 you said that Sprint -- if somebody sends a text message
6 is that -- does that activate a tower?

7 A. It does and it doesn't. So it will because you need
8 to be connected to the network in order to send text
9 message if you're gonna do it over the network. However,
10 the way that Sprint records it they do not record a tower.

11 Q. And so there would not be a record of what tower was
12 activated?

13 A. That's correct. There are no records in there of
14 what tower would've been activated to the network.

15 MR. BRIDGES: May I approach the witness, Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. BRIDGES:

18 Q. And this is just so we can have hard copies of
19 everything. I'm going to show you what's been marked as
20 Defense Exhibit Six. Is this just your map example that
21 was on your computer?

22 A. That's correct.

23 Q. And this just shows when towers are activated and
24 what sector it's in and what towers are not?

25 A. That's correct.

1 MR. BRIDGES: At this time, I'd like to offer
2 Defendant's Exhibit Six into evidence.

3 MR. FINNEY: No objection.

4 THE COURT: All right. It's in without objection.
5 Has it been marked?

6 MR. BRIDGES: Yes, Your Honor. It's Exhibit 6.

7 (WHEREUPON, State's Exhibit No. 6 was previously
8 admitted into evidence.)

9 BY MR. BRIDGES:

10 Q. And you analyzed the records of Suzette and James
11 Ginther? Did you analyze anybody else's phone records?

12 A. No.

13 Q. Okay. So you were not able to pull maps for any
14 other phone numbers, for instance?

15 A. I've have not been given any other call phone
16 records.

17 Q. The call records for the (803) 316-6679 number, I'm
18 about to show you Defense Exhibit Eight and Defense
19 Exhibit Four. Are these the -- are these the towers, the
20 last tower, that was utilized by Suzette's phone on the
21 morning of November 16th?

22 A. Yes.

23 Q. As the other side, the same thing, 5:15 a.m. Does
24 the -- you said there's a Sector 2 up here in Cherryvale.
25 There's no other towers pinged?

1 A. That's the only tower that was utilized at that time.

2 Q. Okay. So further down there's a location of
3 interest. The tower right there was not activated?

4 A. The sector that would allow that is not activated.

5 Q. Okay. And the other location of interest, Manchester
6 Forest Tower down there, 279, that was not activated
7 either?

8 A. That's correct.

9 MR. BRIDGES: At this time I'd like to offer Defense
10 Exhibit Eight and Defense Exhibit Four into evidence.

11 MR. FINNEY: No objection.

12 THE COURT: Okay. There are in without objection.

13 (WHEREUPON, Defendant's Exhibit Nos. 4 and 8 were
14 admitted into evidence.)

15 BY MR. BRIDGES:

16 Q. And that was the furthest -- that was the only towers
17 that were pinged the morning for Suzette's phone, correct?
18 That Sector 2 in Cherryvale?

19 A. I believe so. On the 16th?

20 Q. Yes, on the 16th.

21 A. I believe so, yes.

22 Q. So there was no further progress out west towards
23 Columbia or southwest towards Manchester Forrest? There
24 were no towers pinged in those sectors?

25 A. After ---

1 Q. Well, that morning -- yeah, yeah. From the morning
2 of the 16th, so ---

3 A. The morning of the 16th the only tower that was used
4 was at 5:18 a.m. which was that 262, Sector 4.

5 Q. And you had -- you also analyzed the (908)721-0222
6 number, correct?

7 A. Yes.

8 Q. And that's Mr. James Ginther?

9 A. Correct. I believe so, yes.

10 Q. At no time on the 15th or the 16th did his phone ping
11 any tower in the Sumter area?

12 A. I do not believe it did. The 15th and 16th I believe
13 it was in the Columbia area if I'm remembering correctly.
14 That's correct.

15 Q. And I'm gonna show you what's been marked as Defense
16 Exhibit Seven and Defense Exhibit Five. Is this just a
17 map of Mr. Ginther's phone and the tower that were
18 utilized on November 15th and November 16th?

19 A. The 16th and that the 15th, correct.

20 Q. Okay. And this is, essentially -- it looks like the
21 same tower, 157, in Columbia on Beltline Boulevard?

22 A. Correct.

23 MR. BRIDGES: At this time I'd like to enter Defense
24 Exhibit Five and Defense Exhibit Seven into the record,
25 Your Honor.

1 MR. FINNEY: No objection.

2 THE COURT: Okay.

3 (WHEREUPON, Defendant's Exhibit Nos. 5 and 7 were
4 admitted into evidence.)

5 BY MR. BRIDGES:

6 Q. Agent Grabski, this may sound like a trivial
7 question, but this Tower 157 in Columbia is quite a
8 distance away from the tower that was utilized in
9 Cherryvale at 262, correct?

10 A. Right. Right. Yes, it is. 262 is in Sumter and the
11 157 is in the Columbia area.

12 Q. And you don't have to tell me exactly but that's more
13 than 30 miles apart?

14 A. I believe so, yes. I did map out.

15 Q. You said that there was a text message at 3:54 to
16 James Ginther's phone. Was that an incoming text message?

17 A. I believe -- yes.

18 Q. Were you able to determine what number that was from?

19 A. No.

20 Q. And the text messages they don't utilize -- they
21 don't ping -- as you explained earlier that would not show
22 what tower was utilized?

23 A. Correct.

24 Q. And other things such as like app updates or phone
25 updates that could cause your phone to not be turned on or

1 to lose periods of access?

2 A. If so I wouldn't, you know -- I would assume that
3 that can happen. But if it updates and it turns off and
4 restarts the computer when it turns off it's no longer on
5 the network until you turn it back on.

6 Q. And if it's just not -- if it's turned on but it's
7 just not used it would not create another -- it wouldn't
8 show another instance on that, would it?

9 A. It -- when you say being used. So any activity on
10 the phone it's going to be recorded while it's on and
11 connected to a network. So if he or whoever has a cell
12 phone and they're not using the cell phone and they
13 receive an incoming call that will be recorded even if
14 they don't notice it.

15 Q. But if they don't receive any incoming calls and they
16 don't receive -- and in a text it would be hard to
17 determine because of Sprint's protocol?

18 A. But it would consistent with the phone being off.

19 Q. Yeah. Yeah. It would show -- it would just be
20 pinged when there's voice calls and outgoing text, is that
21 ---

22 A. Outgoing text, it's still going to show a tower just
23 based on the way that Sprint records it.

24 Q. So ---

25 A. But it does need to utilize a tower. It doesn't have