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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of General Sessions

Appellate Case No. 2021-001275

The Honorable Robert J. Bonds, Circuit Court Judge

State of South Carolina.....Respondent,

v.

Tiesh Rhue Appellant.

**RECORD ON APPEAL
VOLUME I OF V**

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- **No. 9 – disk;**
- **No. 10 – disk;**
- **No. 19 – missing persons report;**
- **No. 21- video;**
- **No. 24 – flash drive of photographs;**
- **No. 27 – video;**
- **No. 39 – flash drive of photographs;**
- **No. 42 – texts;**
- **Nos. 57-74 – autopsy photos;**
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- **No. 102 – Walmart receipt;**
- **Nos. 104-105 – consent forms;**
- **No. 107 – video; and**
- **No. 115 – voicemail CD – are all on file with this Court)**

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)
)
)
)
STATE OF SOUTH CAROLINA,)
)
v.)
)
ALEXANDER RHUE, JR.,)
)
Defendant.)
_____)

IN THE COURT OF GENERAL SESSIONS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
WARRANT NOS.: 2017A2220200201;
2017A2220202; 2017A2220200203
2017A2220200146

**MOTION TO SUPPRESS AND
INCORPORATED MEMORANDUM OF LAW**

COMES NOW the Defendant, ALEXANDER RHUE, JR., by and through his undersigned counsel of record, Gregory K. Voigt, and files the "Motion to Suppress and Incorporated Memorandum of Law", and herewith shows the Court as follows:

A. The Initial Search Warrant:

On March 10, 2017 Investigator Ian Anderson of the Georgetown Police Department applied for a search warrant for 1015 Highmarket Street in the City of Georgetown (see attached as Exhibit One). The Georgetown Police Department was seeking "bank records, legal documents, identifications, passports, debit/credit cards, phone records, vehicle information, insurance paper work [sic], travel documents, or anything that can aid investigators in ascertaining the whereabouts of Leon Harrison, Jr." The warrant application states that these documents are subject to seizure pursuant to S.C. Code Ann. § 17-13-140.

The stated probable cause given by the Georgetown Police Department is, in full:

"On 2/25/17 subject Leon Harrison Jr. was last seen at the address on his SC DMV 1015 Highmarket St. in the City of Georgetown by his wife. He has not been seen since. Johnson maintains a domicile at this residence an he is known to stay there from time to time and keeps work clothing

there. Due to the above stated facts there is probable cause to believe that the requested documentary evidence may be in the home and a search warrant is being requested. These documents will help to track Harrison's movements and will aide in locating him and reuniting him with his family."

On March 10, 2017, 1015 Highmarket Street was the residence of defendants, Alexander Rhue, Jr., Alexander Rhue, Sr., and Tiesh Rhue. The warrant was executed at 6:09 p.m. on March 10, 2017.

B. The Law of Search Warrants

The Fourth Amendment to the United States Constitution demands that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. . . ." U.S. Const. amend. IV. South Carolina's constitution also recognizes the right of the people to be free from unreasonable searches and seizures and further adds that citizens are to be free from unreasonable invasions of privacy. *See* S.C. Const. art. I, § 10. A search warrant may issue only upon a finding of probable cause. *State v. Bellamy*, 336 S.C. 140, 143, 519 S.E.2d 347, 348 (1999). The duty of the reviewing court is to ensure the issuing magistrate had a substantial basis upon which to conclude that probable cause existed. *State v. Adams*, 291 S.C. 132, 352 S.E.2d 483 (1987). In *Illinois v. Gates*, 462 U.S. 213, 238, 103 S.Ct. 2317, 2332, 76 L.Ed.2d 527 (1983), the United States Supreme Court adopted a "totality-of-the-circumstances" test for probable cause determinations:

The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the "veracity" and "basis of knowledge" of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.

A judicial officer asked to issue a search warrant must make a practical, common sense decision whether, under the totality of the circumstances set forth in the affidavit, *there is a fair probability that evidence of a crime will be found in the particular place to be searched.* *State v. Thompson*, 419 S.C. 250, 797 S.E.2d 716 (2017) (emphasis in the original). In South Carolina, search warrants

may be issued "only upon affidavit sworn to before the magistrate ... establishing the grounds for the warrant." S.C. Code Ann. § 17-13-140 (2003); *see also State v. McKnight*, 291 S.C. 110, 352 S.E.2d 471 (1987). S.C. Code Ann. § 17-13-140 details what property may be subject to seizure by warrant:

"(1) stolen or embezzled property; (2) property, the possession of which is unlawful; (3) property which is being used or has been used in the commission of a criminal offense or is possessed with the intent to be used as the means for committing a criminal offense or is concealed to prevent a criminal offense from being discovered; (4) property constituting evidence of crime tending to show that a particular person committed a criminal offense; (5) any narcotic drug(s)..."

Further, the requirement that a particular description of the property to be seized must be included is designed to prevent general warrants – those authorizing "a general, exploratory rummaging in a person's belongings." *State v. Williams*, 297 S.C. 404, 377 S.E.2d (1989), citing *Coolidge v. New Hampshire*, 403 U.S. 443, 91 S.Ct. 2022, 29 L.Ed. (2d) 564 (1971).

The affidavit must set forth particular facts and circumstances underlying the existence of probable cause to allow the magistrate to make an independent evaluation of the matter. *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978). If no supplemental oral testimony is taken, an issuing judge's probable cause determination is limited to the four corners of the search warrant affidavit. *State v. Kinloch*, 410 S.C. 612, 616, 767 S.E.2d 153, 155 (2014). Mere conclusory statements which give the magistrate no basis to make a judgment regarding probable cause are insufficient." *Id. See also State v. Weston*, 329 S.C. 287, 494 S.E.2d 801 (1997). Further, A defendant has the right to challenge misstatements in a search warrant affidavit. *See Franks v. Delaware, infra; State v. Sachs*, 264 S.C. 541, 216 S.E.2d 501 (1975).

C. Analysis of the Search Warrant

1. Purpose of Warrant Application: We should start our analysis of the search warrant in the instant matter by looking to the stated purpose for obtaining said warrant. The Georgetown Police Department tells the magistrate that it is looking for "anything that can aid investigators in ascertaining the whereabouts of Leon Harrison Jr." They do not indicate to the magistrate that there is any crime suspected. Their stated purpose is to find clues as to where Mr. Harrison may be. None of the items sought to be discovered are of a type sought to determine if a crime has been committed. Such items can be sought to link an individual to an address where it is thought that a crime has been or is being committed, as in a narcotics offense, but that would merely link Mr. Harrison to an address where no crime is alleged to have been committed and where investigator already know Mr. Harrison keeps personal effects.

2. Allegations to establish probable cause: These allegations merely purport to link Mr. Harrison to this address. Investigators allege that "Johnson" maintained a domicile there. No facts are supplied that indicate that a crime has been committed or that evidence of a hidden crime is likely to be at the search location. Investigators have given the magistrate a general warrant to rummage through 1015 Highmarket Street. The magistrate is left to guess as to the reliability and accuracy of the information in the warrant. Further, the magistrate must invent a purported crime to allow such a search. Investigators have misused the warrant process.

C. Subsequent Warrants:

At approximately 7:41 p.m., on March 10, 2017, investigators applied for a second warrant at 1015 Highmarket Street. (See attached as Exhibit 2). Later, on March 14, 2017 investigators applied for a final search warrant of 1015 Highmarket Street. (See attached as Exhibit 3).

The basis for the second warrant (and ultimately, the third warrant) was the discovery of stained carpet padding in the residence discovered by investigators while executing the initial search warrant. Investigators field tested the stained padding and it tested positive for the presence of blood. The third search warrant was sought after the discovery of Mr. Harrison's body in the Black River.

In *Arizona v. Hicks*, 480 U.S. 321, 107 S.Ct. 1149, 94 L.Ed.2d 347 (1987), the United States Supreme Court found that an officer's movement of stereo equipment to view its serial number constituted a search under the Fourth Amendment. This new search required probable cause independent of what may have been found in a search warrant. In this case the second warrant clearly stated that the stained pad was only found "under a rug". The investigators had to remove the rug to see the carpet padding. Even if the officers were in the residence for a proper purpose rather than under a general warrant, it is unlikely that documents would have been kept under the rug.

All items seized pursuant to the second and third search warrant would not have come to light but for the illegal actions of the police and must be excluded as the "fruit of the poisonous tree." *State v. Copeland*, 321 S.C. 318, 468 S.E.2d 620 (1996). The illegal first warrant put the officers in a position to see and remove the rug thereby discovering evidence sought in the second warrant. The illegality of the first warrant taints the subsequent warrants. See generally *State v. Johnson*, 302 S.C. 243, 395 S.E.2d 167 (1990).

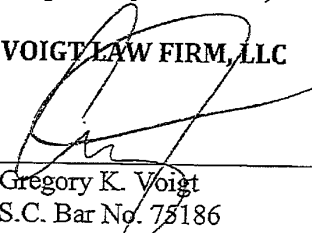
3. Conclusion

The initial warrant in this matter does not establish probable cause that evidence of a crime would be discovered at the subject location. This illegal general warrant allowed the investigators to search the home and move items thereby giving rise to the subsequent illegal searches.

Wherefore, Defendant asserts that all evidence seized pursuant to the search warrants be suppressed and excluded from the trial on the merits in the instant case.

Respectfully submitted,

VOIGT LAW FIRM, LLC



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ATTORNEY FOR DEFENDANT

Charleston, South Carolina
October 19, 2020.

Exhibit One

STATE OF SOUTH CAROLINA

County of Georgetown

City of Georgetown

SEARCH WARRANT

ORIGINAL

Date 3/10/2017

1015 Highmarket St

Detective I. Anderson

SCCA 513
(3-1978)

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)

SEARCH WARRANT

ORIGINAL

Form Approved by
SC Attorney General
Section 19-13-160
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF GEORGETOWN

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property
subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is
located on the following premises:

DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED

yellow car
1015 Highmarket St. Georgetown, SC 29440 It is a *turquoise* color house with a white porch. It is
situated on Highmarket St midway between King St. and Orange St. It has 1015 on the front of it above a
black mail box

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and
to seize such property if

DESCRIPTION OF PROPERTY

Investigators are searching for bank records, legal documents, identifications, passports, debit/credit
cards, phone records, vehicle information, insurance paper work, travel documents, or anything that can
aid investigators in ascertaining the whereabouts of Leon Harrison Jr.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

Georgetown, South Carolina

[Signature]
Signature of Judge

Dated: *1650* 03/10/2017

SCCA 513
(3-1978)

STATE OF SOUTH CAROLINA

ORIGINAL

COUNTY OF GEORGETOWN

AFFIDAVIT

Personally appeared before me, one Ian Anderson, who being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of S.C. Code Ann. § 17-13-140, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Investigators are searching for bank records, legal documents, identifications, passports, debit/credit cards, phone records, vehicle information, insurance paper work, travel documents, or anything that can aid investigators in ascertaining the whereabouts of Leon Harrison Jr.

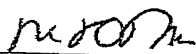
DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED

1015 Highmarket St. Georgetown, SC 29440 It is a ~~tan~~ ^{yellow} color house with a white porch. It is situated on Highmarket St midway between King St. and Orange St. It has 1015 on the front of it above a black mail box

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On 2/25/2017 subject Leon Harrison Jr. was last seen at the address on his SC DMV 1015 Highmarket St. in the City of Georgetown by his wife. He has not been seen since. Johnson maintains a domicile at this residence and he is known to stay there from time to time and keeps work clothing there. Due to the above stated facts there is probable cause to believe that the requested documentary evidence may be in the home and a search warrant is being requested. These documents will help to track Harrison's movements and will aide in locating him and reuniting him with his family

10 day of March, 2017.


Signature of Judge

Inv.

Affiant

Address

2222 Highmarket St.
Georgetown S.C. 29440

Phone

843-545-4300

SCCA 513

(3-1978)

RETURN

I received the attached Search Warrant 3/10/2017, and have executed it as follows:

On 3/10/2017, at 18:09 o'clock P.M., I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant at 1015 Highmarket St.

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

9 - documents with Leon Harrison Jr. name on them proving this is his place of residence

1 - medicine bottle with Leon Harrison Jr. name on it containing approximately 7 AmLODIPine
Desylate 5mg tablets prescribed to Leon Harrison.

This inventory was made in the presence of Inv.A. Morris AND Lt. Walton.

I swear that the inventory is a true and detailed account of all the property taken by me on the warrant.

Sworn to and Subscribed before me

this 12 day of March, 2017)

John)

Signature of Judge)

11:05 AM)

[Signature]
(Signature of Officer Executing Warrant)

Exhibit Two

STATE OF SOUTH CAROLINA

County of Georgetown

City of Georgetown

SEARCH WARRANT

ORIGINAL

Date 3/10/2017

1015 Highmarket St.

Detective I. Anderson

SCCA 513
(3-1978)

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

AFFIDAVIT

Personally appeared before me, one Ian Anderson, who being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of S.C. Code Ann. § 17-13-140, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Blood Evidence, gun powder residue, bullets, fibers, any and all DNA evidence, carpet, blankets, flooring, and trace evidence that could be linked with the location of the missing person.

DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED

1015 Highmarket St. Georgetown, SC

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On 02/25/2017 the victim Leon Harrison Jr went missing from his residence at 1015 Highmarket St. in the City of Georgetown. On 03/10/2017 at 1015 Highmarket St. whilst conducting a search warrant of the premises for evidence that could aid in locating the victim Harrison. There was foreign stain on the carpet in victim's bedroom which is consistent with blood. Beside the stain was a rug covering a section carpet padding where the carpet was removed. Investigators observe a stain on the carpet padding which when tested, tested positive on a presumptive blood test. . Now a search warrant is being requested for the furtherance of developing the blood evidence and any evidence that could further the investigation.

10 day of March, 1941, 2017.

Signature of Judge

Inv.

Address

Phone

Affiant

2222 Highmarket St.
Georgetown S.C. 29440
843-545-4300

SCCA 513

(3-1978)

ORIGINAL

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)

SEARCH WARRANT

Form Approved by
SC Attorney General
Section 19-13-160
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF GEORGETOWN

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property
subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is
located on the following premises:

DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED

1015 Highmarket St. Georgetown, SC

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and
to seize such property if

DISCRIPTION OF PROPERTY

Blood Evidence, gun powder residue, bullets, fibers, any and all DNA evidence, carpet, blankets, flooring,
and trace evidence that could be linked with the location of the missing person.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

Georgetown, South Carolina

Dated: 03/10/2017 *My 1*



Signature of Judge

SCCA 513
(3-1978)

RETURN

I received the attached Search Warrant 3/10/2017, and have executed it as follows:

On 3/10/2017, at 20:35 o'clock P.M., I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant at 1015 Highmarket St.

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

Carpet padding with blood stain from item #1

Carpet padding with blood stain from item #3

White bed sheet with blood strain from item #6

Fabric with blood stain from mattress from item #7

Metal shaving from mattress from item #8

Fabric with blood stain from corner of mattress from item #9

Fabric with blood stain from corner of box spring from item #10

Unknown brand black smart phone bearing IMEI # 353541075267696

Grey Black Berry smart phone bearing MEID # A000001C757D10

Black Sprint smart phone bearing serial # 205KPTM0115641

Black LG smart phone missing back plate bearing serial # 208KPVH0256103

Purple Black Berry smart phone bearing MEID #A00000258A3A53

Pink LG smart phone bearing IMEI # 014279-00-440487-1

This inventory was made in the presence of Inv. B. Powell AND Lt. Walton.

I swear that the inventory is a true and detailed account of all the property taken by me on the warrant.

Sworn to and Subscribed before me
this 15 day of March, 2017)

Signature of Judge)
21:11 AM)

(Signature of Officer Executing Warrant)

SCCA 513

(3-1978)

Exhibit Three

STATE OF SOUTH CAROLINA

County of Georgetown

City of Georgetown

SEARCH WARRANT

ORIGINAL

Date 03/14/2017

Investigator B. Powell

SCCA 513
(3-1978)

ORIGINAL

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)

SEARCH WARRANT

Form Approved by
SC Attorney General
Section 19-13-160
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF GEORGETOWN

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property
subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is
located on the following premises:

DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED

A yellow in color residence with a small covered front porch with two double paned windows on
either side of the front door located at the address of 1015 Highmarket St., within the City limits of
Georgetown, approximately 3 city block east of the intersection of Highmarket St. and N. Fraser St., to
include any buildings, trash cans, or vehicles associated with the residence. All areas inside or outside the
residence, to include all rooms, storage spaces, or drawers of any furniture or storage bins, and attic,
inside or outside trash cans, inside any vehicles, or inside or outside or around any building(s) associated
with the residence of 1015 Highmarket St.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to
seize such property if

DESCRIPTION OF PROPERTY

All areas of the before mentioned property or places located at 1015 Highmarket St. in search of any
speaker wire consistent with crime scene photos taken by the Georgetown County Sheriff's Office, which
shows the victim was bound around his wrist and ankles with speaker wire. Also any knives, edged
cutting tools/weapons, blood, hairs, fibers, any and all trace DNA evidence, clothing to include, black
work jean, black or blue work T-shirt, work boots.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

Georgetown, South Carolina

M. J. O. T. M.
Signature of Judge

Dated: 3/14/17
12:07 pm

SCCA 513
(3-1978)

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

AFFIDAVIT

Personally appeared before me, one Allen Morris, who being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of S.C. Code Ann. § 17-13-140, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

All areas of the before mentioned property or places located at 1015 Highmarket St. in search any speaker wire consistent with crime scene photos taken by the Georgetown County Sheriff's Office, which shows the victim was bound around his wrist and ankles with speaker wire. Also any knives, edged cutting tools/weapons, blood, hairs, fibers, any and all trace DNA evidence, clothing to include, black work jean, black or blue work T-shirt, work boots.

DESCRIPTION OF PREMISES (PERSON OR THING)
TO BE SEARCHED

A yellow in color residence with a small covered front porch with two double paned windows on either side of the front door located at the address of 1015 Highmarket St., within the City limits of Georgetown, approximately 3 city block east of the intersection of Highmarket St. and N. Fraser St., to include any buildings, trash cans, or vehicles associated with the residence. All areas inside or outside the residence, to include all rooms, storage spaces, or drawers of any furniture or storage bins, and attic, inside or outside trash cans, inside any vehicles, or inside or outside or around any building(s) associated with the residence of 1015 Highmarket St.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On Saturday 2/25/2017, the victim, Leon Harrison Jr. went missing from his residence of 1015 Highmarket St., in the City limits of Georgetown. On Friday 3/10/2017, at 1015 Highmarket St. whilst conducting a search warrant of the premises for evidence that could aid in locating the victim, Harrison, a foreign stain was found on a portion of carpet padding, where the a portion of the carpet had been cut away, at the opening to the victim's bedroom closet, covered by a flannel blanket that was covered by an area rug. This stain on the carpet padding was tested with a presumptive blood testing kit, and did test positive for blood. A search warrant was obtain and executed for the furtherance of developing the blood evidence and any evidence that could further the investigation. On Saturday 3/11/2017, a victim was found near Colonel Cole Dr., in Georgetown County, in the Black River. The victim remains were decomposed, but the body was identified as Harrison due to a tattoo on his inner left forearm. A search is being request for the before mentioned items that could develop leads in this case.

14 day of March 2017.

Signature of Judge

Inv.

Address

Phone

Affiant

2222 Highmarket St.
Georgetown S.C. 29440
843-545-4335

SCCA 513

(3-1978)

RETURN

I received the attached Search Warrant 3/14/2017, and have executed it as follows:
On 3/14/2017, at 1:17 o'clock PM, I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant at 1015 Highmarket St.

Name of person searched or "at the place of search" with

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

- 1 silver kitchen knife with black handle approximately 7 inches in total length
- 1 orange in color box cutter
- 4 cotton swabs containing DNA blood samples

This inventory was made in the presence of Inv. B. Powell AND Inv. A. Morris

I swear that the inventory is a true and detailed account of all the property taken by me on the warrant.

Sworn to and Subscribed before me

this 15 day of March, 2017)

DM)
Signature of Judge)

B. Powell)
(Signature of Officer Executing Warrant)

~~11:17~~

11:55 AM

SCCA 513

(3-1978)

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF GEORGETOWN

4 State of South Carolina,

5 vs. Transcript of Record
6 Tiesh Annette Rhue,
7 Defendant.
8
9

10 September 24, 2021
11 Georgetown, South Carolina

12 B E F O R E:

13 The HONORABLE ROBERT BONDS

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

15 Alicia Richardson, Representing the State of South
16 Carolina
17 Liz Smith, Representing the State of South Carolina
18 Greg Voigt, Representing Alexander Rhue, Jr.
19 Ronald Hazzard, Representing Alexander Rhue, Sr.
20 Josh Edgeworth, Representing Tiesh Rhue

21 Alexander Rhue, Jr.
22

23 SHARON G. HARDOON, CSR
24 Official Circuit Court Reporter, III
25

1 THE COURT: Good afternoon. Have we got
2 everybody here?

3 MR. VOIGT: Go ahead and turn off your
4 video, if you want. Just listen. I mean, you can
5 watch, but the less bobbing heads we have, the
6 better.

7 THE COURT: All right.

8 MS. SMITH: We're waiting on
9 Miss Richardson. I just sent an update on that.
10 If you could just give her just more one second to
11 get in the room. She's been up in court all
12 morning and I think she needed just one second for
13 herself.

14 THE COURT: That's no problem. What I would
15 like to do -- Sharon, are you there?

16 THE COURT REPORTER: Yes, sir.

17 THE COURT: What I'd like to do, if everybody
18 could just introduce themselves for the court reporter
19 and let them know who they're representing, please.

20 MR. HAZZARD: My name is Ronald Hazzard.
21 I represent the defendant, Alexander Rhue, Sr.

22 MR. VOIGT: And my name is Greg Voigt and
23 I represent Alexander Rhue, Jr., who is present
24 via video as well.

25 MR. EDGEWORTH: I am attorney Josh Edgeworth

1 and I represent Tiesh Rhue.

2 THE COURT: Thank you.

3 MS. RICHARDSON: Your Honor, I'm
4 Alicia Richardson with the Solicitor's Office,
5 also Miss Smith with the Solicitor's Office.

6 THE COURT: Great. Good to see you all
7 again.

8 All right. I think we're on track to try
9 this when? October the 11th. And what I wanted
10 to do is get together and basically try to knock
11 out whatever motions we needed to knock out so
12 that when we start the case, we'll be able to,
13 hopefully, move right into the trial of the
14 matter.

15 So what I want to do is, I want to hear
16 the motions that are presently pending. I've
17 received some correspondence from various parties,
18 and so why don't I just start.

19 Mr. Hazzard, I'm happy to entertain your
20 motions, sir, that you forwarded on behalf of
21 Alexander Rhue, Sr., and I'm happy to hear from
22 you, sir.

23 MR. HAZZARD: Thank you, Your Honor. May
24 it please the Court? My motions, as the Court can
25 tell, are pretty standard and boilerplate.

1 Defendant's pretrial motion Number 1 simply
2 requests that the Court review its preliminary
3 instructions and jury charges and remove and
4 redact any language that would intimate to jurors
5 or potential jurors that they have a duty to be
6 just or fair to all parties, or language that
7 intimates that the State and the defendant have
8 the same right and entitlement to a fair trial.
9 The defendant is informed and firmly believes that
10 such language can effectively alter the jury's
11 perception of the burden of proof substituting
12 justice and fairness for the presumption of
13 innocence and the State's burden to prove the
14 defendant's guilt beyond a reasonable doubt.

15 And we cite the case of State v. Daniels,
16 401 SC 251, 737 SE2d 473. That's a 2012 case of
17 the South Carolina Supreme Court. As well as
18 State vs. Beaty a 2016 decision of the
19 South Carolina Supreme Court.

20 THE COURT: All right. Let me just ask
21 you, Mr. Voigt, on behalf defendant Rhue, Jr., do
22 you concur in that motion or have any objection to
23 that?

24 MR. VOIGT: I concur in that motion, Your
25 Honor.

1 THE COURT: And what about you
2 Mr. Edgeworth on behalf Miss Tiesh Rhue?

3 MR. EDGEWORTH: Likewise, Your Honor, I
4 concur.

5 THE COURT: I'm happy to hear from the
6 State as it relates to Defendant Rhue, Sr.'s
7 pretrial motion Number 1.

8 MS. RICHARDSON: Your Honor, I did not
9 get these pretrial motions initially. We had a --
10 I didn't get them until this will. We had a cyber
11 breach in Georgetown back in January, and we have a
12 new email address. Mr. Hazzard mistakenly sent
13 them to my Georgetown County email address. I did
14 change my email address in the AIS system, but
15 with our -- he's on the same computer network that
16 I am now and it just automatically pulls it up.
17 So I have not compared this language yet to the
18 standard language.

19 THE COURT: Okay. Well, when are you
20 going to be able to let me know what your position
21 is on this motion?

22 MS. RICHARDSON: And, Your Honor, if
23 that's what the case laws says, I can let you know
24 this by the end of next week, by next Friday.

25 THE COURT: All right. I will tell you

1 that I'm pretty inclined to grant that. I think
2 that we've made modifications on our charges as
3 we've been working on them, and so I think that
4 that won't be an issue. But I'm going to give you
5 to next Friday to let me know if there's a
6 problem. Okay, Solicitor?

7 MS. RICHARDSON: Yes, Your Honor. And I
8 don't anticipate there will be an issue, but I
9 just want to read it. Just read it for myself.
10 Just double check and I can let you know by next
11 Friday.

12 THE COURT: All right. I'm happy to hear
13 from you, Mr. Hazzard, on defendant's pretrial
14 motion 2.

15 MR. HAZZARD: Defendant's pretrial motion
16 Number 2, Your Honor, may it please the Court? We
17 simply ask that under Rule 615 of the
18 South Carolina Rules of Evidence that the Court
19 sequester all witnesses, specifically during the
20 trial of the case. Normally, when I make this
21 motion and it's talking about pretrial hearings,
22 those are pretrial hearings that are being held
23 immediately prior to the start of the trial on the
24 date and at the location the trial is held. So it
25 wouldn't apply necessarily to this motion,

1 because, obviously, Defendant Alexander Rhue, Jr.
2 is present and viewing this.

3 But we normally ask that the Court
4 sequester all witnesses during the trial of the
5 case and in all in camera hearings during the
6 trial and any other matters related to the trial
7 pursuant to Rule 615 South Carolina Rules of
8 Evidence.

9 THE COURT: All right. Mr. Voigt, on
10 behalf of Mr. Rhue, Jr., do you concur in this
11 motion and what's your position, sir?

12 MR. VOIGT: I concur in this motion, Your
13 Honor.

14 THE COURT: All right. Mr. Edgeworth, on
15 behalf of Tiesh Rhue?

16 MR. EDGEWORTH: I concur, Your Honor.

17 THE COURT: All right. Solicitor, let me
18 hear from you on defendant's pretrial motion 2.

19 MS. RICHARDSON: Your Honor, the State
20 concurs as far as the trial of the case and would
21 ask that we sequester all witnesses, both the
22 defense and the State.

23 However, Your Honor, we would ask that
24 the lead investigator be allowed to remain in the
25 courtroom, as well as statutory victims pursuant

1 to the victim's bill of rights.

2 THE COURT: All right. I'm going to
3 grant that motion as it relates to pretrial motion
4 Number 2.

5 MR. HAZZARD: If I might be heard?

6 THE COURT: Hold on. Yes, sir.

7 MR. HAZZARD: If I might be heard in that
8 regard, I don't know how many individuals the
9 State contends are statutory victims, and I have
10 some concern whether these individuals will be
11 individuals who would be testifying or who would
12 possibly come into contact with testifying
13 witnesses. So I would not want the court's ruling
14 to be gutted by individuals being able to be in
15 the courtroom and then go out and have contact
16 with other individuals scheduled to testify.

17 THE COURT: All right. I think that's a
18 good point. And what we'll do is this: I'm going
19 to order that the witnesses be sequestered.
20 However, as it relates to victims or who the State
21 believes might be entitled to stay in, we'll wait
22 until we know who's there and sort of make that
23 decision at the start of the trial.

24 MR. HAZZARD: No problem.

25 THE COURT: That way we'll be able to --

1 I'm not going to make her name those certain
2 people right now. That would be too difficult.
3 So what we'll do is, we'll wait until the start of
4 the trial. And if it ends up being a question as
5 to who can and can't stay, then I'll make a ruling
6 at that time. But, in general, we're going to
7 sequester those witnesses, but we will address
8 that issue. Okay, Mr. Hazzard?

9 MS. RICHARDSON: And, Your Honor, that's
10 just for the actual trial. I just want to make
11 the Court aware, I have two officers in my office
12 right now for the pretrial hearings. And,
13 Judge O'Donnell should be on the panel as well
14 from a different location.

15 THE COURT: All right.

16 MR. HAZZARD: With regard to those
17 hearings, the defense has no objection,
18 Your Honor.

19 THE COURT: Right. The same for the
20 other defendants, correct?

21 MR. EDGEWORTH: Yes, Your Honor.

22 MR. VOIGT: Yes, Your Honor.

23 THE COURT: Hold on one second.

24 All right. Mr. Hazzard, I'm happy to
25 hear from you on pretrial motion Number 3, sir.

1 MR. HAZZARD: Thank you, Your Honor. May
2 it please the Court? The Defendant Alexander
3 Rhue, Sr. is informed and believes that the State
4 contends that the defendant made an inculpatory
5 statement while being interrogated by a member or
6 members of law enforcement. The Defendant is
7 further informed and believes that the statement
8 is alleged to have been made after Defendant
9 Alexander Rhue, Sr.'s arrest and invocation of his
10 right against self-incrimination pursuant to the
11 5th Amendment to the United States Constitution as
12 well as Article 1, Section 12 of the South
13 Carolina Constitution. Defendant Alexander Rhue,
14 Sr. moves to exclude from evidence and trial any
15 and all inculpatory statements alledgedly made by
16 the him to agents of the State after arrest on the
17 charges in this matter.

18 THE COURT: All right. And so, Mr. Voigt
19 and Mr. Edeworth, do all concur or join in this
20 motion?

21 MR. VOIGT: Insofar as the statements can
22 be considered inculpatory, yes, Your Honor.

23 THE COURT: Okay.

24 All right. Solicitor, let me hear from you
25 on this one.

1 MS. RICHARDSON: Your Honor, as to
2 Alexander Rhue, Sr. there are two interviews with
3 law enforcement that were made prior to arrest
4 that the State would be seeking to introduce when
5 he was not in custody.

6 THE COURT: Okay.

7 MS. RICHARDSON: Based on the
8 voluntariness of those, we could play those for
9 the Court. But I would -- is he just saying
10 specifically after arrest?

11 THE COURT: Mr. Hazzard?

12 MR. HAZZARD: Your Honor, our position
13 would be any statement made by the defendant to
14 law enforcement as part of custody or a part of
15 interrogation would be subject to a
16 Jackson v. Denno hearing. We would request same.

17 THE COURT: Solicitor?

18 MS. RICHARDSON: Yes, Your Honor. I
19 don't believe you're going to have time to do all
20 of those today. Maybe for his defendant, but not
21 for Miss Rhue, certainly.

22 THE COURT: So there is --

23 MS. RICHARDSON: I didn't have them --

24 MR. HAZZARD: I apologize. Go ahead.

25 MS. RICHARDSON: I'm sorry. Go ahead.

1 THE COURT: There are two statements for
2 Mr. Rhue, Sr.?

3 MS. RICHARDSON: Yes, Your Honor.

4 THE COURT: All right. What about the
5 other defendants?

6 MS. RICHARDSON: There are at least four
7 for Miss Tiesh Rhue -- five from Tiesh Rhue, and I
8 believe just one for --

9 MS. SMITH: I apologize, Your Honor.

10 THE COURT: That's all right.

11 MS. SMITH: Liz Smith for the State.
12 There are two interviews for Mr. Alexander Rhue,
13 Jr. However, one of which he does refuse to speak
14 after the Miranda when he is being placed under
15 arrest. Therefore, I do not think that one will
16 be at issue.

17 THE COURT: All right.

18 MS. SMITH: I don't think that would be
19 an interview.

20 THE COURT: So we've got potentially one,
21 two, three, four -- perhaps nine different
22 statements?

23 MS. RICHARDSON: Yes, Your Honor.

24 THE COURT: All right.

25 MS. RICHARDSON: And that was one that I

1 was not aware of until the day before yesterday
2 when we report down here. But I just don't know
3 that we'll have time to do all of those today.

4 THE COURT: All right. Well, let me do
5 this, let's continue and I'll consider coming back
6 to that. But let's see what we've got next.

7 What do we have next, Mr. Hazzard?

8 MR. HAZZARD: Your Honor, the defendant's
9 pretrial motion Number 4 simply requests a
10 determination on whether the State seeks to use
11 any prior adjudication or conviction of
12 Alexander Rhue, Sr. for impeachment purposes and a
13 ruling from this Court as to which, if any, of
14 those prior adjudications or convictions would be
15 deemed admissable for impeachment purposes.

16 I normally ask that at the beginning of a
17 trial because, you know, obviously, I like to
18 know, if at all possible, if my client chooses to
19 testify, what might be subject as impeachment and
20 to what extent. Because, obviously, some judges
21 say that the prosecution can impeach with the
22 actual offense conviction. Other judges say, no,
23 prosecutor, you can only say that the defendant
24 has a conviction for a felony from 1998, but not
25 specify what the offense is. That way my client

1 will know on the front end in making their
2 determination after the State rests whether they
3 do choose to testify or not.

4 THE COURT: All right. Solicitor, let me
5 ask you, what is Mr. Rhue, Sr.'s record? Do we
6 have that? Because, I guess, that's what we're
7 talking about, correct, Mr. Hazzard?

8 MR. HAZZARD: That's correct, Your Honor.

9 THE COURT: All right. So what --

10 MS. RICHARDSON: Your Honor, if we can
11 come back to that one. We were up --
12 Mr. Edgeworth and I also had the last plea this
13 morning.

14 THE COURT: That's fine.

15 MS. RICHARDSON: We didn't get everything
16 exactly lined up.

17 THE COURT: That's all right. That's all
18 right.

19 MS. RICHARDSON: So I'm grabbing that. I
20 think we left it upstairs during the hearing. We
21 were running down here to start.

22 THE COURT: So, basically, Mr. Hazzard,
23 what you want to know is, you want to know what
24 the Court's ruling is going to be concerning the
25 impeachment of your client as it relates to these

1 prior convictions.

2 MR. HAZZARD: That's correct,
3 Your Honor.

4 THE COURT: All right. And now what
5 about the other defendants? Do they have any type
6 of criminal record to which this would be an
7 issue?

8 MR. VOIGT: My client does, Your Honor.

9 THE COURT: Okay. And your client, I'm
10 sorry, that's Mr. Rhue, Jr.?

11 MR. VOIGT: That's correct, Judge. I
12 would join in Mr. Hazzard's motion for the
13 purposes of my client as well.

14 THE COURT: All right. And Miss Tiesh
15 Rhue, she doesn't have any priors as it relates to
16 that that we need to make a ruling on?

17 MR. EDGEWORTH: Not that I'm aware of,
18 Your Honor.

19 MS. RICHARDSON: She does not.

20 THE COURT: Okay.

21 MS. RICHARDSON: She does not.

22 THE COURT: All right. So as it relates
23 to the priors, if we can get a hold of those -- or
24 let me just ask you. Are there some of these that
25 you are saying are not related, Mr. Hazzard? Do

1 you want to tell me what they are and why you
2 think they wouldn't apply?

3 MR. HAZZARD: I can pull up the NCIC that
4 was provided. One of the things about it is that
5 several of the things on there are from out of
6 state. And, as the Court is aware, different
7 states use different nomenclature with regard to
8 offenses, so it's kind of hard to even tell
9 specifically what the offense is. And in some of
10 them it's hard to tell whether he was even
11 convicted of these offenses that are on his NCIC.
12 And that's what I wanted clarification on as far
13 as what the State thought his record showed and
14 what, if he chose to testify, they would move to
15 use as impeachment. But if the Court wants, I'll
16 pull up the NCIC that was provided.

17 THE COURT: If you don't have in front of
18 you -- I was just wanting to make sure -- because,
19 I mean, I think I need to get a list of what it is
20 with the convictions that came out, and then,
21 perhaps, would hear from -- hear from each side
22 briefly why they think something might be in or
23 out. And then certainly I can make a ruling, but
24 -- I can make a ruling on that, but that's just,
25 kind of, how I'd like to handle this.

1 MR. HAZZARD: Yes, sir.

2 THE COURT: Let me ask you this: Are
3 those your only motions, sir?

4 MR. HAZZARD: Those are the ones that I
5 have submitted to the Court.

6 THE COURT: Sure.

7 MR. HAZZARD: If time permits, I do want
8 to address -- I have some confusion as to the two
9 counts of criminal conspiracy. Those being
10 indictments 2017-GS-22-0876 and -0879.

11 THE COURT: Okay.

12 MR. HAZZARD: As to whether the State
13 intends to go forward on both of those counts of
14 criminal conspiracy.

15 THE COURT: Solicitor? Solicitor? I can
16 hear you.

17 MS. RICHARDSON: Sorry, I was on mute. I
18 was trying to -- yes, Your Honor, we do.

19 THE COURT: You plan on going forward on
20 both of those?

21 MS. RICHARDSON: Yes, Your Honor.

22 MR. HAZZARD: The confusion is both
23 basically say the same thing, that Alexander Rhue,
24 Sr. in Georgetown County on or about February 25th
25 and 26th 2017 combined with Tiesh Rhue and

1 Alexander Rhue, Jr. and/or with other persons for
2 the purpose of accomplishing a criminal or
3 unlawful object or an object that neither criminal
4 or unlawful through the criminal or lawful means,
5 to wit discretion of human remains. And then the
6 other one is they say want to go forward with
7 regard to murder.

8 They are saying there are two different
9 criminal conspiracies that have to do with the
10 same incident.

11 THE COURT: Solicitor, it seems to me it
12 would be the same accident, wouldn't it?

13 MS. RICHARDSON: Well, not necessarily,
14 Your Honor. The jury could find that he didn't
15 conspire for the murder but he did conspire with
16 the tampering with a body.

17 THE COURT: All right.

18 MR. HAZZARD: Fair enough, Your Honor. I
19 just wanted some clarification. That would conclude
20 motions at this time on behalf of defendant,
21 Alexander Rhue, Sr.

22 THE COURT: All right. Let me -- who
23 presented me with the memorandum as it relates to
24 the affidavits?

25 MR. VOIGT: I did. The search warrant --

1 the motion to suppress based on the improper
2 search warrants, Your Honor.

3 THE COURT: All right. Let me hear from
4 you on that one, because that was some interesting
5 reading that you presented to me and let me hear a
6 little bit from you, and then I'm happy to hear
7 from any of the other defendants and then happy to
8 hear from the Solicitor on this one. Okay, sir?

9 MR. VOIGT: Yes, Your Honor. Thank you.
10 The premise of my motion is that when I take a
11 look at a case that has a search warrant, I first
12 look at the language of the search warrant. And
13 without testimony of the officer, I don't know
14 what else may have presented to the magistrate.
15 But I can look within the four corners of the
16 affidavit and I'm looking for probable cause
17 because I practice criminal defense, allegations
18 of crime.

19 I had never, in 27 years, seen a search
20 warrant that failed to allege a crime at all.
21 That something improper had happened. That is a
22 type of warrant that we -- really the constitution
23 was specifically designed to eliminate, and that's
24 a general warrant. And we don't see those. A
25 general warrant is, I'd like to look at your stuff

1 for whatever reason. Not that I think anything,
2 any evidence of crime is going to be there or that
3 a crime occurred, but I'm really interested in
4 what you have in your house or your car, or
5 wherever the warrant is made out for.

6 This warrant on its face -- and I don't
7 know of any information that contradicts this. On
8 its face, it alledges that this person is missing
9 and that we know where he lives and we would like
10 to find things in his house where he lives that
11 might indicate that he has some contact somewhere
12 else. That's not a crime. That doesn't allege
13 specifically a crime.

14 And the statute that is, you know,
15 basically put into the boilerplate language of
16 every search warrant in South Carolina talks
17 about, well, what are we going to seize. We are
18 going to seize evidence of a crime. It's a
19 nonexclusive list. But narcotics, they're
20 illegal. Under most circumstances without a
21 description, we can seize those. We can seize
22 evidence of crime. We can seize money that was
23 ill gotten gains from some sort of criminal
24 enterprise.

25 The statute contemplates that the things

1 we're going to seize are evidence of crime. This
2 warrant does none of those things. The initial
3 warrant does none of those things.

4 They go into the house, and I believe the
5 testimony is going to be that they move items
6 around and then they find what they believe to be
7 a spot of blood and they go get another warrant.

8 Now, I didn't cite all the cases, because
9 I, frankly, I didn't have enough paper in my
10 printer, but in order to -- in order to seize
11 something, you know, in order for something to be
12 in plain view, you have the legal authority to be
13 where you are when you view it. You cannot be in
14 an interior bedroom of a house with a warrant
15 that's illegal and then find something. And I did
16 cite the Arizona case where the Supreme Court
17 said, if you're going to move stereo equipment, if
18 you're going to go get numbers off the back of
19 stolen goods, you need probable cause in addition
20 to the reason why you were there in the room in
21 the first place. In other words, it's not self
22 obvious that once you get into the house that you
23 can then go where you want to.

24 I mean, the warrant is always
25 constraining the behavior of law enforcement, and

1 always requiring law enforcement to give probable
2 cause for doing what it is they do and looking
3 where it is they look.

4 And in this case they get into the house
5 using a warrant that does not allege a crime, does
6 not allege that they think there is going to be
7 evidence of a crime. So it's exactly the sort of
8 warrant that our constitution warns us about and
9 it says we cannot have. That's the Coolidge the
10 cooling age which is almost as old as I am. But
11 the Coolage case cites cases going back 150 years.
12 It's axiomatic in the law of search warrants that
13 you just don't get a general search warrant. And
14 that was -- that goes back to the drafting of the
15 constitution to eliminate that sort of thing and
16 to deprive state actors of that power.

17 So now we have a series of subsequent
18 warrants, but any allegation that rises to the
19 level of probable cause is based upon something
20 they found improperly. And there is not -- as far
21 as I you can tell, and I don't know that the State
22 has filed a written response to my motion, but
23 there's nothing inevitable. So if they wanted to
24 think, well, gosh, this is going to be inevitably
25 discovered, at some point we were going to get a

1 search warrant to go into the house and have
2 probable cause, at some point we were going to
3 alleged a crime that occurred in the house,
4 inevitable discovery will never get you to the
5 evidence in this case. It will never fix the
6 wrong that started out with the first warrant.
7 And I don't think inevitable discovery -- I don't
8 believe that there's any, sort of, conceivable
9 obligation.

10 The second thing is, well, we did this in
11 good faith because we're good guys, we're good
12 cops, and we weren't trying to violate anybody's
13 constitutional rights, so, therefore, the Leon
14 Good Faith exception gets us in. Although we have
15 good faith exception is talking about you're
16 relying on a statute that's ultimately ruled to be
17 unconstitutional. You didn't know it at the time
18 that it was unconstitutional or it as a facially
19 valid statute to you so you relied upon it, or you
20 relied upon some other set of facts that establish
21 problem cause but wound up being contradicted
22 subsequently so that -- the good faith exception
23 requires at least the minimum knowledge of search
24 warrant requirements from the officer. It
25 requires them to comport their behavior in ways

1 that -- where they appear to be faultless or
2 blameless or the intrusion in their constitutionally
3 protected space. That's not what happened here.

4 What happened here was, they went on a
5 fishing expedition. They had nothing. They were
6 searching for something and did a general warrant
7 hoping to find something. And I don't know if
8 they didn't think anybody was looking or anybody
9 would be paying attention, but that's exactly what
10 happened.

11 And I have been, for years, arguing the
12 of poisonous tree, and, like most defense
13 attorneys, I try to expand the fruit of poisonous
14 tree as broadly as possible to eliminate otherwise
15 properly obtained evidence where there is some
16 flaw further back in the chain in the
17 investigation, but that's not exactly what we have
18 here. What we really have here is a case that
19 fits within the fruit of poisonous tree doctrine.
20 We have a facially invalid warrant.

21 We might be able to presume based upon --
22 and I don't think this get to be a Franks hearing
23 unless the State, kind of, pushes us in that
24 direction -- but I don't think we can presume at
25 any point that there is good faith here because on

1 its very surface the initial warrant, the warrant
2 from which everything flows is completely lacking
3 of any indicia of probable cause. They didn't
4 allege the right thing. They didn't support it
5 with facts that would give rise to probable cause.
6 It is dead on arrival. When they go through that
7 door with what purports to be a search warrant,
8 that's it. They can't fix it. They can't make it
9 better. There are no pretty words that could be
10 whispered into the ear of a magistrate to make it
11 better. It is dead on arrival.

12 And if that's the evidence that they
13 intend to introduce in this case, Judge, I believe
14 our constitution says suppress it, suppress it,
15 suppress it.

16 THE COURT: All right. Mr. Hazzard and
17 Mr. Edgeworth, you all concur, sir.

18 MR. HAZZARD: On behalf of defendant
19 Alexander Rhue, Sr., I concur with the argument of
20 Mr. Voigt.

21 MR. EDGEWORTH: Likewise, Your Honor. On
22 behalf of Tiesh Rhue, I concur with the
23 argument.

24 THE COURT: All right. Solicitor, I'm
25 happy it hear from you on this one.

1 MS. RICHARDSON: And, Your Honor, and we
2 also testimony available.

3 First of all, Your Honor, what he's
4 talked about and what he's put in his motion to
5 suppress are three separate three search warrants.

6 The victim in the case, Mr. Leon
7 Harrison, Jr., was reported missing to the
8 Georgetown Police Department on March 9th, which
9 was a Thursday, 2017. Nobody had been found at
10 that time. They did some interviews and that sort
11 of thing. And then on March 10th, that Friday,
12 near five o'clock, the first search warrant, which
13 is the one he's talking about, was issued and
14 signed by Judge O'Donnell who is also on this.
15 The affiant was Ian Anderson. But most of the
16 personnel at the police department were working on
17 the case at this time.

18 That search warrant, and I'm going to
19 read -- I'm going to read the language of that
20 warrant.

21 THE COURT: All right. Ma'am Solicitor,
22 just read slowly so that the court reporter can
23 get that. Sometimes there's a tendency -- it's
24 more difficult when folks are reading, so I just
25 ask you to read slowly. Go ahead.

1 MS. RICHARDSON: In the description of
2 the property sought, it says, "Investigators are
3 searching for bank records, legal documents,
4 identifications, passports, debit credit cards,
5 phone records, vehicle information, insurance
6 paperwork, travel documents, or anything that can
7 aid investigators in ascertaining the whereabouts
8 of Leon Harrison, Jr."

9 They give a description of the premises
10 to be sought -- or to be searched, which is 1015
11 High Market Street in the city of Georgetown.
12 There is a physical description of the house. The
13 affidavit form indicates that, "On 2/25/2017,
14 subject, Leon Harrison, Jr. was last seen at the
15 address on his SC DMV, 1015 High
16 Market Street, the property they were seeking to
17 search in the city of Georgetown by his wife. He
18 has not been seen since."

19 It then says, "Johnson," which we say is
20 a scrivener's error, "maintains a domicile at this
21 residence and is known to stay there from time to
22 time and keeps work clothing there. Due to the
23 above stated facts, there is probable cause to
24 believe that the requested documentary evidence
25 may be in the home and a search warrant is being

1 requested. These documents will help to track his
2 movements and will aid in locating and reuniting
3 him with his family." And that is the subject of
4 the affidavit.

5 I have spoken with both Ian Anderson and
6 Judge O'Donnell and neither of them have any
7 independent recollection of supplementing that
8 with oral testimony.

9 Your Honor, Mr. Voigt has cited the Givvs
10 case, which is a case out of Horry County,
11 obviously in our same judicial circuit that I am
12 familiar with, Your Honor, for the premise that,
13 basically, there wasn't a specific crime alleged
14 that the search warrant is facially invalid.

15 However, Your Honor, just as far as the
16 Givvs case is concerned, it is an unpublished
17 opinion. It is also -- there is a pending
18 petition for writ of the cert from the State that
19 is ready for consideration the last time I checked
20 the Supreme Court website, so it has been appealed
21 by the State.

22 THE COURT: Let me ask you this,
23 Solicitor: You would concede that the warrant
24 does not allege any crime?

25 MS. RICHARDSON: No, Your Honor. I

1 don't -- it doesn't allege it explicitly.

2 THE COURT: What crime? Talk to me about
3 that.

4 MS. RICHARDSON: Implicitly, it alleges
5 that a person is missing. Your Honor, it puts the
6 dates, that he has been missing since 2/25, and
7 this sent -- this was requested almost two weeks
8 later on March 10th. So he had been missing since
9 that time.

10 And, Your Honor, I want to point out,
11 because most of the case law when you read it
12 about a search warrant, it pulls out the portions
13 of 17-13-140 that apply to that particular
14 situation.

15 So, obviously, there's a lot of case law
16 on intrusions into body, the DNA swabs and that
17 sort of thing. In this those cases, we're looking
18 to show that a particular person committed a
19 crime. There are alternative sections in
20 17-13-140. You can look for stolen or embezzled
21 property, property which the possession is
22 unlawful, property used in the commission of a
23 criminal offense, or the intent to be used as the
24 means for committing a criminal offense, or is
25 concealed to prevent a criminal offense from being

1 discovered. From the offense even being
2 discovered. Which, you know, from my reading of
3 that says that you can having situations where
4 they don't even know what the true offense is.
5 Property consisting -- constituting of crime or
6 showing that a particular person committed a
7 criminal offense. And that is actually where most
8 of your case law is on, is property constituting
9 evidence of a crime or intending to show that a
10 person particular person committed a criminal
11 offense, which would be the facts of the Gibbs
12 case.

13 In this case, Your Honor, we have a
14 missing man.

15 THE COURT: Right.

16 MS. RICHARDSON: Obviously, there is
17 concerns that there is something wrong. Do they
18 know on that date what is wrong? No, they don't.
19 The State will concede that. They know something
20 was wrong.

21 THE COURT: Let me ask you something. Do
22 they know on that date whose house that was?

23 MS. RICHARDSON: They -- yes, Your Honor.
24 They did.

25 THE COURT: Whose house was it?

1 MS. RICHARDSON: Well, it's a rented
2 house that was leased by Tiesh Rhue and Leon
3 Harrisonon, Leon Harrison, Jr. Those are the two
4 names on the lease. Now, I don't know if they
5 knew who was on the lease at that point, but
6 that's the name on the lease. But they knew they
7 resided there.

8 THE COURT: Correct. They knew they
9 wanted -- they knew Mr. Rhue, who is now one of
10 the defendants, lived there, right?

11 MS. RICHARDSON: I don't -- I don't know
12 if they knew the men lived there, but what -- my
13 take on it was, they were going to the house to
14 find out or to confirm jurisdiction to make sure
15 that he was missing from that area, which, I
16 think, they talked to the wife about. But also,
17 Your Honor, to see if there was anything that
18 could lead to finding him.

19 And a missing person is a very unusual
20 situation. I think it's very fact specific. What
21 else were they supposed to do? Wait until they know
22 he's dead, or wait until they know he's been
23 kidnapped.

24 THE COURT: Do they go --

25 MS. RICHARDSON: What other mechanism do

1 they have?

2 THE COURT: Do they go to the defendant's
3 and ask for permission to look into the house?

4 MS. RICHARDSON: I don't know off the top
5 of my head on that one.

6 THE COURT: To me, the first thing
7 someone is going to do is go and knock on the door
8 and try to say, is somebody missing. I don't
9 know. I'm just trying to figure out. Wrap my
10 head around that. Go ahead.

11 MS. SMITH: Your Honor, I do believe
12 that, in one of the interviews with Tiesh Rhue,
13 that they did ask for permission. I do believe
14 that her response was something to the effect of,
15 my daddy says to never let the cops in your house.

16 THE COURT: Okay.

17 MS. SMITH: And that is, of course, a
18 paraphrasing. I do not to --

19 THE COURT: I'm not holding to that. I'm
20 jut -- I'm not holding you to that.

21 All right, Solicitor, go ahead I'm sorry.

22 MS. RICHARDSON: And, as for the looking
23 at the four corners of that search warrant, Your
24 Honor, it is limited in what they request, which
25 they are requesting documentary -- basically,

1 documentary evidence to see his whereabouts. In
2 my speaking with the magistrate and our municipal
3 judge, Judge O'Donnell, he indicates he saw it as
4 a search against the victim, that it was
5 reasonable to search for the victim. And that he
6 was looking at it as it was reasonable as to
7 his -- as to his because he also lived there and
8 would have had an expectation of privacy. So he
9 he saw it in that regard.

10 And, Your Honor, as for the exclusion --
11 the exclusionary purpose of a search warrant,
12 there's multiple cases in supporting the -- let me
13 find it. The Fletcher case, the Pearce case that
14 talk about the purpose of deterrents and when that
15 would be. The exclusion is not required under
16 17-13-140 or under the constitution itself. It
17 says for the case law, an exclusion is for purpose
18 of deterring improper action by the police. It
19 also talks about how that should be an extreme and
20 harsh decision by the Court to do that.

21 Your Honor, in that search warrant, all
22 that was seized -- all that was seized to be
23 suppressed is property belonging to the victim.

24 What -- if you look at the return on that
25 search warrant, you're looking at --

1 THE COURT: Right.

2 MS. RICHARDSON: -- suppressing -- now, I
3 will get into the fruit of the poisonous tree. I
4 understand that part. If this was illegal -- if
5 this was illegal, then I would say they have no
6 standing because of their property was taken in
7 that first -- it was nine documents with Leon
8 Harrison, Jr.'s name on them. One medicine bottle
9 for Leon Harrison, Jr. So the items that were
10 taken with the belongings of the victim. So if
11 you're going to suppress that one, then what
12 you're suppressing -- and I know we're going to
13 get into the subsequent search warrants and we'll
14 talk about what happened there -- but what was
15 seized on those search warrants and the return
16 done for the -- or to Judge O'Donnell was
17 documents in a medicine bottle.

18 Now, they did get the second search
19 warrant based on what they saw.

20 THE COURT: Okay.

21 MS. RICHARDSON: But that's what you're
22 talking about suppressing in that case.

23 The second search warrant -- so once they
24 got in and were looking for things, and the
25 officer will testify, they went to the bedroom

1 that was shared by the victim and Miss Tiesh Rhue
2 and searched in there. They did move a container
3 and a rug that was out of place and notice the
4 carpet was missing and there was a stain.

5 THE COURT: They moved a container. What
6 type of container?

7 MS. RICHARDSON: They're describing it as
8 like a clothes hamper or a Rubbermaid-type
9 container. The room was in disarray. Clothes and
10 that sort of thing.

11 THE COURT: I mean, why are they hamper?
12 Is that where he stores his electric bill?

13 MS. RICHARDSON: Well, they don't know
14 that.

15 THE COURT: Well, I mean --

16 MS. RICHARDSON: I mean, they don't --
17 they're looking because it looked out of place
18 like something was hidden. So that's why.

19 THE COURT: But at that point --

20 MS. RICHARDSON: And when they realized
21 it looked like something was out of place.

22 THE COURT: Hold on. But at that point,
23 the only thing that they should have been thinking
24 was hidden was some bills, right? They shouldn't
25 have been thinking something other than bills are

1 hidden because that's what they're looking for,
2 right?

3 MS. RICHARDSON: They were looking for
4 documentation, work records, and that sort of
5 thing. And it does have anything that can help
6 locate his whereabouts.

7 THE COURT: Yeah. Well --

8 MS. RICHARDSON: But mainly, they are, of
9 course, asking for -- and people store things in
10 different places, but they noticed something that
11 was out of place.

12 THE COURT: Now, what was out of place?
13 Refresh my memory on that.

14 MS. RICHARDSON: It appeared to be out
15 place. There was a tote and then there was a
16 blanket and a rug that was in, sort of, an unusual
17 area of the room.

18 THE COURT: Okay. Go ahead.

19 MS. RICHARDSON: So once they did that,
20 they step back, quit searching, and went and
21 applied for the second search warrant, which I
22 believe shows good faith of the officers.

23 THE COURT: When they saw the tub and the
24 blanket out of place, what did they do at that
25 point?

1 MS. RICHARDSON: They found that a
2 section of the carpet had been removed down to the
3 pad, and the padding was left, and they saw a
4 stain on the padding.

5 THE COURT: The carpet had been cut?

6 MS. RICHARDSON: The carpet had been cut,
7 a large -- had been cut and removed. The carpet
8 was gone. And on the carpet padding underneath,
9 they saw what appeared to be a stain.

10 THE COURT: So to see the carpet padding,
11 what did they -- what did they have to move?

12 MS. RICHARDSON: A container and lifted a
13 blanket or rug-type thing.

14 THE COURT: All right.

15 MS. RICHARDSON: So, at that point, they
16 requested an additional search warrant. And that
17 search warrant was issued later that same night
18 around -- the time of that one, I believe, is
19 7:41. And in that one, again, it was by
20 Ian Anderson, they asked -- the description of
21 property sought was for blood evidence -- let me
22 make sure I got what I want. Okay. Blood
23 evidence, gun powder residue, bullets, fibers, and
24 and all DNA evidence, carpet, blankets, flooring
25 and trace evidence that could be linked with the

1 location of the missing person.

2 And then in the affidavit they say,
3 again, that he went missing from this residence
4 and that -- on 3/10, which is the same day, 2017
5 at 1015 High Market Street while conducting a
6 search warrant of the premises for evidence that
7 could aid in locating the victim Harrison. There
8 was a foreign stain on the carpet in the victim's
9 bedroom which is consistent with blood. Beside
10 the stain was a rug covering a section of carpet
11 padding where carpet was removed. Investigators
12 observed a stain on the carpet padding and they
13 did test it. When tested, tested positive on
14 presumptive blood test. Now a search warrant is
15 being requested with the furtherance of developing
16 the blood evidence and any evidence that could
17 further the investigation. They did do a
18 presumptive test on that stain.

19 THE COURT: All right.

20 MS. RICHARDSON: And, Your Honor, after
21 that -- and those both occurred on the 10th.
22 After that, and not based on anything that they
23 did from these two search warrants, on that
24 Saturday, March 11th, a good bit of miles from the
25 city of Georgetown, in the county of Georgetown of

1 Blank River, a citizen saw a body floating and
2 called the authorities and the Georgetown County
3 Sheriff's Office recovered the body of
4 Mr. Harrison from the river. And that was on
5 March 11th. An autopsy was -- and the City was
6 not out there searching. This isn't -- they
7 didn't say, oh, we found blood, let's go look in
8 the river. This was an independent find based on
9 a citizen seeing a body in the river.

10 So on March 13th, which was that Monday,
11 an autopsy was performed. And on that following
12 Tuesday, the body was identified. The body was
13 decomposed, which would be consistent with the
14 time period. The body was decomposed pretty
15 significantly, and there was speaker wire binding
16 the hands and the feet of the body in multiple
17 knots, twists, and loops.

18 After that -- after that is when we have
19 the third search warrant. Well, for the second
20 search warrant, Your Honor, they did go back and
21 get the carpet padding -- they removed sections of
22 carpet padding, some blankets. There's a long
23 list of items they did. They also did swabbing,
24 cut some fabric, and recovered some phones from
25 the home based on that second, the middle search

1 warrant.

2 Once the body was found, they did a third
3 search warrant that Tuesday after the body was
4 found on Saturday, again from the same house. And
5 in that, the description of the property being
6 sought was, again, 1015 High Market Street in
7 search of any speaker wire consistent with the
8 crime scene photos taken by the Georgedown County
9 Sheriff's Office which showed that the victim was
10 found around his wrist and ankles with speaker
11 wire. Also any knives, edged cutting tools,
12 weapons, blood, hairs, fibers, any and all trace
13 DNA evidence, clothing to include black work
14 jeans, black or blue tee shirts, and work boots.
15 And the reason for property affidavit portion --
16 and this was by Burt Powell, who is present seated
17 beside me today, was the affidavit, again, to
18 Judge O'Donnell, was that on Saturday, 2/25/17,
19 the victim went missing from his residence in the
20 city of Georgetown. And then it talks about the
21 search warrants they did on Friday, March 10th
22 where they located a foreign stain on a portion of
23 carpet padding where the carpet had been cut away
24 at the opening of the victim's bedroom closet
25 covered by a flannel blanket that was covered by

1 an area rug. The stain in the carpet padding was
2 testified with a presumptive blood testing kit and
3 did test positive for blood.

4 A search warrant was obtained and
5 executed for furtherance of developing the blood
6 evidence and any evidence that could further the
7 investigation.

8 And then it alleges, on Saturday, March
9 11, 2017 a victim was found near Colonel Cole
10 Drive in Georgetown County in the Black River.
11 The victim's remains were decomposed, but the body
12 was identified as Harrison due to a tattoo on his
13 inner left arm. A search is being requested for
14 the aforementioned items that could develop leads
15 in this case.

16 Your Honor, it's the State's position
17 that even if the first two search warrants were
18 deemed invalid that the third search warrant would
19 be valid. And if he removed any reference to the
20 other search warrants, there's still enough
21 probable cause to search the house a third time.

22 And, Your Honor, as far as inevitable
23 discovery, I think this is just -- actually a
24 great case to demonstrate that. Because when they
25 searched the house that Friday, they didn't have a

1 body. The next morning they had a body, and then
2 they had evidence of an apparent homicide based on
3 the way the body of tied.

4 So, at that point, Your Honor, anyone
5 would have gone back to the residence based on
6 that, because in order to be confirmed that was
7 last place he was seen and that based on the
8 decomposition of the body, then it would have been
9 appropriate to go back and search.

10 THE COURT: All right. So, run that by
11 me again, and I apologize. Solicitor, what you're
12 saying is, let's say the first and the second
13 search warrant are no good or out.

14 MS. RICHARDSON: If they're saying
15 they're facially invalid.

16 THE COURT: Facially invalid, okay. What
17 you're saying is, though, the third warrant itself
18 is valid and that's valid because they found the
19 body by that time and they were able to identify
20 him as Mr. Harrison because of the tattoo?

21 MS. RICHARDSON: Correct, Your Honor.

22 THE COURT: And as a result, at that
23 point, you believe that you would have had cause
24 to go back, get a warrant, and then go search the
25 house.

1 MS. RICHARDSON: Correct.

2 THE COURT: That's why that would survive
3 irrespective of the other two, if they were ruled
4 facially invalid or whatever.

5 MS. RICHARDSON: That -- this one would
6 survive if you took out the portions -- if you
7 were to say take out the references to the other
8 search warrants, if you took those out, what is
9 left is enough probable cause to search the house
10 at that point.

11 THE COURT: Well, let me --

12 MS. RICHARDSON: What I'm saying, as far
13 as the first two -- the first two, an exception
14 would be inevitable discovery to not suppress the
15 items found in the first two.

16 And, Your Honor, just going to a crime
17 not being explicitly alleged, State v. Fletcher is
18 a Court of Appeals case, it was overturned on
19 other grounds. But in that case, it's a child
20 abuse case. They didn't say the words child
21 abuse, but the Court noted that it was implicit in
22 the facts that were found. The Court has said in
23 multiple places, including in State v. Fletcher,
24 State v. Sullivan and Dupree, affidavits are not
25 meticulously drawn by lawyers but are nodrafted by

1 none lawyers in the haste of a criminal
2 investigation and should, therefore, be viewed in
3 a common sense and realistik fashion. Affidavits
4 must be judged on the facts presented and not on
5 the precise wording used. Probable cause is a
6 flexible common sense standard.

7 THE COURT: All right. Mr. Voigt, let me
8 hear you on the argument about the third, about
9 the third warrant. Why wouldn't that be a valid
10 warrant?

11 MR. VOIGT: Well --

12 THE COURT: When they found the body,
13 once they move forward there, then they basically
14 get into the house via having probable cause
15 there, sir.

16 MR. VOIGT: Okay. How did they have
17 probable cause? They found a body.

18 A search warrant is tied to a very
19 specific location. There must be facts alleged in
20 the affidavit that tied this crime to this
21 particular location.

22 Now, let's take away the two warrants and
23 whatever they may have seen, and let's concentrate
24 on what they knew when they found the body. There
25 is a man badly decomposed who is ultimately

1 identified as Leon Harrison, Jr. per a tattoo on
2 his arm. He is found 8 to 10 miles away in a
3 rural river bank, on a rural river bank. He's
4 tied and bound hand and foot with, I believe,
5 orange speaker wire. Okay?

6 What fact did any investigator know at
7 that time that would have linked this particular
8 house to the crime 10 miles away. The fact is,
9 there isn't one absent those first two warrants.
10 And that's why those first two warrants -- the
11 State, in an argument I can only characterize as
12 willfully obtuse would have you believe that the
13 allegations contained in the third search warrant
14 which contained everything found and sought in the
15 first two had no bearing on the ultimate merits of
16 the third search warrant. This search warrant,
17 absent the blood finding in the carpet or the
18 carpet padding, is of no moment.

19 I mean, what we're really dancing around
20 is what's found in the second search warrant.
21 That's what's interesting. None of the rest it
22 this is.

23 THE COURT: Mr. Voigt, did they know who
24 he was when they got the third warrant?

25 MS. RICHARDSON: Yes, they did.

1 THE COURT: Did they know that that was
2 Mr. -- is it Leon Harrison?

3 MR. VOIGT: Yes, sir.

4 MS. RICHARDSON: The sworn affidavit says
5 this he had been identified by the tattoo on his
6 inner left forearm. And it also said that he went
7 missing from his residence at 10:15 High Market
8 Street in the city of Georgetown.

9 MR. VOIGT: But they do not include any
10 allegations. I mean, that's a conclusion. We
11 haven't even started going down that path in terms
12 of how these specific affidavits are written.
13 That's conclusionary. He was last seen there.
14 How do we know that? There's an easy way to tell
15 the magistrate, to tell the Court how they knew
16 that. They chose not to do that. That is a
17 conclusion. We don't know the last place he was
18 seen.

19 If we did know that, perhaps, an
20 allegation containing a fact would be helpful to
21 the Court in determining whether -- you know, the
22 Court ultimately has to judge what it's being
23 presented with, and conclusions don't give the
24 Court. Again, I can cite plenty of cases to that
25 effect. That if a Court is presented merely with

1 conclusions, there are factual allegations upon
2 which the Court can determine whether or not
3 probable cause exists. That is a conclusionary
4 statement. It's not a statement of fact.

5 There could have been facts put in there,
6 and it's pretty simple. And, yes, these are lay
7 people. But these are police professionals who
8 take class in this.

9 So a witness to be identified later said
10 this, a witness to be identified later said that.
11 That's how you get around that. It's easy to do.
12 These are professionals. They know how to do it.
13 They didn't.

14 Because they didn't, there's nothing
15 there. There's nothing there. That's not
16 inevitable discovery. You have a body in a river
17 10 miles away. To follow the State's argument,
18 that would mean that within a 10 miles radius, or
19 anyplace where Leon Harrison had ever been seen,
20 had dinner, talked on the phone, anything, in any
21 parking lot where he parked his car, the police
22 could then sign out a warrant saying he's dead, he
23 parked his car in this parking lot, and we should
24 be able to search your dumpster. That's not how
25 the law of search warrant works. The law of

1 search warrants is designed to protect a liberty
2 interest, a property interest from the improper
3 snooping of police officers.

4 And what the State has failed to address, and
5 willfully does so, is that it's not that there's some
6 sort of secret crime that has been woven into the
7 factual allegations here. It's a missing person's
8 case. He's not around. And the very -- the sub text
9 of what they're looking for is mail that he would have
10 received at an address that we know he lives. That is
11 circular argument. It does not go anywhere. It is
12 not probable cause to allow them into the house in the
13 first place. It's when they find the blood evidence
14 after snooping around and moving things around how we
15 get to where we are.

16 The crucial part of this is, they don't
17 find anything that's not already tainted by their
18 failure, they're utter and complete failure to
19 understand and comprehend and apply the law of
20 search warrants. And the law of search warrants
21 does not allow for a general rummaging through
22 somebody's things. And that's what they did for
23 no purpose that I can understand, because there is
24 no crime alleged. There's no crime that can be
25 inferred from that. People leave their homes and

1 go to other places all the time. We have a mobile
2 society.

3 THE COURT: All right.

4 MR. VOIGT: They wanted to say that this
5 person was gone and we think that something
6 nepharius happened to him, then put it in there,
7 say it, let us judge it. Not, let's guess about
8 it two, three, four years later.

9 THE COURT: All right. Solicitor, let me
10 ask you this, okay? I've got a memorandum from
11 Mr. Voigt and a copy of all three of search
12 warrants and the returns that were attached to it.
13 I don't think you sent me anything on this
14 issue.

15 MS. RICHARDSON: I haven't.

16 THE COURT: If there is anything else you
17 want me to consider, I suggest that you might want
18 to send me a memorandum. Because I will have to
19 tell you, I got some serious concern, certainly
20 with the first one. And, you know, I would like
21 to hear -- I'd like to see something that I can
22 read and put that together.

23 MS. RICHARDSON: Okay. I'd like to have
24 that by the middle of next week, if you gentlemen
25 want to supplement in any way. And then what I'm

1 going to do is, I'm going to make a decision. And
2 I'll make a decision by the end of next week as it
3 relates to that matter.

4 MS. RICHARDSON: Your Honor, we're in the
5 solicitor's conference Monday through Wednesday.
6 Could I have until Friday on that? I'll be in
7 class.

8 THE COURT: You can have until Friday.
9 That's fine. Make sure you attend all the
10 classes.

11 MS. RICHARDSON: They're making us sign
12 in this year, Your Honor.

13 THE COURT: Well, I mean, I understand.
14 That's what friends are for. I'm just joking.

15 No, that's fine. I understand that.

16 And I will to be out of office -- I'll
17 probably make the decision sometime around the
18 6th, because I'm going at a judicial conference.
19 I'm actually on vacation next week, but I'll be
20 around. The following week, I have a conference
21 and then I'm in chambers for the rest of the week.
22 So it's going to be the middle of the week after
23 next, if I'm waiting until next Friday to get the
24 documentation from the Solicitor.

25 But I will tell you, I need to look at

1 this and anything you gentlemen want to
2 supplement, I'm happy to review it, because I
3 think this is a big issue from what I've been
4 reviewing that's been sent to me.

5 Let me ask you this: Gentlemen, are
6 there any other motions that need to be addressed?
7 I know there are some that we haven't -- I haven't
8 ruled on and perhaps haven't heard the Denno
9 issues, but are there other motions or other
10 matters that need to be taken up?

11 MR. VOIGT: Judge, I have filed a very
12 brief Lyle motion, I think that can be -- that can
13 be later. You know, just before the State gets
14 rolling into that part of their case.

15 THE COURT: Okay.

16 MR. VOIGT: I don't think that's
17 something we need two weeks out.

18 THE COURT: I don't have a problem with
19 that. Anything else from any of you guys?

20 MS. RICHARDSON: Your Honor, as far as
21 creating a record on this issue, as far as what
22 the officers would testify to, would you like me
23 to submit an affidavit in that regard just to make
24 the facts a little more clear from them, or how
25 would you like to handle some of the more specific

1 facts?

2 THE COURT: I think that will be fine.

3 Now, let me just ask you all, what does
4 the clerk do? Do they bring the juries in at
5 10:00 or 2:00, or what do they do?

6 MS. RICHARDSON: Usually, they bring the
7 jury panel in. They're usually here 9:00 to 9:30.
8 We usually do the initial calling of the roll and
9 the qualification around 10:00. Typically, all
10 the attorneys go upstairs here at nine o'clock.
11 There's actually a standing order. I think it
12 says 10:00 for Mondays, but the practice has been
13 the folks on the trial roster go up and meet with
14 the judge Monday morning just to go over what's on
15 the roster, take care of anything -- if there's
16 any pleas, continuance motions, that sort of
17 thing, and then qualify the jury around 10:00.

18 THE COURT: All right. Well, what I
19 would like to do then is, let's go ahead, we can
20 qualify the jury and then -- let me ask you all,
21 we're still going to have some motions and some
22 Dennos, and some things that are going to take a
23 little bit of time. I think it's going to take
24 more than 20 or 30 minutes in the morning to do
25 it. I don't think it's going to take a long time.

1 I don't want to be rushed and then have a jury
2 waiting and things of this nature.

3 How long is it going to take to try this
4 case?

5 MS. RICHARDSON: Well, it depends on your
6 motion, Judge? It depends on how you're going to
7 rule on this motion. I think we'll have a better
8 idea once that happens.

9 THE COURT: Let's assume that the State
10 gets everything they want, okay? Just assuming
11 that, I guess that would end up maximizing the
12 length of the trial. So what I'm asking is, I
13 mean, is this going to go into Friday.

14 MS. RICHARDSON: Yes. I would
15 anticipate -- with three -- yes, Friday.

16 THE COURT: All right. Because what I'm
17 wondering is, do I -- do we just -- well, I want
18 to have these motions heard, but I think I'm going
19 to have to wait. I'm debating whether I want to
20 pick the jury and send them home, have the motions
21 and then go and start at 9:30 on Tuesday morning.

22 What are your thoughts on that,
23 Solicitor?

24 MS. RICHARDSON: Your Honor, when we do
25 have a lot of motion, we do that. And then that

1 prevents the entire jury panel from having -- to
2 come back on Tuesday. It just minimizes the cost
3 and the inconvenience to the county in that
4 regard. We have had pretty -- we had a jury term
5 this week, and I think we ended up with -- oh, and
6 Miss Rhue was on the jury panel, by the way.
7 Miss Tiesh Rhue was, in our jury panel, excused,
8 or transferred. But I think we ended up with 28
9 qualified jurors.

10 THE COURT: Okay.

11 MS. RICHARDSON: Just be aware of that.

12 THE COURT: All right. Twenty-eight
13 qualified jurors? Because these folks can't -- I
14 mean between three of them, don't you --

15 MS. RICHARDSON: Yes, Your Honor. That's
16 just a concern, that we may have to, you know,
17 address with the clerk.

18 THE COURT: You know they're being tried
19 together. So you all --

20 MS. RICHARDSON: Well, Your Honor, that's
21 something I didn't --

22 THE COURT: That's a --

23 MS. RICHARDSON: I wanted to wait and see
24 how you ruled on this search warrant to make the
25 final decision in that regard because there may be

1 some prudent dent issues that we would need look
2 into to see if they could all go together.

3 THE COURT: All right. Well, what I'm
4 going to do is this. I'm going make the ruling on
5 the search warrant issues the middle of the week
6 after next, assuming I get the information from
7 the Solicitor on Friday and anything you want to
8 supplement.

9 Then, as far as -- as far as
10 Mr. Hazzard's Number 2, we'll talk about that once
11 we're at the time the trial as far as victims and
12 so forth who might be able to stay in the
13 courtroom.

14 In regard to Number 3, I think we're
15 going to have to have a hearing and we're just
16 going to have to do that Tuesday because I
17 understand there's, potentially, maybe nine
18 different statements that we're going to have to
19 play or hear. All right. I don't want to do that
20 this afternoon, and, quite frankly, I'd rather in
21 a courtroom when I'm sitting there listening to
22 that.

23 As it relates to Mr. Hazzard's motion
24 about the records, criminal records and
25 admissibility, why don't we do this: Solicitor,

1 that's something that I'll take up then on
2 probably Monday afternoon. So if you can make
3 sure that he's got the most up to date information
4 and that Mr. Rhue, Jr.'s attorney has the most up
5 to date information as it relates to their prior
6 criminal history and we will go through that and
7 I'll make a decision there.

8 I don't need the criminal history at that
9 time, but just have that ready, Solicitor, so we
10 can address that on Tuesday afternoon.

11 MS. RICHARDSON: Yes, Your Honor.

12 THE COURT: All right. Is there anything
13 else, folks, that we need to discuss before moving
14 forward -- or before ending this hearing?

15 MR. HAZZARD: No on behalf of
16 Mr. Alexander Rhue, Sr., Your Honor.

17 THE COURT: Thank you, Mr. Hazzard.

18 Anything on behalf of Mr. Rhue, Jr.?

19 MR. VOIGT: No, Your Honor.

20 THE COURT: Anything on behalf of
21 Tiesh Rhue.

22 MR. EDGEWORTH: No, Your Honor.

23 THE COURT: Great anything on behalf of
24 the State?

25 MS. RICHARDSON: Yes, Your Honor. I do

1 want to make the Court aware, and I've let the
2 defense attorneys know, when we had the last
3 hearing, there were security concerns. Miss -- I
4 think Tiesh Rhue called 911 from the parking lot
5 and made allegations that there might have been a
6 gun in the parking lot. No gun was found. They
7 alleged allegations that some of the victim's as
8 family was out there causing problems. It's my
9 understanding there may have been a near
10 altercation in the hallway -- in the courtroom.

11 Also one of the victim's family members
12 did have a gun that was caught through security,
13 but she is some sort of court official in Georgia.

14 But it was a pretty hostile situation out
15 in the hallway and spilled into the parking lot.
16 I had called Mr. Voigt, and I think I told -- I
17 wanted everybody to know about that, that there
18 are some security concerns. And we'll address
19 that as well with the courthouse security, but
20 everybody needs to be cautious and aware and make
21 sure we do have extra security.

22 THE COURT: Are you going to talk with
23 the clerk of court about that issue?

24 MS. RICHARDSON: I am, Your Honor. And
25 I'm not saying this to be safe. I'm saying this

1 because I am really concerned.

2 THE COURT: Okay.

3 MS. RICHARDSON: So I just want to make
4 that clear. I talked Mr. Voigt at length about
5 that because I think his client is probably the
6 one that there's probably the most hostility
7 against. But I just -- I do think it is a real
8 true concern.

9 THE COURT: All right. Thank you for
10 bringing that to our attention.

11 All right. Folks, I hope everybody have a
12 good weekend. I look forward to getting the
13 additional information from the State. And, if the
14 defendants want to supplement their arguments as it
15 relates to the search warrants, I'm happy to receive
16 that. I'll make a decision on that about toward the
17 middle of the week after next. All right?

18 MS. RICHARDSON: Thank you, Your Honor.

19 MR. VOIGT: Thank you, Judge.

20 MR. HAZZARD: Thank you, Your Honor.

21 (The hearing was concluded.)

22

23

24

25

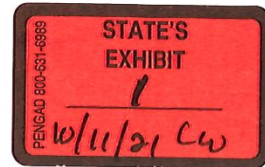
CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in General Sessions, Georgetown County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

January 6, 2022

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, II



STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	INDICTMENTS: A. RHUE, JR. - 2017GS2200870 THRU 2017GS2200874
COUNTY OF GEORGETOWN	)	T. RHUE - 2017GS2200880 THRU 2017GS2200884
	)	A. RHUE, SR. - 2017GS2200875 THRU 2017GS2200879
STATE OF SOUTH CAROLINA,	)	
	)	
VS.	)	STATE'S MEMORANDUM IN OPPOSITION TO THE
	)	DEFENSES MOTION TO SUPPRESS SEARCH WARRANT
ALEXANDER RHUE, JR.,	)	
TIESH ANNETTE RHUE	)	
ALEXANDER RHUE, SR.	)	
_____	)	

FILED
GEORGETOWN COUNTY, SC
2021 OCT 11 AM 11:33
ALM. WHITE
CLERK OF COURT

The State of South Carolina, by and through Deputy Solicitor Alicia A. Richardson, opposes the Defendant's Motion to Suppress the initial three search warrants in this case and the evidence seized from the execution of those warrants.

Factual Summary

The following is a summary of the evidence and testimony that the State would proffer and anticipate regarding this issued. The State is prepared to call these witnesses and present testimony on the issue of suppression.

On Thursday, March 9, 2017, around 10:25 a.m. Leon Harrison, Jr. (victim) age 32, was reported missing by both his father Leon Harrison, Sr. and Brittani Green, the mother of his two minor. Harrison Sr. appeared in person at the Georgetown City Police Department to make the report. Ms. Green arrived separately shortly thereafter to also make a missing person's report. Investigator Powell met with them. Harrison, Sr. reported he had not seen or heard from his son in two weeks and this was unusual for him. Ms. Green reported she had last seen the victim on February 23, 2017 and last heard from him on the telephone on Friday night February 24, 2017. Ms. Green said the victim usually called his minor children each night at bedtime and it was unusual that he had not done so for nearly two weeks. Ms. Green told

officers that she had tried to call him without success and believed his cell phone had been turned off. Ms. Green told the officers that Harrison, Jr. was married to Tyiesha Rue Harrison (at this time Officer Powell had an incorrect legal name and spelling).

Police entered Harrison, Jr. into NCIC and began an investigation into his disappearance. At this point they were not sure if he was actually missing or if there was foul play. However, they entered him into NCIC as a missing person and began an investigation into his disappearance. See S. C. Code Section 23-3-210, which provides that: "Missing person" means any individual who is seventeen years of age or older, whose temporary or permanent residence is in South Carolina, or is believed to be in South Carolina, whose location has not been determined, and who has been reported as missing to a law enforcement agency. Also, S.C. Code Section 23-3-250 Dissemination of Missing Persons Data by Law Enforcement Agencies, which provides:

A law enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, legal custodian, public or private agency or entity, or any person responsible for a missing person, immediately shall make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, inform all of the agency's on-duty law enforcement officers of the missing person report, initiate a statewide broadcast to all other law enforcement agencies to be on the lookout for the individual, contact the agency's local media outlets when appropriate, and transmit a copy of the report to the MPIC.

Investigators spoke to a number of witnesses. Investigator Powell spoke with the victim's aunt, Sandra Johnson, who was an employee at the Georgetown County Detention Center. She confirmed that the victim was missing.

The next day officers spoke with more individuals to ascertain the whereabouts of the victim, including his wife Defendant Tiesh Rhue at her place of employment, the victim's his employer, his

Jr., Alexander Rhue, Sr. and Tiesh Rhue. The state concedes that it was clear in the investigation that Tiesh Rhue did reside there. There is conflicting information about whether or not it was the legal residence of Alexander Rhue Jr. and Sr., although information was developed that they were at a minimum frequent overnight guests. What the Defendant's memorandum fails to mention is that the investigators also had information contained in the affidavit that 1015 Highmarket Street was a residence of the victim Leon Harrison, Jr. The affidavit also alleges that he was last seen at this residence by his wife.

However, the only items seized in this search warrant, were documents and medication belonging to the victim Leon Harrison, Jr., from his residence where he would have also have an expectation of privacy. The Defendants do not have a reasonable expectation of privacy in the personal documents of Leon Harrison, Jr. or his medication, and thus even if the warrant is defective, these items should not be suppressed.

Failure to allege a crime

S.C. code Section 17-13-140 provides that a judge may issue a search warrant for:

- (1) stolen or embezzled property;
- (2) property the possession of which is unlawful;
- (3) property which is being used or has been used the commission of a criminal offense or is possessed **with the intent to be used as the means for committing a criminal offense or is concealed to prevent a criminal offense from being discovered;** (emphasis added)
- (4) **property constituting evidence of crime** or tending to show that a particular person committed a criminal offense; (emphasis added)
- (5) any narcotic drugs, barbituates, amphetamines or other drugs.....
(full text omitted)

The Defendant's Motion to Suppress also opines that the Search Warrant is defective because it fails to allege that a crime is suspected. While the search warrant does not specifically allege a crime by name that is not a requirement of either the Fourth Amendment of S.C. Code 17-13-240.

In State v. Fletcher, 363 S.C. 221, 609 S.E.2d 572 (Ct. App. 2005), reversed on other grounds by State v. Fletcher, 379 S.C. 17, 664 S.E.2d 480 (2008), the defense challenged that the search warrant was insufficient because it did not specify "child abuse" and therefore did not contain sufficient facts to constitute probable cause to believe evidence of a crime would be found. The Court found that: "Affidavits are not meticulously drawn by lawyers, but are normally drafted by non-lawyers in the haste of a criminal investigation and should therefore be viewed in a common sense and realistic fashion. Citing State v. Sullivan, 267 S.C. 610, 230 S.E.2d 621 (1976); State v. Dupree, 354 S.C. 676, 583 S.E.2d 437 (Ct. App. 2003)/ "Affidavits must be judged on the facts presented and not on the precise wording used" citing State v. Bowie, 360 S.C. 210, 600 S.E.2d 112 (Ct. App. 2004). In Fletcher, the Court found that on the totality of the circumstances and the facts alleged that the "suspicion of child abuse is not only implicit but is verifiable."

In this case, the affidavit makes it clear that the victim has been missing for 2 weeks, and it is implicit that there is concern regarding concealment of a crime. South Carolina law recognizes that missing persons cases require special attention and created the Missing Person Information Center under the direction of the Chief of the State Law Enforcement Division (SLED). See S.C. Code 23-3-220.

The Defense also alleges that the first search warrant is a general warrant, and that officers exceeded the scope of the warrant. The main focus of the warrant was to look for documentary evidence including anything that could show possible travel plans, etc. The Defense alleges that documents cannot contain evidence to determine if a crime has been committed. This is patently false, and naïve to say that documents including identification and financial documents cannot contain evidence of a crime, or concealment of a crime. Evidence of crimes are often found in journals, diaries, recent life insurance policies, fraudulent identification cards, passports, etc. Additionally, victims of suicide often leave a note or documentary trail. (See State v. Levelle, 34 S.C. 120, 13 S.E.319 (1891), overruled on other grounds by State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991) finding that suicide is an unlawful act and felonious).

Second Search Warrant – March 10, 2017

The Second Search warrant was issued at 7:41 p.m. again by Judge O'Donnell. The description of premises to be search was 1015 Highmarket St. Georgetown and the relevant portions of the affidavit provided as follows:

DESCRIPTION OF PROPERTY SOUGHT

Blood Evidence, gun powder residue, bullets, fibers, any and all DNA evidence, carpet, blankets, flooring, and trace evidence that could be linked with the location of the missing person.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On 02/25/2017 the victim Leon Harrison Jr. went missing from his residence at 1015 Highmarket St. in the City of Georgetown. On 03/10/2017 at 1015 Highmarket St. whilst conducting a search warrant of the premises for evidence that could aid in locating the victim Harrison. There was foreign stain on the carpet in victim's bedroom which is consistent with blood. Beside the stain was a rug covering a section carpet padding where the carpet was removed. Investigators

observe a stain on the carpet padding which when tested, tested positive on a presumptive blood test. Now a search warrant is being requested for the furtherance of developing the blood evidence and any evidence that could further the investigation.

The second search warrant indicates that it was executed at 8:35 p.m. The items recovered from the

2nd search warrant according to the return are as follows:

1. Carpet padding with blood stain from item #1
2. Carpet padding with blood stain from item #3
3. White bed sheet with blood stain from item #6
4. Fabric with blood stain from mattress from item #7
5. Metal shaving from mattress from item #8
6. Fabric with bloodstain from corner of mattress from item #9
7. Fabric with blood stain from corner of box spring from item #10
8. Unknown brand black smart phone bearing IMEI # 353
9. Grey Black Berry
10. Black Sprint smart phone
11. Black LG smart phone
12. Purple Black Berry smart phone
13. Pink LG smart phone

Photographs were also taken on the inside and outside of the residence, including some with crime scene markers.

Subsequent testing by Richland County Sheriff's office forensic lab and SLED determined that some of the swabs recovered were consistent with the DNA profile attributed to the victim.

The Defense alleges that the items seized in the second search warrant should be suppressed as "fruit of the poisonous tree" from the first search warrant. The State believes that the first and second search warrants were sufficient to allow the Judge to make a reasonable, common sense determination of probable cause based on the totality of the circumstances. Also, the officers were acting in good faith under the belief that these search warrants were valid. The officers' good faith is evident in that they

halted searching after finding the first area where carpet was removed and blood was present. They did not search the remainder of the room and find the second area of missing carpet and blood stained mattress and sheets until the second search warrant was obtained. See State v. Moore, 421 S.E. 167, 805 S.E.2d 585 (Ct. Appl. 2017), affirmed as modified by State v. Moore, 429 S.C. 465, 839 S.E.2d 882 (2020) where the Court of Appeals attached significance to the fact that police obtained a warrant before performing further analysis of a phone's contents after performing a limited warrantless search to determine ownership. Also, the Supreme Court in Moore finding "Finally, it must be remembered that law enforcement did obtain a warrant to search Petitioner's phone once his identity as owner was determined."

Even if the first two search warrants are deemed invalid by the Court, the State believes that the evidence collected during these searches should not be excluded under the doctrine of inevitable discovery. The State has shown by a preponderance of the evidence that the items collected during the first and second search warrants, would have been discovered under the 3rd valid search warrant after the victim's body was discovered the day after the initial search warrants. the victim's body and a third search warrant that was executed based on the recovery of the body.

Discovery of Body

On October 11, 2017, the day following the execution of the search warrants, a citizen reported a body floating in the Black River several miles from the city of Georgetown, but in Georgetown County and in the jurisdiction of the Georgetown County Sheriff's office.

The body was recovered by the Sheriff's Office. It was decomposed and the hands and feet were bound by multiple tight twists, loops, and knots of speaker wire. An autopsy was conducted on March

13, 2017 at the Medical University of South Carolina. A cause of death could not be determined but the manner of death was homicide. The body was identified on March 14, 2017 as Leon Harrison Jr., by a distinctive tattoo on his arm.

Nothing recovered from Search warrants #1 and #2 aided in the discovery of the body.

Third Search Warrant – March 14, 2017

After the discovery of the body on the 11th, the autopsy on the 13th, and the identification of the body, a 3rd search warrant was issued on March 14, 2017 at 12:02 p.m. again by Judge O'Donnell. The affiant on this search warrant was Investigator Powell who was employed at the time with the Georgetown police department (now he is with the Georgetown County Sheriff's Office).

The affidavit provided that the description of property sought was:

All areas of the before mentioned property or places located at 1015 Highmarket St. in search any speaker wire consistent with crime scene photos taken by the Georgetown County Sheriff's office, which shows the victim was bound around his wrist and ankles with speaker wire. Also any knives, edged cutting tools/weapons, blood, hairs, fibers, any and all trace DNA evidence, clothing to include, black work jean, black or blue work T-shirt, work boots.

The description of the premises was 1015 Highmarket Street, and included a detailed list of the areas to be searched in and around the residence.

The reason for affiant's belief that the property sought is on the subject premises:

On Saturday 2/25/2017, the victim, Leon Harrison Jr. went missing from his residence of 1015 Highmarket St. , in the City limits of Georgetown. On Friday 3/10/2017, at 1015 Highmarket St, whilst conducting a search warrant of the premises for evidence that could aid in locating the victim, Harrison, a foreign stain was found on a portion of carpet padding, there the a portion of the carpet had been cut away, at the opening to the victim's bedroom closet, covered by a flannel

blanket that was covered by an area rug. This stain on the carpet padding was tested with t presumptive blood testing kit, and did test positive for blood. A search warrant was obtained and executed for the furtherance of developing the blood evidence and any evidence that could further in investigation. On Saturday 3/11/2017, a victim as found near Colonel Cole Dr., in Georgetown County, in the Black River. The victim remains were decomposed, but the body was identified as Harrison due to a tattoo on his inner left forearm. A search is being request for the before mentioned items that could develop leads in this case.

The return indicates the search warrant was executed at 1:17 p.m. The following items were recovered:

1. 1 silver kitchen knife with black handle approximately 7 inches in total length
2. 1 orange in color box cutter
3. 4 cotton swabs containing DNA blood samples

Photographs were also taken during the execution of this 3rd search warrant.

The defense has argued that the 3rd search warrant should be suppressed because it is fruit of the poisonous tree as it references items recovered in the first and second search warrants from March 10, 2017.

However State v. Davis, 371 S.C. 412, 639 S.E.2d 457 (2006), provides in a method similar to that employed for a Franks violation. The improper information in an affidavit should be redacted and if it still gives rise to probable cause then the warrant is valid and the evidence should not be suppressed.

If the reference to evidence collected in the first and second search warrant is redacted from the affidavit of the third search warrant, then it would provide as follows:

DESCRIPTION OF PROPERTY SOUGHT

All areas of the before mentioned property or places located at 1015 Highmarket St. in search any speaker wire consistent with crime scene photos taken by the Georgetown County Sheriff's office, which shows the victim was bound around his

wrist and ankles with speaker wire. Also any knives, edged cutting tools/weapons, blood, hairs, fibers, any and all trace DNA evidence, clothing to include, black work jean, black or blue work T-shirt, work boots.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On Saturday 2/25/2017, the victim, Leon Harrison Jr. went missing from his residence of 1015 Highmarket St., in the City limits of Georgetown. {Redactions} On Saturday 3/11/2017, a victim was found near Colonel Cole Dr., in Georgetown County, in the Black River. The victim remains were decomposed, but the body was identified as Harrison due to a tattoo on his inner left forearm. A search is being request for the before mentioned items that could develop leads in this case.

Even without the redacted information, the magistrate had probable cause to issue a search warrant for 1015 Highmarket Street. The search warrant provides – that they are seeking to search the victim's residence, this is where he was last seen, he was missing from 2/25/2017 until his remains were discovered on 3/11/2017, the remains were decomposed, the body was bound by wire at the hands and feet, the body was positively identified as Harrison. (See attached affidavit of Municipal Judge O'Donnell).

A magistrate may issue a search warrant only upon a finding of probable cause. State v. Tench, 353 S.C. 531, 579 S.E.2d 314 (2003); State v. Bowie, 360 S.C. 210, 600 S.E.2d 112 (Ct. App. 2004). A probable cause determination requires the magistrate to analyze the totality of the circumstances, meaning he should make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, there is a fair probability that contraband or evidence of a crime will be found in a particular place. See Illinois v. Gates, 462 U.S. 213, 76 L. Ed. 2d 527, 103 S. Ct. 2317 (1983); Bowie, 360 S.C. at 219, 600 S.E.2d at 116-17. Probable cause is a flexible, common-sense standard. Bowie, 360 S.C. at 220, 600 S.E.2d at 117. The term "probable cause" does not import absolute certainty.

Id. In determining whether a search warrant should be issued, magistrates are concerned with probabilities and not certainties. *Id.*

Assuming that the search warrants on March 10, 2017 are deemed invalid, the items recovered and photographs should not be suppressed because they would have been inevitably discovered after the discovery of the body and the valid 3rd search warrant.

There is no link between the first two search warrants and the discovery of the body. (See attached affidavit of Investigator Morris). The discovery of the body was an intervening action which would have given probable cause to search the victim's residence even without the information collected from the first two search warrants. The body was discovered by a citizen and any action by the police in conducting the initial searches of the residence did not contribute to the location of the body. Once, the body was discovered, it was readily apparent that it was a homicide as the hands and feet were bound. It was also apparent that the body had been in the water for some time based on the decomposition of the remains which would be consistent with the victim having been last seen two weeks prior.

Additionally, at the time of the third search warrant, the residence was in essentially the same condition as it was during the first two search warrants. This search warrant was executed only three days after the discovery of the body, the same day the body was identified, and only four days after the March 10th searches. At the time of the third and final search, no repairs had been made to the property. The carpet was still missing, and the subfloor still contained apparent bloodstaining. The walls had not been cleaned and additional blood evidence was collected from the walls.

The inevitable discovery doctrine states that if the prosecution can establish by a preponderance of the evidence that the information ultimately or inevitable would have been discovered by lawful

means, the information is admissible despite the fact that it was illegally obtained. State v. Spears, 393 S.C. 466, 713 S.E.2d 324 (Ct. App. 2011) citing Nix v. Williams, 467 U.S. 431, 444, 104 S.Ct. 2501, 81 L.Ed2d 377 (1984).

In State v. Spears, 393 S.C. 466, 713 S.E.2d 324 (Ct. App. 2011), the Court was faced with a similar situation. In that case, the trial court ruled that the co-defendant's initial consent to search was invalid. The trial court redacted any reference to the initial consent in the search warrant at issue and found that the remaining search warrant still gave rise to the probable cause to search the residence. The Court of Appeals approved on this method and approved the trial courts reliance on State v. Davis, 371 S.C. 41, 639 S.E.2d 457 (2007). The Court of Appeals noted "that a court may redact alleged misstatements in an affidavit and consider the remaining content of the affidavit to determine whether it is sufficient to establish probable cause." Although Davis was a Franks violation analysis, the Court in Spears applied it to an invalid consent search. See also, State v. Moore, 421 S.C. 167, 805 S.E.2d 585 (Ct. App. 2017) affirmed as modified by State v. Moore, 429 S.C. 465, 839 S.E.2d 882 (2020). Judge Lockemy, concurring in part and dissenting in part with the majority opinion of the Court of Appeals, found that the Court should use the method approved in Spears and excise any offending or illegally obtained information from the search warrant affidavit and if the remaining portions of the affidavit still supported probable cause to support the Judge's decision to issue the search warrant, then the evidence should not be excluded. In applying this standard, Judge Lockemy agreed with the majority's conclusion that the inevitable discovery exception applied.

Likewise, the Supreme Court in affirming and modifying the Court of Appeals in State v. Moore, 429 S.C. 465, 839 S.E.2d 882 (2020), found as an additional sustaining ground that the information

obtained in the warrantless search of the Defendant's cell phone would have been inevitably discovered in a search of the victim's cell phone which was also in police possession.

In this case, even if the first and second search warrants are invalid, the inevitable discovery doctrine prevents exclusion of the items seized and photographs taken during the first two searches, including the blood and DNA evidence. The third search warrant, even with the information obtained from the first two search warrants excised, provides probable cause for a valid search of the residence. All evidence obtained from the first two search warrants would have inevitably been discovered during the 3rd search warrant as it was only four days after the initial searches and the condition of the home was substantially the same on March 14, 2017 as it was during the initial searches on March 10, 2017. The discovery of the victim's body the very next day following the initial search warrants was an intervening and independent discovery wholly unrelated to the initial search of the residence. This independent and intervening event, as set forth, in the 3rd search warrant gave probable cause of a homicide and that evidence would be found at the home of the victim which was also the last place he had been seen.

Purpose of Exclusionary Rule

The S.C. Constitution, the U. S. Fourth Amendment, and S.C. Code 17-13-140, do not contain an exclusionary rule. In Moore, the Supreme Court found, "The fact that a Fourth Amendment violation occurred – i.e., that a search or arrest was unreasonable does not necessarily mean that the exclusionary rule applies." "Indeed, exclusion has always been our last resort, not our first impulse."

In State v. Sachs, 264 S.C. 541, 216 S.E.2d 501 (1976), the Court explored the evolution of the exclusionary rule both in the State and Federal constitution as well as in compliance with S.C. Code Ann

Section 17-13-140. The development of the exclusionary rule as outlined by the Court, make it clear that the purpose of the exclusionary rule is to deter violations of the Constitution. However, the Court found that:

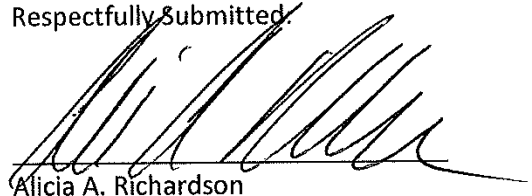
[T]he exclusionary rule is harsh medicine. The jury is charged with the duty of searching for the truth to determine the innocence or guilt of the accused, with the appropriate legal standard. Denial of probative evidence detracts from that search. Exclusion should be applied only where deterrence is clearly subserved.

The Court included a quote from Cardoza to capsulize the objections to the exclusionary rule: “the criminal is to go free because the constable has blundered.” Quoting State v. Defore, 242 N.Y. 13, 150 N.E. 585 (1976).

It is apparent in this case, that the police acted in good faith particularly considering the initial search warrants when the defendants body had not been found and they were trying to search the victims residence where he was last seen. The officers sought not just one but three separate search warrants of the same residence in a four day period. They even stopped in the middle of executing the first search warrant and obtained a second search warrant when they realized that blood evidence not specifically sought in the first warrant was likely to be obtained. As stated in Moore, by the Supreme Court, “Our cases have consistently recognized that unbending application of the exclusionary sanction to enforce ideals of governmental rectitude would impede unacceptably the truth-finding function of judge and jury . . . Particularly when law enforcement officer have acted in objective good faith or their transgressions have been minor, the magnitude of the benefit conferred on such guilty defendants offends the basic concepts of the criminal justice system.”

Based on the foregoing the State respectfully requests that the Court deny the Defendant’s Motion to Suppress evidence obtained in the execution of the above-referenced search warrants.

Respectfully Submitted,



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richa@horrycounty.org

October 1, 2021

Georgetown, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

STATE OF SOUTH CAROLINA

VS.

ALEXANDER RHUE, JR.
DEFENDANT

) IN THE COURT OF GENERAL SESSIONS

) INDICTMENT: 2017GS2200870;
) 2017GS2200871; 2017GS2200873;
) 2017GS2200872; 2017GS2200874

) WARRANT: 2017A2220200146;
) 2017A2220200201; 2017A2220200202;
) 2017A2220200203; 2017GS2200874

AFFIDAVIT

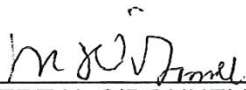
FILED
GEORGETOWN COUNTY, S.C.
2021 OCT 11 AM 11:33
ALMA Y. WHITE
CLERK OF COURT

The Honorable Judge Robert H. O'Donnell deposes and says:

1. I am a Municipal Court Judge in Georgetown, South Carolina.
2. I was involved in this case, including but not limited to the signing of three search warrants for 1015 Highmarket Street in the city limits of Georgetown, South Carolina.
3. I signed a search warrant for 1015 Highmarket Street on March 10, 2017. The victim had been missing for approximately two (2) weeks at the time prior to the search warrant. I believed it was reasonable to issue a search warrant of the victim's house given the circumstances. I believed that something was wrong about a person missing for approximately two (2) weeks.
4. I signed a third search warrant on March 14, 2017. Given the facts alleged in the search warrant, specifically that the body of Leon Harrison, Jr. had been found in the river with his hands and feet tied up with speaker wire, I believed this investigation to be a homicide investigation.

Georgetown, South Carolina

Date: October 1, 2021



ROBERT H. O'DONNELL
CITY OF GEORGETOWN
MUNICIPAL COURT JUDGE

SWORN TO BEFORE ME THIS

1st DAY OF October, 2021

Beverly A. Boston
Notary Public for South Carolina

My Commission Expires: 8/13/2029

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF GEORGETOWN	)	INDICTMENT: 2017GS2200870; 2017GS2200871;
	)	2017GS2200873; 2017GS2200872; 2017GS2200874
	)	
STATE OF SOUTH CAROLINA	)	WARRANT: 2017A2220200146; 2017A2220200201;
	)	2017A2220200202; 2017A2220200203; 2017GS220087
	)	
VS.	)	
ALEXANDER RHUE, JR.,	)	
DEFENDANT	)	

AFFIDAVIT

FILED
GEORGETOWN COUNTY, S.C.
2021 OCT 11 AM 11:33
ALMA Y. WHITE
CLERK OF COURT

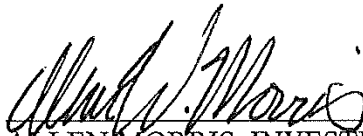
ALLEN MORRIS deposes and says:

1. I am an Investigator with the Georgetown Police Department.
2. I was involved in this case, including but not limited to, the searches of 1015 Highmarket Street in the city limits of Georgetown.
3. During the execution of the first search warrant on March 10, 2017, I believed that we were searching the house based on a valid search warrant. Therefore, I entered the residence in search of items belonging to the Victim in this matter, Leon Harrison Jr. Upon entering I noticed that the house was cluttered with bags and boxes of items, including papers, scattered about. While searching the residence, I searched the room believed to belong to the Victim and Tiesh Rhue, Victim's wife, I observed that the room was carpeted. In front of the dresser, I noticed a stain in plain view which appeared to be blood, but later a presumptive test for blood was negative. I then observed a rug which seemed out of place, outside of the room's closet, laying on top of the already carpeted floor. The rug seemed out of place on the carpet and I lifted the rug to see if anything was under the rug. Once I lifted the rug, I saw a stain which appeared to be blood and later tested presumptive positive as blood. All search efforts were then stopped to obtain a second search warrant to include a search for additional evidence.
4. On March 10, 2017, after finding blood in the Victim's room, a second search warrant was obtained for 1015 Highmarket Street. Once I was notified the search warrant had been signed I, along with other officers, proceeded to search the house, particularly the room belonging to the Victim and Tiesh Rhue, for additional evidence. During the search of the Victim's and Tiesh Rhue's bedroom, I observed a second area where carpet appeared to have been cut from the floor in front of the bed. This area was initially hidden by a box. Under the area in front of the bed where the carpet had been removed was a large stain that appeared to be blood. This area also tested presumptive positive for blood. Acting in good faith under the search warrant, the carpet padding was cut from the areas that the carpet had been removed to be placed in evidence, and photographs of the blood stained carpet padding and plywood underneath were taken. After checking the walls for blood, I observed what I believed to be blood and/or blood spatter on the walls in the bedroom belonging to the Victim and Tiesh Rhue. What we believed to be blood was also found in various other locations in the room bed sheets and the mattress.

5. I learned that on March 11, 2017, the body of Leon Harrison, Jr. was found in the river by a citizen in the area of Georgetown County. The body was not discovered by the Georgetown Police Department. His body was later positively identified. Nothing obtained during the search warrant led to the discovery of the victim's body.
6. Once Leon Harrison, Jr.'s body was identified, I participated in the execution of the third search warrant of 1015 Highmarket Street on March 14, 2017. While in the house and in the bedroom belonging to the Victim and Tiesh Rhue, I observed that there had been no material changes to the room. The carpet had not been replaced. The walls still had what we presumed to be blood scattered around the room. The stains and markings which we believed to be blood on the subfloor were still visible and had not been further cleaned or hidden. The room was still in substantially the same way as it was on March 10, 2017, other the mattress had been put back in place.
7. While participating in the execution of all three search warrants of 1015 Highmarket Street in the city limits of Georgetown, I operated under the belief that all the search warrants were valid. While searching the house, once we found what we believed to be blood, we stopped searching to obtain a new search warrant in include the additional items of evidence, as is required for items of evidence different from what is listed in the first search warrant. I believed I was acting in good faith and within the authority of the search warrant when I searched 1015 Highmarket Street. Further, on March 14, 2017, what we believed to be blood was still present in the room 4 days after the initial search and the missing carpet / padding had not been replaced.

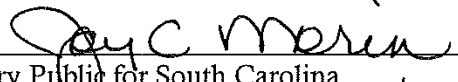
Georgetown, South Carolina

Date: October 1, 2021


ALLEN MORRIS, INVESTIGATOR
GEORGETOWN POLICE DEPARTMENT

SWORN TO BEFORE ME THIS

1st DAY OF October, 2021


Notary Public for South Carolina
My Commission Expires: 4/20/27

**STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN**

**IN THE COURT OF GENERAL SESSIONS
FIFTHTEENTH JUDICIAL CIRCUIT**

Indictment No(s):
2017GS2200870- 0874;
2017GS2200880 – 0884;
2017GS2200875 - 0879

State of South Carolina

vs.

ORDER

**Alexander Rhue Jr.,
Alexander Rhue Sr.,
Tiesha Annette Rhue,**

Defendants.

THIS MATTER came before the Court via Webex on September 24, 2021, upon the Defendants' Motion to Suppress, Motion to Exclude Evidence of Bad Acts, Motion to Exclude Language from Preliminary Instructions and Jury Charges, Motion to Sequester, and Motion to Exclude Any Inculpatory Statements.

The following attorneys appeared before the Court: Gregory Voight on behalf of Alexander Rhue Jr., William Edgeworth on behalf of Tiesha Rhue, Ronald Hazzard on behalf on Alexander Rhue Sr., Alicia Richardson on behalf of the State, and Liz Smith on behalf of the State.

The attorney for each Defendant made a motion to exclude any language from the jury instructions about a just verdict or fair trial to avoid confusing the jury regarding the burden of proof. The State told the Court that they would review the case law on this and would notify the Court of any objection to this exclusion by Friday, October 1st. The Court has not received any correspondence from the State objection to the exclusion of this language from the preliminary instructions and jury charges.

The attorney for each Defendant made a motion to sequester witnesses to avoid corroborating testimony. The State agreed to sequester witnesses on both side except for their lead investigator and

statutory victims. The Defense inquired about who would qualify as a statutory victim and expressed concerns of sharing information from the courtroom to potential witnesses who have not yet testified. The State informed the Court they would provide a statutory victim list.

The attorney for each Defendant made a motion to suppress evidence taken from the Defendants' home under three separate search warrants due to a lack of probable cause. Specifically, the Defense claimed the first search warrant did not note that any crime had occurred, the second search warrant was the result of the officers finding blood on the carpet after moving a clothing bin and rug from the floor without additional probable cause while looking for documents, and the third warrant was a product of the prior warrants with no additional facts alleged that a crime occurred at the resident. Additionally the Defense argued that the good faith exception does not apply and that the any evidence discovered in the home was not inevitable discovery.

The State argued that the first warrant does not explicitly claim a crime occurred but it was implicit and that it was possible that documents could have been kept under a rug with a hamper on it and the hamper looked out of place, so additional probable cause was not needed to move those items. Further they claimed that the second warrant was based on the items found during the first search. The State informed the Court that even if the first two warrants were invalid the third search warrant came after the victim's body was found wrapped in wire in the Black River, and this independently was valid probable cause to search the home and discover all of the items that were originally found during the first and second search of the home. Each side was asked to send briefs if they wanted this Court to consider any additional arguments.

Defense Counsel for Alexander Rhue Sr., and Alexander Rhue Jr., sought to suppress any prior convictions or bad acts of the Defendants. The State informed the Court they did not have the records of the Defendants and would inform the Court and Defense if they would seek to introduce any convictions of the Defendants for any purpose including impeachment.

Defense Counsel for all Defendants sought to exclude any inculpatory statements of the Defendants' and a determination of the voluntariness of statements given to law enforcement. The State is prepared to proceed with *Jackson v. Denno* hearings for each statement.

Finally, Defense Counsel for Alexander Rhue Sr., sought clarification about the two separate criminal conspiracy charges brought against his client. Mr. Hazzard stated these two separate charges stemmed from the same incident. The State claimed the charges were distinct and separate because one was conspiracy for murder and the other was conspiracy to hide human remains. The State said they would be moving forward with trial on both charges.

After reviewing the briefs provided and considering the arguments from the State and Defense counsel, this Court finds as follows:

- The Court shall remove any language from its preliminary and jury charges, like 'just' and 'fair' in a context that would confuse the burden of proof.
- All witnesses shall be sequestered under South Carolina Rules of Evidence 615, except for expert witnesses and the lead investigator. The Court reserves ruling on who will qualify as a statutory victim until a proposed list is submitted by the State.
- The first search warrant of the Rhue home lacked probable cause and shall be suppressed.
- The second search warrant of the Rhue home lacked probable cause and shall be suppressed.
- The third search warrant of the Rhue home did have sufficient probable cause independent from the prior warrants. The third search warrant was served after the victim's body was found wrapped in wire, and the warrant sought an several things in the home including wire similar that the kind found on the victim, blood, hair, DNA, weapons, and clothing. Any evidence discovered during the execution of the first and second search warrants would have been inevitably discovered during the search under the third search warrant. Therefore, the evidence discovered during the searches shall not be suppressed.
- Any ruling on the admissibility of the Defendants' criminal convictions is reserved until the State provides clarification what convictions, if any, may be introduced.
- Any ruling on the admissibility or voluntariness of the Defendants' statements to law enforcement is reserved until a Jackson v. Denno hearing can take place.

IT IS SO ORDERED!



The Honorable Robert J. Bonds
Presiding Judge

Georgetown, South Carolina
October 6, 2021

STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
COUNTY OF GEORGETOWN) CASE NO. 2017-GS-22-00870,
 -00872, -00875, -00882, -00883

October 11 - 15, 18-20, 2021

BEFORE: The Honorable Robert J. Bonds, Judge; and a jury

The State of South Carolina,
Plaintiff,

-vs-

Alexander Rhue Sr., Alexander Rhue Jr., Tiesh Rhue,
Defendants.

APPEARANCES:

Alicia Richardson, Esq.
Elizabeth Smith, Esq.
Solicitors for the State.

Ronald Hazzard, Esq.
Attorney for Alexander Rhue Sr.

Gregory Voigt, Esq.
Attorney for Alexander Rhue Jr.

William Edgeworth, Esq.
Attorney for Tiesh Rhue

Official Court Reporter,
Cynthia D. Weaver

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19	S-37	Photo	755	768
20	S-38	Photo	755	768
21	S-39	Flash Drive 190 Photos		595
22	S-40	Photo	755	768
23	S-41	Voided	763	
24	S-42	Texts	785	786
25	S-43	CD Call Records		824

1	<u>E X H I B I T S</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	S-44	CD Call Records		825
4	S-45	Voided	838	
5	S-46	Call Data CD		849
6	S-47	Call Data CD		849
7	S-48	Evidence Right Fingernail	915	1544
8	S-49	Evidence Left Fingernail	915	1544
9	S-50	Evidence Wire	915	925
10	S-51	Evidence Wires		916
11	S-52	Evidence L. Harrison Jr. Blood Spot	917	1545
12	S-53	Evidence		918
13	S-54	MUSC Evidence List		913
14	S-55	GCSO Evidence List		924
15	S-56	GCSO Evidence Released Property		1292
16	S-57	Autopsy Photo		870
17	S-58	Autopsy Photo		870
18	S-59	Autopsy Photo		870
19	S-60	Autopsy Photo		870
20	S-61	Autopsy Photo		870
21	S-62	Autopsy Photo		870
22	S-63	Autopsy Photo		870
23	S-64	Autopsy Photo		870
24	S-65	Autopsy Photo		870
25	S-66	Autopsy Photo		870

	<u>E X H I B I T S</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1				
2				
3	S-67	Autopsy Photo		870
4	S-68	Autopsy Photo		870
5	S-69	Autopsy Photo		870
6	S-70	Autopsy Photo		870
7	S-71	Autopsy Photo		870
8	S-72	Autopsy Photo		870
9	S-73	Autopsy Photo		870
10	S-74	Autopsy Photo		870
11	S-75	Evidence Wall Swab		1573
12	S-76	Autopsy Photo		870
13	S-77	Kight Statement	933	935
14	S-78	Evidence Swab		1573
15	S-79	Evidence Swab		1573
16	S-80	Evidence Swab		1573
17	S-81	Evidence Bedsheet		1545
18	S-82	Evidence Mattress	1247/1564	
19	S-83	Evidence Mattress	1247/1564	
20	S-84	Evidence Box Spring	1247/1564	
21	S-85	Evidence L. Harrison Jr. Toothbrush	1266/1544	
22	S-86	Evidence Swab L. Harrison Sr.		1542
23	S-87	Evidence Swab T. Rhue		1564
24	S-88	Evidence Metal Shavings		1564
25	S-89	Large Map		1057

	<u>E X H I B I T S</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1				
2				
3	S-90	Richland County Property Report		1081
4	S-91	Bag of Evidence	1083	1542
5	S-92	Custody Report		1094
6	S-93	SLED Request		1101
7	S-94	Evidence Metal Cutting	1247/1564	
8	S-95	Chain of Custody		1105
9	S-96	Chain of Custody		1105
10	S-97	CD A. Rhue Jr. Redacted (10) 3/13/17		1109
11	S-98	Chain of Custody		1131
12	S-99	SLED Voucher Forensic		1131
13	S-100	Georgetown Police Department Voucher		1132
14	S-101	Walmart Video		1174
15	S-102	Walmart Receipt		1183
16	S-103	SLED Evidence		1194
17	S-104	Consent to Search		1212
18	S-105	Consent for DNA Buccal		1213
19	S-106	Evidence Bag Only		1204
20	S-107	Redacted T. Rhue (7) 3/22/17		1298
21	S-108	Bail Authorization		1577
22	S-109	Flash Drive		1442
23	S-110	Google Cert. of Authenticity 4/7/20		1440
24	S-111	Google Cert. of Authenticity 3/8/21		1440
25	S-112	Google Cert. of Authenticity 3/12/21		1440

1	<u>E X H I B I T S</u>			
2	NO.	DESCRIPTION	ID.	EV.
3	S-113	Google Subscriber Info		1440
4	S-114	Google Subscriber Info		1441
5	S-115	CD Records		1445
6	S-116	Richland County DNA Report		1542
7	S-117	Serology Report		1568
8	S-118	DNA Report		1569
9	S-119	Extraction Report		1583
10	S-120	Call Log 500		1581
11	S-121	Text Messages		1583
12	S-122	Analytic Summary		1584
13	COURT'S EXHIBITS			
14	C-1	A. Rhue Sr. Voir Dire		355
15	C-2	Foreperson Note		393
16	C-3	Alternate Assigned to Jury		515
17	C-4	Juror Note		702
18	C-5	Judge Note		718
19	C-6	Juror Note		718
20	C-7	Judge Note		1812
21	C-8	Judge Note (clerk) Instruction		1815
22	C-9	Jury Note		1817
23				
24	NO DEFENDANT EXHIBITS			
25				

1 OCTOBER 11, 2021

2 (WHEREUPON, the proceedings began at 9:10 a.m.)

3 THE BAILIFF: All rise.

4 All right. Good morning, guys.

5 Are we ready to go in these cases, Solicitor?

6 MS. RICHARDSON: Your Honor, I think -- I think we
7 are.

8 THE COURT: Good.

9 MS. RICHARDSON: The first issue, though, that I
10 wanted to put on the record is -- I filed a motion on
11 Friday, I found that we left out the manner or the means of
12 death on the indictment. So I filed a motion to amend the
13 indictments on murder to just say homicidal violence, we
14 don't have an exact cause of death.

15 So I filed a motion on Friday to amend the
16 indictments. It, obviously, doesn't change the elements of
17 the offense, they've been on notice, they've had copies of
18 the autopsy since early on. But I did file that motion to
19 amend the indictments for murder, just in that regard.

20 THE COURT: I saw that.

21 MS. RICHARDSON: And that was just an oversight,
22 Your Honor. I think because we didn't have a specific cause
23 of death and we didn't put the homicidal violence.

24 THE COURT: All right.

25 Mr. Hazzard, what say you on that?

1 MR. HAZZARD: Normally, the motion to amend is to
2 make something more clear to the jury. I don't see how it
3 makes things any more clear or certain, but it also says a
4 great deal about the State's case, in that, four years ago
5 they claim they didn't know the cause of death, and I'm
6 assuming they're saying, four years later they still don't
7 know the cause of death.

8 So in that regard there's no objection on behalf
9 of Alexander Rhue Sr.

10 MS. RICHARDSON: Your Honor, and the reason I
11 filed the motion, I think just under the general indictment
12 law, you wouldn't have to have that, you would just have to
13 put on notice. There's a specific statute regrading the
14 murder indictment they would need to have them there.
15 That's why I filed the motion. We still do not have an
16 exact cause of death, that is correct.

17 THE COURT: Mr. Voigt -- is it Voigt?

18 MR. VOIGT: It's Voigt.

19 THE COURT: Voigt.

20 MR. VOIGT: Like the actor.

21 THE COURT: Okay. I'll try my best, I promise.

22 Let me hear from you as it relates to their motion
23 to amend, sir, on behalf of Rhue Jr.

24 MR. VOIGT: Judge, I think it doesn't answer the
25 question that they seek to answer. I don't think that it

1 assists the jury to come to any sort of conclusion of
2 homicidal violence. I don't know that violence in and of
3 itself is a manner of death or cause of death. Homicidal
4 just seems to repeat what -- I mean, if it wasn't a homicide
5 it wouldn't be an indictment for murder.

6 So I don't know that that actually helps the jury
7 in any way. It doesn't make it more clear to me. I know
8 it's just a notice document. I know the State doesn't know
9 how this man died. I know the State doesn't -- I mean, I
10 just don't think it assists the jury, though, because
11 it's -- so I would just object to it, just go with what
12 you've got. I mean, which isn't much.

13 THE COURT: All right.

14 Mr. Edgeworth, on behalf of Ms. Tiesh Rhue?

15 MR. EDGEWORTH: Your Honor, I don't really think I
16 have anything more specific to add. Just as a matter of on
17 behalf of my client I would object to the amendment. You
18 know, I think that Counsel has already stated the basis for
19 which the argument could be made.

20 THE COURT: All right. I'm going to allow the
21 amendment.

22 MS. RICHARDSON: Thank you.

23 THE COURT: I don't think that -- I understand
24 your arguments, all three of you gentlemen, and perhaps it
25 actually even plays into your hand as it relates to this

1 matter going forward, so I'm going to allow that amendment.
2 All right?

3 MS. RICHARDSON: And just for the record that
4 statute was 17-19-30, it requires that manner death, or the
5 means of the death of the decedent to be in the indictment.

6 THE COURT: All right.

7 MS. RICHARDSON: The second thing, Your Honor, we
8 did this Friday, is we had the -- and I just want to make
9 the record clear because of a mistake I made.

10 When we had the search warrant -- the hearings on
11 the suppression of the search warrant, I misspoke about the
12 order in which the blood spots were found. There was one
13 found first by the closet that was under the rug. And then
14 a second one after the second search warrant that was found
15 that was under the tote. And I may have misspoke about that
16 in the order reflects the one under the tote was found
17 first. I did supplement -- we did do an affidavit from the
18 officer in that regard about the order it was found. And
19 also as proffer-type thing in the beginning of our
20 memorandum, but I just wanted to make that clear for the
21 record, since it was a mistake I made, and make sure that it
22 doesn't effect the Court's ruling, and if they want to be
23 heard on that.

24 I certainly didn't want me to mislead the Court, I
25 just got the two spots mixed up. And I just want to make

1 sure that's clear on the record and that there's no issue
2 with that and it doesn't effect the Court's ruling.

3 THE COURT: I don't think it was anything other
4 than an accident or a misspeaking as it relates to that. I
5 don't think it would change my ruling as it relates to those
6 two matters.

7 Let me hear from you, Mr. Hazzard.

8 MR. HAZZARD: Well, as the Court has said, it's
9 not going to change the Court's ruling. I'll stand moot on
10 this issue.

11 THE COURT: Right. And from Mr. Voigt.

12 MR. VOIGT: Thank you, Judge.

13 I don't believe that the order of the blood spots
14 changes the legal analysis of whether or not the officers
15 were in a legal -- had the legal authority to be in a place
16 where they could have observed either one of them.

17 THE COURT: All right.

18 MR. VOIGT: So I think it doesn't change the
19 analysis.

20 THE COURT: And Mr. Edgeworth.

21 MR. EDGEWORTH: Likewise, Your Honor.

22 THE COURT: All right. That's fine. Thank you,
23 Solicitor. All right.

24 What else do we have? We've got the hearing
25 concerning the statements or videos?

1 MS. RICHARDSON: Yes, Your Honor. There are, as
2 we discussed in the previous pre-trial hearing, we are going
3 to need to have Jackson v. Denno statements or hearings on a
4 number of statements that were by each of the defendants.
5 The majority were not during arrests, but I still think the
6 Court has to rule on the voluntariness of them. There were
7 a few statements that the State is seeking to introduce that
8 were made after Miranda, and we want to have a ruling on
9 that as well. I believe there are five statements by
10 Ms. Rhue, three that we'll seek to admit on Mr. Rhue Sr.,
11 and one on Alex Rhue Jr.

12 THE COURT: Okay.

13 MS. RICHARDSON: And so we have the officers ready
14 to testify today, it is a lot of video.

15 THE COURT: Well, was what was my next question
16 is: How long is that going to take?

17 MS. RICHARDSON: It will take the afternoon.

18 THE COURT: All right.

19 MS. RICHARDSON: It will take the full balance of
20 the day.

21 THE COURT: All right.

22 MS. RICHARDSON: And, Your Honor, the other thing
23 is --

24 THE COURT: Hold on a second.

25 Do you gentlemen agree that it's going to take

1 several hours to do that?

2 MR. HAZZARD: Well, based on the length of the
3 videos yes, sir.

4 THE COURT: Okay. I just wanted to make sure.
5 All right. Go ahead, I'm sorry, Solicitor, go ahead.

6 MS. RICHARDSON: And, Your Honor, the State will
7 seek to admit all of these statements in the joint trial of
8 all of the defendants.

9 It's my understanding is no one is claiming
10 there's Bruton issue, but I seek that we go through the
11 statements and deal with all those issues before the Court
12 makes a final decision on joined or severance.

13 THE COURT: So, let me ask, from the Defense, do
14 you gentlemen want to be tried together? As we stand now,
15 do y'all have a -- do y'all have a -- I'm asking.

16 MR. HAZZARD: Well, my position on behalf of
17 Mr. Rhue Sr. is twofold. Number 1, for judicial efficiency
18 and economy, there's no better time no better place than
19 that right here right now for all three defendants. This is
20 a four-and-a-half year old case.

21 THE COURT: Yes, sir.

22 MR. HAZZARD: Number 2, from my position is that
23 the -- again, the Clerk of Court has scheduled these cases
24 for trial. So in my way of thinking they are bound together
25 for this term of court.

1 Now, the question then becomes whether the Court
2 decides to sever them failing an issue of Bruton or
3 something that would require severance, I see absolutely no
4 need for severance. So that is my position in that regard.

5 THE COURT: Mr. Voigt.

6 MR. VOIGT: Thank you, Judge.

7 Like Mr. Hazzard said, we've been steeping in this
8 for four-and-a-half years. I'm not aware of an issue that
9 would give rise for a refile motion to sever it. I know I
10 don't have a right -- you know, it's easier for me to sever
11 than to join, I don't really have that right as a defendant.
12 There's no procedural advantage I see either way. I do
13 think that at some point enough is enough, and that a case
14 comes up and is old enough to be tried, and I think today's
15 the day.

16 THE COURT: All right. Mr. Edgeworth?

17 MR. EDGEWORTH: I don't think I have anything
18 additional to add, Your Honor. I mean, we've talked about
19 this pretty much ad nauseam about that issue and I think
20 they should be tried together.

21 THE COURT: All right.

22 So, Solicitor, let me understand, because the
23 reason I'm -- if we don't have a decision as it relates to
24 trying separate or trying together, then that's going to
25 effect our ability to pick a jury. Because, you know, we

1 can go in there, and if the decision's been made, we can go
2 in there, qualify, we can pick a jury, we can send them
3 home, or we can have 12 or 14 people come back tomorrow
4 morning and start this case. But if we hadn't made that
5 decision, then all we can do is qualify the jury panel and
6 then have the entire panel come back tomorrow and then
7 select a jury, correct?

8 MS. RICHARDSON: That's correct. And, Your Honor,
9 the State wishes -- we prefer to try them all together. But
10 if they were going to raise the Bruton or proffer-type
11 issues, I didn't want to get in a trap where suddenly, you
12 know, we've made the decision to try them together, or the
13 Court has, and then suddenly their statements that would
14 have been admissible in their individual trials may have
15 some issues. I don't believe there are any Bruton issues,
16 but I just don't want to be in a trap when I start the trial
17 and all of a sudden all of the statements been kicked. So
18 that's why I was asking for a ruling in that regard.

19 The State agrees, and I just want to put on the
20 record, because things look different, you know, if it's
21 read anywhere else. Obviously, this is an older case. And
22 it was older before the pandemic, but the pandemic has not
23 helped the situation.

24 We, in Georgetown County, had some jury trials or
25 jury trials scheduled in October and November. None from

1 March of 2020 until, I believe, it was October of 2020. We
2 had October and November, and we didn't start back here
3 until May. I know some areas started back in April. We
4 didn't start back until May, because the County Counsel --
5 the buildings weren't open to the public.

6 So, you know, of course, four-and-a-half years
7 sounds bad, it is bad. But, obviously, with everything
8 that's been going on in the nation, and particular just the
9 difference that we had in Georgetown County, that's where we
10 are.

11 THE COURT: I certainly understand that.

12 MS. RICHARDSON: But we're ready to proceed and
13 want to go forward on all as well.

14 THE COURT: So from the Defense, is there
15 anything -- I understand you don't want to get trapped, for
16 lack of better words, I guess, based upon what my rulings
17 might be as it relates to these videos, to statements.

18 I mean, is there anything in my ruling as it
19 relates to the admissibility of these statements that could
20 bring up this Bruton issue? Because what I'm trying to do
21 is I'm trying to decide whether or not we got to pick -- we
22 can pick a jury for all three defendants today, send the
23 jury panel home and start the trial tomorrow morning or do
24 we need to bring the jury panel back.

25 And if you're telling me that there is not going

1 to be something on the record irrespective of how I rule as
2 it relates to these statements, then we'll pick one jury
3 today, send them home, and then we'll work this afternoon on
4 the -- on the admissibility of these documents. And so,
5 otherwise, I'm going to have to qualify the jury and bring
6 the panel back.

7 So I'd like to hear from you gentlemen as it
8 relates to that, because, certainly, she's indicated a
9 preference of trying them together. Y'all have indicted a
10 preference to try them together. And I am certainly
11 inclined and would like to try these cases together. I know
12 that nobody wants to have these cases moved as much as your
13 clients and so I want to accommodate you there.

14 So you understand the quagmire? What I don't want
15 to do is be in the situation where we pick one jury and then
16 all of a sudden issues are going to arise as a result of
17 these rulings.

18 Can I hear from you on that, Mr. Hazzard?

19 MR. HAZZARD: That is a little bit difficult not
20 knowing what the significance of the other defendant's
21 statements are to the State, even though that's not
22 dispositive in and of itself. Realistically, it has been
23 quite some time since had listened to Ms. Rhue's statements,
24 and to Mr. Rhue Jr's. statements.

25 What I can say is, after reviewing them multiple

1 times some time ago, I do not recall hearing anything that
2 gave me pause as far as how it affected my client Mr. Rhue
3 Sr. So that is the best guidance I can give the Court in
4 that regard.

5 THE COURT: Well --

6 MR. HAZZARD: I've reviewed those statements
7 previously, multiple times previously, quite some time ago.
8 And I did not note at that time anything that gave me pause
9 as far as affecting Rue Sr. And so to my knowledge it does
10 not exist.

11 THE COURT: All right. Let me -- that's kind
12 of -- I understand where you're coming from. I understand
13 what you're telling me, but it's kind of -- I think not, but
14 it could be, type of answer; is that fair?

15 MR. HAZZARD: I would not quite agree with the
16 characterization.

17 THE COURT: You're not going to waive it.

18 MR. HAZZARD: The best I can give you is my
19 recollection of reviewing them, you know, I do not believe
20 there's anything there that is detrimental to Mr. Rhue Sr.,
21 that I would then be in a difficult position if I didn't
22 have the opportunity to cross-examine either Mr. Rhue Jr. or
23 Ms. Rue.

24 THE COURT: All right. I'm not going to put y'all
25 in that position, this is a very important trial, and a very

1 important case, and a very serious case. So what I'm
2 inclined to do is to go ahead and let's qualify the panel
3 this morning. I will discharge the panel and ask them to
4 return tomorrow morning at 9:30. At which time we will
5 select a jury. And we'll then move forward with opening
6 statements tomorrow morning.

7 Does that meet with your approval, Solicitor? We
8 work this afternoon on the other information?

9 MS. RICHARDSON: Yes, Your Honor. I think that's
10 probably the best way to go.

11 THE COURT: Does that meet with your approval,
12 Mr. Hazzard?

13 MR. HAZZARD: Yes, sir, Your Honor.

14 THE COURT: Mr. Voigt?

15 MR. VOIGT: Just for record keeping purposes, put
16 me in the pick the jury and have them come back tomorrow
17 camp. These are not interlocking confessions. They are
18 general denials. They have little to no evidentiary value
19 in and of themselves. I don't think they're going to give
20 rise to a Bruton issue. I think the State has given me a
21 witness list, which I understand that every witness list is
22 a little bit of a work of fiction, but I want to be home on
23 Saturday, I'll just to tell you that. So put me in the pick
24 a jury camp.

25 THE COURT: All right. And Mr. Edgeworth?

1 MR. EDGEWORTH: Yes, Your Honor. I'm inclined to
2 agree with the Court's acknowledgment that they should hear
3 these statements.

4 THE COURT: I want to be home on Saturday also,
5 sir. But that having been said, I just think it's
6 significant enough and short of putting -- I do not want to
7 put the Solicitor in a box, and short of basically having
8 y'all go on direct and stipulating, then that's the only way
9 that we can be assured that it doesn't happen. It's a
10 serious situation, so that's what we're going to do.

11 I have one other question. My understanding would
12 be -- Madam Clerk, do you know how many jurors we've had
13 respond or what are we...

14 THE CLERK: The last time I counted it was at 60
15 and that was Thursday of last week.

16 THE COURT: Okay. If we try together, you get
17 five strikes, they get 20 strikes. Is that my
18 understanding?

19 MR. HAZZARD: I believe the Prosecutor gets ten
20 strikes.

21 THE COURT: You get ten strikes? The Prosecutor
22 gets ten strikes?

23 MS. RICHARDSON: I believe so, Your Honor.

24 THE COURT: Okay. And then y'all get 20?

25 MR. HAZZARD: Yes, sir.

1 THE COURT: And then, in regard to the alternates,
2 how many strikes do y'all get?

3 MR. HAZZARD: One and two for each alternate, Your
4 Honor.

5 THE COURT: Okay. Oh, what about the accessory
6 after the fact charge on -- was it Rhue Sr.? Has he been
7 indicted for that? It's been listed where? It's on the
8 public index.

9 MS. RICHARDSON: It was on the -- that's what they
10 were originally arrested on, but I think that we did, let me
11 just double check.

12 THE COURT: We were -- we were checking up on you
13 on the public index to see what we could find on there and
14 my clerk noticed that and so I just wanted to make sure.

15 MS. RICHARDSON: No, Your Honor, it's not
16 indicted. We took the position that -- they were initially
17 charged with that, but once the decision was made to charge
18 them all with murder, we didn't indict it.

19 THE COURT: Okay. All right. Well, then, in that
20 case, Madam Clerk, what do you want to do? Do you bring the
21 jury -- can we go down? Do you bring the jury in here?
22 What do we do?

23 THE CLERK: Down.

24 THE COURT: Down?

25 THE CLERK: Yes, sir.

1 THE COURT: Okay. And do I qualify downstairs
2 also?

3 THE CLERK: Yes, sir.

4 THE COURT: All right. That sounds great.

5 Well, we're going to go downstairs and let's go
6 ahead and qualify the jury and then I'll discharge them
7 until tomorrow morning and we'll take a break and then we
8 will commence with the motions.

9 Anything further from the State?

10 MS. RICHARDSON: Yes, Your Honor, just to put on
11 the record. We had some security concerns and we talked
12 about in our motions the last time this trial was scheduled
13 in July. I've met both with the Acting Chief of Police with
14 the City and with the head security here and they have extra
15 officers on duty.

16 Additionally, we could do this when we come back,
17 Your Honor, had asked about -- we talked about sequestration
18 and that sort of thing, we talked about with the victims.

19 THE COURT: We can talk about that when we come
20 back.

21 Anything further, Mr. Hazzard?

22 MR. HAZZARD: Yes, sir. For clarification, the
23 security concerns the Prosecution brings up from the prior
24 hearing, to my understanding is with regard to individuals
25 associated with the victim's family. Nothing to do with my

1 client or these gentlemen's clients whatsoever.

2 So if there's going to be a heightened presence in
3 the courtroom, and I don't know if there will be, if there's
4 going to be a heightened presence in the courtroom I would
5 obviously move that the officers not be loaded up on the
6 Defense side of the courtroom, especially considering that,
7 to my understanding, no one associated with the Defense had
8 anything to do with bringing on the previous difficulty.

9 Secondly, I would ask the Court to address the
10 furniture concerns, because we have three Defendants and at
11 this point one Defense Counsel table.

12 So there's a table there, I don't know if that
13 gentleman will be there during the balance of the trial, but
14 we would need at the very least one more table on this side
15 of the room for us to use.

16 THE COURT: Well, and that's another good reason
17 we can work on that this afternoon. I'm sure the clerk can
18 assist y'all with getting a table and getting the set up
19 correct, yes, sir.

20 MR. HAZZARD: All right. Thank you, Your Honor.

21 THE COURT: All right. Anything further,
22 Mr. Voigt?

23 MR. VOIGT: No, Your Honor.

24 THE COURT: Anything further Mr. Edgeworth?

25 MR. EDGEWORTH: No, Your Honor.

1 THE COURT: All right. We'll go downstairs.

2 And, Mr. Hazzard, just remind me before we get
3 ready to start where officers may be, if there's an issue,
4 as far as loading up and so forth, that might slip my mind,
5 just let me know, okay?

6 MR. HAZZARD: Yes, sir.

7 THE COURT: Great.

8 MS. RICHARDSON: Your Honor, and we can put it on
9 the record later, but as far as -- of course, the victims do
10 say that the Defense -- the Defendants -- but it's just --
11 we just don't want any problems no matter what.

12 THE COURT: I understand. That sounds great.

13 Okay. Thank y'all.

14 (WHEREUPON, there was a break in the proceedings
15 from 9:32 a.m. until 11:24 a.m.)

16 THE BAILIFF: All rise.

17 THE COURT: Thank you. You can be seated.

18 All right. I understand there's a plea.

19 (WHEREUPON, there was a brief pause in the trial
20 proceedings for another matter from 11:24 a.m.
21 until 11:34 a.m.)

22 THE COURT: All right.

23 Counsel, in this case, a matter has been brought
24 to my attention so I need y'all to come on up. All right.
25 And I want this on the record.

1 Apparently, one of the jurors is outside and
2 approaches the Clerk concerning some conversations that
3 someone else has given to her on her cell phone about
4 serving on the murder case this week. And Madam Clerk?

5 MADAM CLERK: Yes, sir.

6 THE COURT: And so I want to go ahead and bring
7 this up now. I want to go ahead and have the Clerk -- I
8 want to swear the Clerk in, have her tell us what she knows,
9 and then bring this juror in and find out and get to the
10 bottom of this right now. No reason not to.

11 Any reason from the State not to address this
12 matter now at this time?

13 MS. RICHARDSON: No, Your Honor. We'd also ask, I
14 guess, wanted to inquire the juror, depending on what it is,
15 whether she shared this information with anyone else in the
16 family or anybody else could have been affected.

17 THE COURT: Any reason we can't go ahead and take
18 this up from the Defense at this point?

19 MR. HAZZARD: No, sir.

20 MR. EDGEWORTH: No, Your Honor.

21 THE COURT: All right. Let's go ahead and do
22 that. Y'all can take a seat.

23 Madam Clerk, what I would like to do is to have
24 you come around, I'm going to swear you in, and if you could
25 sit at the witness stand and then answer some questions.

1 Share with us on the record what you told me and then we may
2 end up bringing this juror in. All right? Can you raise
3 your right hand?

4 Do you swear to tell the truth, the whole truth,
5 and nothing but the truth, so help you God?

6 MADAM CLERK: I do.

7 THE COURT: Okay. Thank you. And if you could
8 take your mask down, please.

9 All right. Madam Clerk, you brought to my
10 attention some information just a minute ago. What I would
11 appreciate your doing is, on the record, if you would go and
12 relay to the attorneys the information that you provided me,
13 and take your time.

14 MADAM CLERK: Your Honor, I had a young lady who
15 came to the office and my staff summoned me because somebody
16 wanted to see me. And so I came out, went to the front
17 window, and the young lady said she needed to speak with me
18 in privacy. So I went and the two of us got together. She
19 said, I came back. I said, Are you one of my jurors? She
20 said, Yes, and I came back because I received a text from
21 someone, who -- and I wanted to read it, but the phone is
22 locked up.

23 THE COURT: All right. We'll get -- go ahead.

24 MADAM CLERK: But what's on the texts said, Hey
25 girl, I'm going to delete you because I heard or understand

1 that you're on jury duty for the murder trial for my cousin.

2 And so once she showed it to me, I told her to
3 come with me upstairs because I really need to show this to
4 the Judge. And so I told her to sit outside while come in
5 the courtroom to share this information with the Judge.

6 THE COURT: All right. And the phone that you
7 have, is that the phone -- is that her phone that she handed
8 you?

9 MADAM CLERK: She did.

10 THE COURT: Okay.

11 MADAM CLERK: I was trying to keep what was on the
12 screen so that you could read it. It belongs to that juror.

13 THE COURT: All right. And do you know the name
14 or number of that juror?

15 MADAM CLERK: So the Juror Number is 224. And
16 from looking at my list 224 matches up with Jasmine
17 Torrance.

18 THE COURT: Okay. All right. Madam Clerk, thank
19 you.

20 Any question from the State concerning the Clerk's
21 testimony?

22 MS. RICHARDSON: Ms. Alma, none of the other
23 jurors were around when you had this conversation?

24 MADAM CLERK: No. This was a few minutes ago
25 before I came up here.

1 MS. RICHARDSON: That's all.

2 THE COURT: All right. Anything from Mr. Hazzard
3 on behalf of Rhue Sr.?

4 MR. HAZZARD: Madam Clerk, based on your
5 interaction with Ms. Torrance, is there any indication that
6 she has discussed this information with any other member of
7 the jury panel as far as you are aware, based on your
8 interaction with her at this point?

9 MADAM CLERK: No. I didn't get that impression.
10 She said she didn't even know who was sending her this text.
11 And she said, I don't even know what I'm here for, I know we
12 got court. And I said, Yeah, that's interesting, because
13 nobody knows, you know, what we're here for except for
14 general sessions court.

15 THE COURT: All right. Anything, Mr. Voigt, of
16 Rhue Jr.?

17 MR. VOIGT: No, Your Honor.

18 THE COURT: Anything, Mr. Edgeworth, on behalf of
19 Ms. Rhue?

20 MR. EDGEWORTH: No, Your Honor.

21 THE COURT: All right. Anything further from the
22 State?

23 MS. RICHARDSON: No, Your Honor.

24 THE COURT: All right. Anything further
25 Mr. Hazzard?

1 MR. HAZZARD: No, sir.

2 THE COURT: All right. What I plan on doing --
3 you can step down. Thank you so much.

4 Any objection to bringing the juror in here and
5 letting her unlock her phone and tell us what she knows from
6 the State?

7 MS. RICHARDSON: No objection, Your Honor.

8 THE COURT: Mr. Hazzard?

9 MR. HAZZARD: No, sir.

10 THE COURT: Mr. Voigt?

11 MR. VOIGT: No, sir.

12 THE COURT: Mr. Edgeworth.

13 MR. EDGEWORTH: No, Your Honor.

14 THE COURT: All right. Madam Clerk, can you get
15 that juror and bring her in, please?

16 MADAM CLERK: Yes, Your Honor.

17 THE COURT: Come on around and have a seat and
18 what I'm going to do is, I'm going to swear you in and then
19 ask you a couple of questions. And I appreciate you
20 bringing all this to our attention this morning, okay?

21 All right. And can you take your mask down for
22 the purposes of your testimony. And can -- let me ask you
23 this ma'am: Do you swear to tell the truth, the whole
24 truth, and nothing but the truth, so help you God?

25 JUROR: Yes.

1 THE COURT: Okay. And can you tell me what's your
2 name.

3 JUROR: My name is Jasmine Torrance.

4 THE COURT: Spell your last name for me,
5 Ms. Torrance.

6 JUROR: T-O-R-R-A-N-C-E.

7 THE COURT: Okay. All right. Ms. Torrance, tell
8 me -- apparently, you came to speak to the Clerk or you felt
9 it was important enough to speak to the Clerk. Can you tell
10 me why you went to speak to the Clerk, a little bit about
11 what you said to her. And that would be a nice start right
12 there.

13 JUROR: Okay. So I had jury duty today at 9:30, I
14 think. When jury duty was over, I walked outside, I checked
15 my phone, of course, and I had a Facebook message from
16 someone and it said, Hey, I deleted you as a friend because
17 I think you are a juror in my cousin's murder case.

18 THE COURT: Okay. And so that was after you
19 came -- after I discharged you this morning; is that
20 correct?

21 JUROR: Right. That was, like, 11:11.

22 THE COURT: And before I discharged you, or this
23 morning when you came, did you know anything about what type
24 of case might be coming before the Court this week?

25 JUROR: No. Actually, I asked to be excused

1 because I have to work, but I wasn't excused for that
2 reason.

3 THE COURT: Right. But didn't know what type of
4 case was going to be tried this week?

5 JUROR: No. I had no clue. I thought it was just
6 one day.

7 THE COURT: Okay. And so you first became aware
8 of that when you checked your phone?

9 JUROR: Right.

10 THE COURT: And let me ask you this: Do you have
11 your phone with you?

12 JUROR: I do.

13 THE COURT: Okay. Can you unlock your phone and
14 could you read the text?

15 JUROR: It says --

16 THE COURT: And hold on, before you do that, let
17 me just ask you. Do you know who sent you that text?

18 JUROR: I know of her, but I don't know her like
19 that.

20 THE COURT: Okay. You know -- well, I don't
21 really know what that means: You know of her, but I don't
22 know her like that. So when you say -- who did it come
23 from?

24 JUROR: You want me to say her name?

25 THE COURT: Yeah.

1 JUROR: Her name is Kristina Davis.

2 THE COURT: Kristina Davis. And so how do you
3 know -- is she a friend of yours on Facebook?

4 JUROR: I met her through one of own cousins.

5 THE COURT: Okay. And so she text you -- what did
6 she text you this morning?

7 JUROR: At 9:30 a.m., she said, Hey, love, I just
8 deleted you because you're here for jury duty for my
9 cousin's murder, if I'm not mistaken. I didn't want them to
10 see.

11 THE COURT: Okay. And have you had other
12 communications with -- when's the last time she text or sent
13 electronic communications to you before this morning?

14 JUROR: September 2nd, I asked her where she got
15 something from and she said Urban Necessities in Vegas
16 inside Caesar, which is like some shopping center.

17 THE COURT: Okay. And so, other than that in
18 early September, have you had any conversation with her
19 electronically or otherwise concerning this matter?

20 JUROR: No.

21 THE COURT: Okay. Have you spoken with anybody in
22 the jury panel about this? Have you spoken to any of your
23 fellow jurors about the comment or this, this morning?

24 JUROR: No, I have not.

25 THE COURT: All right. Thank you.

1 Any questions from the State?

2 MS. RICHARDSON: Did you see Ms. Davis here this
3 morning?

4 JUROR: No, I didn't. I just came for jury duty.

5 MS. RICHARDSON: Nothing further.

6 THE COURT: All right. Anything on behalf of
7 Defendant Rhue Sr.?

8 MR. HAZZARD: Thank you, Your Honor. May it
9 please the Court.

10 Good morning, ma'am, how are you?

11 JUROR: I'm good, how are you?

12 MR. HAZZARD: I'm doing good. Thank you for
13 asking.

14 When Ms. Davis says, My cousin's murder trial, do
15 you know whether she's referring to Leon Harrison Jr. or
16 whether she's referring to one of the Rhues?

17 JUROR: Literally, I don't know. I don't know if
18 her cousin was murdered or if her cousin was the murderer.
19 I don't know.

20 MR. HAZZARD: Okay. Thank you no further
21 questions, Your Honor.

22 THE COURT: Mr. Voigt, anything?

23 MR. VOIGT: Just briefly, Judge.

24 Thank you for coming down, ma'am.

25 Did receiving that message upset you?

1 JUROR: Yes.

2 MR. VOIGT: Why don't you tell the Court how that
3 message made you feel when you read it.

4 JUROR: I kind of felt like people were like
5 outside like watching, trying to see like who's here, or
6 who's going to be like a juror in the case. And I don't
7 know if I'm being stalked, but I just don't want anything to
8 do with the murder.

9 MR. VOIGT: Made you feel uncomfortable?

10 JUROR: Yes, I'm uncomfortable now as well.

11 MR. VOIGT: Okay. Did it make you -- would it --
12 did it make you less likely or more likely to want to serve
13 on a jury this week?

14 JUROR: Less likely.

15 MR. VOIGT: Okay. Do you feel threatened in any
16 way coming to the courthouse for jury duty?

17 JUROR: I have no clue how to feel. I don't know
18 what's going on. I don't even know what the case is about.
19 They didn't even say anything about the case. They just
20 said we had to be here.

21 MR. VOIGT: Did I hear the second half of that
22 message to be, I didn't want them to sue? Is that what you
23 said?

24 JUROR: The second half said, I didn't want them
25 to see.

1 MR. VOIGT: To see. So was this -- did you take
2 this to mean that this communication was supposed to be
3 secret?

4 JUROR: I guess.

5 MR. VOIGT: It's no longer secret though, right?

6 JUROR: Right.

7 MR. VOIGT: Does that make you feel uncomfortable
8 that you've had to come in here and tell us all about that?

9 JUROR: Yes, it does.

10 MR. VOIGT: Okay. Thank you, Judge.

11 THE COURT: Anything?

12 MR. EDGEWORTH: Very briefly, Your Honor.

13 Ma'am, when you unlocked your phone and saw the
14 message was anyone around you?

15 JUROR: No. Nobody was around me.

16 MR. EDGEWORTH: Okay. Thank you.

17 THE COURT: All right. Anything else, Solicitor?

18 MS. RICHARDSON: No, Your Honor.

19 THE COURT: Okay. Thank you very much. Ma'am,
20 what I'm going to do is I am going to ask that you go back
21 for just one minute. Let me talk to these folks and we'll
22 get you back in here real quick, okay?

23 JUROR: All right.

24 THE COURT: Thank you, ma'am.

25 Madam Clerk, can you make sure she -- wherever she

1 was waiting before, that if you just make sure she gets back
2 there, and we'll be with her in just one moment.

3 (WHEREUPON, the juror exited the courtroom.)

4 THE COURT: All right. Solicitor, does anybody
5 know who this person is? Who is this person?

6 MS. RICHARDSON: I've just been told that she is
7 in my office with the victim's family.

8 MS. SMITH: Your Honor, I do not know that for
9 certain. I was told, before I came upstairs, I asked who
10 was in the office, there were family members there, and I do
11 not know the woman's last name. I was given one of the
12 names, was Kristina, which I don't know if this was this
13 person.

14 THE COURT: All right. So you believe that --
15 Solicitor, you believe that Ms. Davis may be in your office?

16 MS. RICHARDSON: Somebody named Kristina is in my
17 office and I've never met.

18 THE CLERK: She was just in our office when we
19 were downstairs when you were in jury selection making
20 copies.

21 MS. SMITH: She was in your office?

22 THE CLERK: Yeah. She came in to get copies of
23 indictments Kristina -- yeah, Davis.

24 MS. SMITH: Okay.

25 THE COURT: And what is her relationship to -- why

1 is she in your office, Solicitor?

2 MS. SMITH: Your Honor, I have absolutely -- I do
3 not know. She is there as moral support for Brittani --
4 Brittani Green. Brittani Greene -- she's very close with
5 Brittani Green. Brittani Green is the -- JR, who is the
6 victim in this case, that is his children's mother is
7 Brittani Green. And Brittani Green is close with this
8 Kristina woman. I do not -- again, I do not know the last
9 name of the woman in my office, but I can go downstairs
10 right now and find out.

11 MS. RICHARDSON: I just got a list. There's a
12 Kristina Davis in our office who said she's a cousin and
13 family.

14 MS. SMITH: Would you like me to have...

15 MS. RICHARDSON: She's not anyone who is on our
16 witness list. And the father, the victim's father was
17 unsure who was coming with him today, I think he's had a few
18 surprises as well.

19 MS. SMITH: It's my understanding that that is
20 correct.

21 THE COURT: All right. Let's get her up here.

22 (WHEREUPON, there was a pause in the proceeding.)

23 THE COURT: Okay. Come to order, please.

24 Hey, ma'am, come on up.

25 JUROR: Which way?

1 THE COURT: Right up here. Yes, ma'am.

2 JUROR: All the way up?

3 THE COURT: Yes, ma'am.

4 Are you Ms. Kristina?

5 JUROR: I am.

6 THE COURT: Hey, Ms. Kristina, come on around
7 here. I'm going to swear you in and ask you a couple of
8 questions. Okay?

9 JUROR: Sure. Do I need to put these down
10 somewhere?

11 THE COURT: Anywhere. It doesn't matter, you can
12 keep them with you, it's no big deal.

13 Ma'am, you're doing great.

14 Do you swear to tell the truth, the whole truth,
15 nothing but the truth, so help you God?

16 JUROR: I do.

17 THE COURT: Come on around and sit down.

18 And let me ask you, if you would be so kind to
19 pull your mask down for the purposes of your testifying.

20 JUROR: Sure.

21 THE COURT: Because the Court Reporter, it just
22 makes it easier for her to pick up everything.

23 JUROR: Sure.

24 THE COURT: Ma'am, can you state your name for me?

25 JUROR: My name is Kristina Davis.

1 THE COURT: All right. Davis, D-A-V-I-S?

2 JUROR: Correct.

3 THE COURT: All right. Ms. Davis, let me just ask
4 you something: Did you send a text today to one of the
5 jurors?

6 JUROR: I did.

7 THE COURT: Okay. And so let me ask you this
8 ma'am: Who did you sent a text to?

9 JUROR: Actually, I sent a text to three people.

10 THE COURT: Three people on the jury panel?

11 JUROR: Yes.

12 THE COURT: Okay.

13 JUROR: That I saw come in. I didn't want them to
14 be altered at all, because I have nothing personally to do
15 with it other than being a family member. But I also wasn't
16 sure how it would affect them being picked as a juror. So I
17 did delete them and let them know that I would re-add them
18 after the trial, because I didn't want them to be altered at
19 all by anything that I posted on social media.

20 THE COURT: Okay. So let me ask you this: Can
21 you please give me the names of the three people --

22 JUROR: Uh-huh.

23 THE COURT: -- that you contacted?

24 JUROR: I contacted Antionette Moultrie. I'm not
25 sure that's the name that you guys have, but that was her

1 name and I saw her come in and that was my Facebook friend.
2 I contacted her and told her I deleted her and I would
3 re-add her after the trial.

4 I deleted Ashley Anderson, and I told her that I
5 would re-add her after the trial.

6 And I also delated Jasmine Torrance and told her
7 that I would re-add her after the trial. I didn't want them
8 to be altered if they were picked.

9 THE COURT: All right. And so let me ask you
10 this: Are these -- first of all, I'm assuming that these
11 are Facebook friends?

12 JUROR: They're just Facebook friends.

13 THE COURT: Okay. Well, and you anticipated,
14 perhaps, my next question. I know you have friends on
15 Facebook.

16 JUROR: Uh huh.

17 THE COURT: So beyond being friends on Facebook,
18 are you friends or acquaintances with these I'm individuals
19 outside of Facebook?

20 JUROR: No. No. Ashley, I've known her for some
21 years. She does -- she does a bar tending service. So I
22 saw her come in, so I deleted her, and told her that I would
23 re-add her after.

24 Antionette, she was a -- she's actually a family
25 member of someone that I'm close to, so I told her that I

1 would delete her and add her after the trial had ended.

2 And, Jasmine, we're not friends at all, but I'm
3 acquainted with one her family members and I told her that I
4 would re-add her after the trial when I saw them come in.

5 THE COURT: Okay. And so what is your
6 relationship to the decedent?

7 JUROR: He's actually a distant cousin of mine.

8 THE COURT: Okay.

9 JUROR: Yes.

10 THE COURT: And so what is your purpose here today
11 at the courthouse?

12 JUROR: Only moral support.

13 THE COURT: For?

14 JUROR: Brittani.

15 THE COURT: For Brittani. And Brittany is?

16 JUROR: Brittani is JR's -- well, Leon Harrison
17 Jr.'s, mother of his children.

18 THE COURT: All right. Solicitor, do you have any
19 questions?

20 MS. RICHARDSON: Did you see -- did you talk with
21 any of these jurors in person?

22 JUROR: No, I did not.

23 MS. RICHARDSON: Did you talk with any juror in
24 person?

25 JUROR: No, I did not.

1 MS. RICHARDSON: Okay.

2 JUROR: And, in person, you meant, outside of the
3 messages that I sent?

4 MS. RICHARDSON: Right.

5 JUROR: Yes. No. No. No, ma'am.

6 MS. RICHARDSON: Okay. And how did you know they
7 were on the jury?

8 JUROR: Actually, we were all standing outside
9 here when they were coming in to grab tags. And we
10 overheard someone say that they were, like, picking up their
11 tags for the jury.

12 So when I saw Jasmine walk in, I didn't speak to
13 her at all, I didn't even say, Hi. I kind of just bowed my
14 head a little. And then I deleted her and I messaged her
15 and I told her, I deleted you because I saw that you came in
16 and you may be picked for the trial, so I deleted you. I
17 didn't want her to think that I deleted her to be ugly. I
18 deleted her because I didn't want her to see anything,
19 because I know they're not allowed to see anything on social
20 media or anything like that and like involving the trial.

21 So I wanted to make sure that I deleted them, so
22 that they wouldn't be altered at all by anything that we may
23 post as far as like, Long Live JR. I have his name tattooed
24 here. So I just wanted to make sure that no one who may be
25 picked for the jury selection was altered by anything we

1 post on social media in remembrance of him.

2 MS. RICHARDSON: So you were trying to avoid
3 influence?

4 JUROR: Yes. I didn't want anyone to assume that
5 we were all like close-knit friends and then they get picked
6 and something goes on, because this is a small town, this is
7 a small area. So I just wanted to be cautious about that
8 that, because I did share this morning for people to send
9 prayers out for my extended family because the trial begins
10 this week. So when I noticed that they were being --
11 actually walking in, I deleted them.

12 MS. RICHARDSON: Okay. And did you see any sort
13 of jury list or anything like that?

14 JUROR: Oh, no, ma'am.

15 MS. RICHARDSON: I have no further questions.

16 THE COURT: Mr. Hazzard?

17 MR. HAZZARD: Thank you, Your Honor. May it
18 please the Court.

19 THE COURT: Yes, sir.

20 MR. HAZZARD: Ma'am, did you indicate that you
21 sent messages individually to whom you referred to?

22 JUROR: I did. Yes, sir, I did.

23 MR. HAZZARD: Okay. If you would, with regard to
24 Antionette Moultrie, would you read the message verbatim
25 into the record?

1 JUROR: I don't really know how to word it, I've
2 never had to be in this seat.

3 THE COURT: We'll give you your phone.

4 JUROR: Oh, awesome. Can you give me? Thank you.

5 THE COURT: Yes, ma'am. That's what we -- I think
6 that's what Mr. Hazzard --

7 JUROR: Okay. Because I was like I can't remember
8 exactly what I said. It would just be along the lines.
9 Give me one moment.

10 For her, I said, I deleted you because of the
11 trial. I saw her walk in so I told her, I deleted you
12 because of the trial. And I wasn't exactly sure what trial
13 she may be picked for. I was just kind of assuming that it
14 may be because of what's going on this week. So I just told
15 her, I'm deleting you because of the trial.

16 MR. HAZZARD: And with regard to Ashley Anderson?

17 JUROR: Ashley Anderson, I stated -- give me one
18 moment. I texted Ashley and I said, I just deleted you
19 because of the trial. The same thing.

20 MR. HAZZARD: And what time was that text?

21 JUROR: That was at 9:32 a.m.

22 MR. HAZZARD: Okay. And what time was the text to
23 Ms. Moultrie, as you referred to her?

24 JUROR: The text to Ms. Moultrie was around the
25 same time. It was actually at 9:33, it was like within

1 minutes. Like, I didn't know who would be picked, but they
2 saw us standing there and I didn't want anyone to be altered
3 at all.

4 MR. HAZZARD: Okay. And with regard to
5 Ms. Moultrie, did you indicate that she is a close family
6 member?

7 JUROR: No.

8 MR. HAZZARD: Okay.

9 JUROR: What I'm saying is, is Quise (ph) passed
10 away recently, that was his niece. And I know that some --
11 their families were all intertwined over the years time, so
12 I just wanted to make sure that I didn't alter at all with
13 anything that I may post on social media.

14 I'm not sure if you're familiar with the area, but
15 there were two young men who drowned last year at this time,
16 and it was Marquis Michaels and Mickey Johnson. Mickey is
17 actually related to Mr. Leon Harrison Jr., so I wanted to
18 make sure that anything that I post because I didn't want
19 them to be altered at all.

20 MR. HAZZARD: Well, what's his relationship to
21 Ms. Moultrie?

22 JUROR: None, as far as I'm concerned. I just
23 know that their families have been intertwined. And I know
24 that she was -- like she's familiar with JR, she's familiar
25 with him, she's way younger than him, but I'm pretty sure

1 she was familiar with him. So I wanted to make sure that if
2 she was picked that she didn't see anything that we posted
3 on social media.

4 MR. HAZZARD: And what makes you of the opinion
5 that she was familiar with the decedent?

6 JUROR: Because Mickey and Marquis were best
7 friends. JR and Mickey are cousins. So I would have just
8 assumed -- this is just all assumption, really.

9 MR. HAZZARD: And what is her relationship to
10 Mickey Or Marquis?

11 JUROR: No. Marquis is her uncle, if I'm not
12 mistaken, and Mickey was around fairly often. So I was
13 pretty sure she may have been familiar with JR. So I just
14 didn't want it to be anything like that.

15 MR. HAZZARD: And how did you know Ms. Moultrie?

16 JUROR: Oh, we all went to school together. Like
17 I said prior, this is a small area, most of us went to
18 elementary school together, middle school. Yeah.

19 So, honestly, Antionette Moultrie was the only
20 person I've ever actually went to school with. I didn't go
21 to school with Ashley and I didn't go to school with
22 Jasmine. We're just all friends on Facebook.

23 MR. HAZZARD: Would it be fair to say then that
24 you have known Antionette most of your life?

25 JUROR: No. Only an acquaintance. We've never

1 really hung out. We don't party together. We don't go to
2 functions together or anything like that. So it's literally
3 just basically school, like peer.

4 MR. HAZZARD: But what grade would you say you
5 began going to school with Ms. Moultrie?

6 JUROR: To be honest with you, if I'm not
7 mistaken, Antionette may be 20-some-odd years old. I'm not
8 exactly sure how she is, but I'm 33. We didn't actually
9 graduate from school together or anything like that. Like,
10 I was probably grades ahead of her, but I've known her
11 through school.

12 MR. HAZZARD: And I guess that's what I'm trying
13 to get to that's somewhat confusing, if you're approximately
14 how many years older?

15 JUROR: I'm 33.

16 MR. HAZZARD: And you would believe you're how
17 many years older than her?

18 JUROR: I'm at least three or four years older
19 than her.

20 MR. HAZZARD: Okay. But it's your testimony that
21 you attended school --

22 JUROR: We've all -- we've all attended Georgetown
23 County schools together, is what I'm stating. I'm not
24 stating that we actually had classes. I'm not stating that
25 we, you know, studied in peer groups together or anything of

1 the sort. We literally just all attended the same school
2 district.

3 MR. HAZZARD: And you attended the same schools at
4 the same time, is what I'm trying to clarify.

5 JUROR: I don't even -- to be honest with you I'm
6 not even really -- I don't know.

7 MR. HAZZARD: Okay.

8 JUROR: No, I don't think we did.

9 MR. HAZZARD: Okay.

10 JUROR: I actually -- I attended Maryville. If
11 I'm not mistaken, she attended Maryville as well, I'm not
12 exactly sure. But I would say I've been knowing her face
13 through school for years.

14 MR. HAZZARD: Okay. But no interaction to your
15 knowledge outside of school?

16 JUROR: No, sir.

17 MR. HAZZARD: Okay.

18 JUROR: And another thing I would like to add,
19 when it comes to know -- to be honest with you, I'm fairly
20 active in the community, period. And I've also been a
21 braider in the community, like a hairstylist in the
22 community for many years, so, yeah. I've seen many faces
23 that are acquaintances but not really friends, because I've
24 done hair.

25 MR. HAZZARD: Do you believe you've done the hair

1 for any of these three women?

2 JUROR: Actually, no, I have not.

3 MR. HAZZARD: Okay.

4 JUROR: I want to say that Antionette contacted me
5 years ago for a style. I don't even think I did it.
6 Jasmine -- Ashley, I've never done her hair. And I've never
7 done Jasmine Torrance's hair either.

8 MR. HAZZARD: So I guess I'm -- then if you have
9 no real connection to these individuals, I'm confused,
10 because I believe you testified that with regard to Ashley
11 Anderson --

12 JUROR: Uh-huh.

13 MR. HAZZARD: -- I believe you said you've known
14 her for some years --

15 JUROR: Yes.

16 MR. HAZZARD: -- is that correct?

17 JUROR: Yes. Yes. I've known her for years, but
18 I've never really, like, hung out. Like, we're not friends.
19 I've known her through like -- how can I describe it? When
20 I was young, her family used to come to one of my cousin's
21 house, and Ashley moved away for some years and she recently
22 came back within like maybe the past two years from Atlanta
23 and she sells drinks. Like, she does, like, mixed drinks.
24 So if you want a mixed drink you would contact her or
25 something like that. It wouldn't be any different from,

1 like, going to a restaurant and seeing a bar tender that you
2 probably had known, but don't really hang out with. So it's
3 not anything like that. We don't share -- we don't hang
4 out. We don't party or anything together or anything like
5 that.

6 MR. HAZZARD: But she has been to family
7 functions?

8 JUROR: When I was a kid, yeah. It was one of my
9 cousins, her mom's house. I saw Ashley there when I was a
10 kid. So we've all been friends on Facebook. So when I saw
11 them come in I didn't know if they would be picked for this
12 trial or whatever, but I know since we were here for Leon
13 Harrison Jr., I wanted to let them know I'm just deleting
14 you off social media, because I'm not sure if you're going
15 to be picked for that trial.

16 So that's basically what I was trying to say. I
17 didn't think I would have to come in.

18 MR. HAZZARD: Yeah. Thank you, ma'am. And with
19 regard to Ms. Torrance.

20 JUROR: Uh-huh.

21 MR. HAZZARD: What verbatim did you write or send
22 to Ms. Torrance?

23 JUROR: To Jasmine?

24 MR. HAZZARD: Yes, ma'am.

25 JUROR: Give me one moment. I said, Hey, love, I

1 just deleted you because you're here for jury duty. I
2 said -- well, I said for my cousin's murder, if I'm not
3 mistaken, because I wasn't sure. I said, If I'm not
4 mistaken, you may be here for my cousin's murder trial. So
5 I deleted you. I said -- and I didn't want -- yeah, yeah.

6 And I basically said I just didn't want them to
7 see like --

8 MR. HAZZARD: Ma'am, I'm not asking you about
9 basically what you put --

10 JUROR: Yes.

11 MR. HAZZARD: -- I'm asking you if you would to
12 read verbatim --

13 JUROR: What is said was, Hey love, I just deleted
14 you because you're here for jury duty for my cousin's
15 murder, if I'm not mistaken, is what I said.

16 MR. HAZZARD: And was there more after that?

17 JUROR: And what I said -- and I said I just
18 didn't want them to see. Like I -- just like I told her,
19 when she walked through, I didn't speak to her at all, I
20 kind of bowed my head and didn't want her to think that I
21 was trying to ignore her being rude. Because her friend --
22 her cousin Shaniqua, she sells seafood from Pawleys Island
23 and I've seen her with Shaniqua a few times when I came to
24 get my food. So I just didn't want her to think that I
25 deleted her to be rude or nasty or anything like that. She

1 was actually the first person I messaged at 9:30 a.m.

2 MR. HAZZARD: And when you said, I didn't want
3 them to see. Who is "Them"?

4 JUROR: I saw officers at the bottom, and I knew
5 that she went and grabbed her nametag. So because the
6 officers were standing there, I didn't want them to think
7 that we knew them, like, friends and stuff like that, so I
8 just didn't really greet her and I didn't her to think that
9 I was just being nasty or anything like that.

10 MR. HAZZARD: So you didn't want them to see that
11 you all knew each other?

12 JUROR: Right. That I was speaking to her,
13 because I didn't know if she was here for the trial for my
14 cousin, or if it was for something else. So I just didn't
15 want to possibly, like I said, alter her at all. Like her
16 image for her selection if that's what was going to be done.

17 To be honest, like I said, to the young lady in
18 the elevator, I literally only came over here today for
19 moral support for Brittani. I didn't expect to see anybody
20 really or anybody that I may have known. So when I saw them
21 I just went ahead and just deleted them. I didn't want them
22 to be altered at all.

23 MR. HAZZARD: And are you Facebook friends or
24 other social media contact friends with Ms. Moultrie,
25 Ms. Anderson, and Ms. Torrance?

1 JUROR: We were Facebook friends, I deleted them.

2 MR. HAZZARD: All right. And I believe it was
3 your testimony that sometime today, yesterday, or in the
4 very, very recent past, you said you had been posting
5 things.

6 JUROR: Today. I actually posted -- all I posted
7 today was, Send a prayer for my extended family.

8 Would you like me to read that verbatim what I --
9 what I posted this morning?

10 MR. HAZZARD: Not yet, but thank you for that
11 offer. With regard to this case?

12 JUROR: Uh-huh.

13 MR. HAZZARD: Have you been posting things over a
14 period of time and, if so, what period of time?

15 JUROR: No. I have not posted anything in
16 reference to Leon Harrison Jr., in, I would say, quite a
17 while. The -- when I really was posting was when it first
18 happened when he first died. That's when I was posting,
19 kind of remembrance, or posting pictures when he was
20 missing. I posted pictures of him being missing, but that
21 was just about it. But that was back in, what, 2017. So
22 it's been a few years since I posted like actual things
23 about my cousin.

24 MR. HAZZARD: And over the past four-and-a-half
25 years, have you been Facebook friends or any other form

1 social media friends with Ms. Moultrie, Ms. Anderson, and
2 Ms. Torrance.

3 JUROR: I can actually -- well, I can't look now
4 because I deleted them, but I would have been able to tell
5 you exactly how long I've been friends on social media with
6 any of those young ladies.

7 MR. HAZZARD: Okay.

8 JUROR: So, my answer, in short, I'm not exactly
9 sure if they were friends with me during that time.

10 MR. HAZZARD: Okay. Will you make your Facebook
11 postings available to the court for the Court's review?

12 JUROR: My Facebook account is public, so if
13 anyone wants to search it or look through it, that's
14 perfectly fine, I have nothing to hide.

15 MR. HAZZARD: And is it under the name Kristina
16 Davis?

17 JUROR: It's under the name Kristina Ivy Davis,
18 I-V-Y, my middle name, but it's definitely public.

19 MR. HAZZARD: I have no further questions.

20 THE COURT: All right. Mr. Voigt, any questions?

21 MR. VOIGT: Just a few, judge.

22 Is that Kristina with a C or a K?

23 JUROR: It's with a K.

24 MR. VOIGT: Okay.

25 JUROR: Would you like me to spell it for the

1 Court?

2 MR. VOIGT: Yeah, go ahead.

3 JUROR: It's K-R-I-S-T-I-N-A.

4 MR. VOIGT: Davis is D-A-V-I-S?

5 JUROR: Correct.

6 MR. VOIGT: Okay. You have talked outside of
7 court at previous times with Ms. Torrance?

8 JUROR: No. Only in passing, like Hi, Bye. I
9 don't -- we're not friends.

10 MR. VOIGT: Okay.

11 JUROR: She actually has a business --

12 MR. VOIGT: Can we -- can I do this with you?

13 JUROR: Sure.

14 MR. VOIGT: I'm going to ask you a question,
15 you're going to answer it.

16 JUROR: Uh-huh.

17 MR. VOIGT: Please don't try to anticipate it,
18 don't try to get ahead of me. I'll give you plenty of time.

19 JUROR: Okay.

20 MR. VOIGT: All right. You have talked outside of
21 court previously with Ms. Torrance; is that Yes or No?

22 JUROR: Actually -- I'm actually just wanting to
23 make sure on what level, because as far as a conversation --

24 THE COURT: Hold on.

25 JUROR: I just -- to just say yes or no, that

1 could be misleading.

2 THE COURT: Ma'am. You're doing great.

3 JUROR: Okay.

4 THE COURT: And I know you're nervous.

5 JUROR: Yeah. Heavily.

6 THE COURT: All right. You can answer Yes or No,
7 but you can qualify your answer.

8 JUROR: Okay.

9 THE COURT: So you can answer Yes or No, but then
10 if you want to explain to this gentleman a little bit more
11 about how you feel as it relates to that answer, that's
12 fine.

13 JUROR: Okay.

14 THE COURT: But what happens is, he just wants you
15 to just kind of beam in a little bit as opposed to doing
16 kind of a broad. So, I think, if he could just -- ask your
17 question, Counselor.

18 MR. VOIGT: Thank you very much, Your Honor.

19 Have you spoken with Ms. Torrance, previous to
20 today, outside of court in a social situation or in some
21 other situation?

22 JUROR: Yes.

23 MR. VOIGT: Okay. Approximately when was the
24 first time you would have first spoken to Ms. Torrance in
25 person, to the extent you can remember?

1 JUROR: Okay. The first time I've ever spoken to
2 Ms. Torrance was around my birthday this year. My best
3 friend, she actually had a birthday dinner. I wasn't aware,
4 of course, that Ms. Torrance would be in attendance, but she
5 came. We sat at two different tables, we didn't really talk
6 during dinner, but she was in attendance at that actual
7 meeting.

8 MR. VOIGT: When was your birthday this year?

9 JUROR: June third.

10 MR. VOIGT: So on June third, Ms. Torrance came --

11 JUROR: My birthday was June third, but the actual
12 meeting was a couple of days after that, like that weekend.

13 MR. VOIGT: So, again, let me -- I know it's hard
14 I'm going to speak slowly and that's going to be really
15 tempting. But would you just -- tell me if this is correct
16 or not.

17 JUROR: Uh-huh.

18 MR. VOIGT: You had a celebration for your
19 birthday, this year --

20 JUROR: Uh-huh.

21 MR. HAZZARD: -- in 2021 and Ms. Torrance was in
22 attendance?

23 JUROR: It wasn't my birthday gathering, it was my
24 best friend's birthday gathering.

25 MR. VOIGT: For whose birthday was it?

1 JUROR: Her birthday. Me and my best friend --
2 our birthday is a day apart.

3 MR. VOIGT: Okay.

4 JUROR: Yeah.

5 MR. VOIGT: So at a birthday gathering where you
6 were present --

7 JUROR: Correct. She was present.

8 MR. VOIGT: -- Ms. Torrance was present as well?

9 JUROR: Correct.

10 MR. VOIGT: Okay. Do you believe you spoke to her
11 at that time?

12 JUROR: Said hello, yes.

13 MR. VOIGT: Okay. Are you familiar with her
14 enough that if she were to see you walking down the
15 street -- this is without masks, okay?

16 JUROR: Okay. Yeah.

17 MR. VOIGT: That she would recognize you?

18 JUROR: You said without masks?

19 MR. VOIGT: Uh-huh.

20 JUROR: No. More likely, probably not. We're --
21 I say that only because I do change my hair quite often.
22 I'm not even sure if she knew it was me today, but I knew it
23 was her. So I wanted to make sure that I deleted her.

24 MR. VOIGT: Okay.

25 JUROR: Yeah.

1 MR. VOIGT: Okay. For Ms. Moultrie, do you
2 believe that she is familiar enough to know you that if you
3 were to pass on the street, without masks --

4 JUROR: Uh-huh.

5 MR. VOIGT: -- that she would recognize you?

6 JUROR: She might.

7 MR. VOIGT: When do you think the last time you
8 spoke to Ms. Moultrie outside of court was?

9 JUROR: A while. We don't talk outside of --
10 yeah, we don't talk outside of the courtroom. We don't hang
11 in the -- we don't hang around the same circles. So I don't
12 see her very often. It's kind of like grocery store
13 passing, getting food, nod, How you doing, kind of thing,
14 but we don't converse.

15 MR. VOIGT: Do you see how answer to my question
16 was actually somewhere in your answer. I asked you when.

17 JUROR: Right.

18 MR. VOIGT: Can you just give me the best guess
19 you possibly could?

20 JUROR: Wow. It may have been months. Like I
21 haven't -- I don't see her often.

22 MR. VOIGT: Okay. So is this -- is what I'm about
23 to say correct: Within the past few months you have seen
24 Ms. Moultrie out of court and exchanged pleasantries with
25 her?

1 JUROR: Correct. Yes.

2 MR. VOIGT: Okay. Did you have difficulty
3 recalling her name or did you know who she was immediately
4 when you saw her?

5 JUROR: I had to kind of recall her name, because,
6 like, we have masks on. So what it was, was, when were
7 standing up in the little area, we were kind of watching a
8 bunch of people kind of walk in. And when she kind of
9 walked in, I guess she kind of recognized some of the
10 persons I was with. And she kind of just looked up and
11 nodded. And we, you know, nodded. And then I realized she
12 was grabbing a badge. So then I said -- then I, you know,
13 messaged her and deleted her.

14 MR. VOIGT: My question was really about the last
15 time you saw her.

16 JUROR: Oh, yeah. Yeah. No. I don't see her. I
17 honestly don't see her.

18 MR. VOIGT: Okay.

19 JUROR: Yeah.

20 MR. VOIGT: Okay. When was the last time you saw
21 Ms. Anderson before today?

22 JUROR: It was maybe about three -- three to
23 four months ago. She dropped by the salon when I was in
24 there talking to the owner. And I think she was coming in
25 to get a service by on of the other hair stylist. So it was

1 probably about three to four months ago.

2 MR. VOIGT: Did you speak with her at that time?

3 JUROR: It was just a kind of pleasantry, How you
4 doing?

5 MR. VOIGT: Did you know who she was when she
6 walked in?

7 JUROR: Yes. She didn't have a mask on.

8 MR. VOIGT: Okay. Did she appear to know who you
9 were?

10 JUROR: She did.

11 MR. VOIGT: Okay. And approximately how often,
12 let's say in the last three years, have you spoken with
13 Ms. Anderson?

14 JUROR: Within the last three years, I would say
15 maybe once or twice, because I did get -- before I -- well,
16 this is -- I'm not sure if I should have to go through all
17 of the details, but I recently had a baby, he's three-months
18 old. So I would say prior to me actually being pregnant, I
19 bought a drink from her. And that was maybe a year and a
20 half ago, maybe two. I'm not exactly sure, but it was in
21 that timeframe.

22 MR. VOIGT: Okay.

23 JUROR: I'm not a heavy drinker.

24 MR. VOIGT: Got you. In 2021 --

25 JUROR: Uh-huh.

1 MR. VOIGT: -- approximately how many times do you
2 believe you have posted about this case on your Facebook
3 page?

4 JUROR: Once, maybe, yeah. Maybe once or twice.
5 And I only say once or twice, because if I'm not mistaken,
6 you all had a date prior to now that was supposed to be the
7 trial and it was pushed back until now.

8 So at that point, when it was supposed to be the
9 initial trial coming in, I think I posted something along
10 the lines of Long Live JR, kind of, and today was the same
11 thing. Yeah, so it's probably been once or twice in 2021.

12 MR. VOIGT: What was the purpose -- you said you
13 posted yesterday about this case?

14 JUROR: No. Actually, this morning.

15 MR. VOIGT: Okay.

16 JUROR: When I got word that everyone was meeting
17 today for a possible trial. I just said, Send a prayer for
18 my extended family. And I -- and I didn't even put Leon
19 Harrison Jr. on it, it just has, hashtag, LLJR.

20 MR. VOIGT: And why did you post today?

21 JUROR: For moral support. Yeah.

22 MR. VOIGT: Okay. And you anticipated that people
23 would see that?

24 JUROR: I guess. Anything you post on social
25 media you can assume people are going to see it. I'm just

1 not sure exactly who would see it.

2 MR. VOIGT: Certainly your friends, your Facebook
3 friends could see it?

4 JUROR: Yes. And that was the reason why I
5 deleted them.

6 MR. VOIGT: Are you active on any other social
7 media?

8 JUROR: Instagram, Twitter, and TikTok, but I
9 didn't post -- I haven't anything about -- anything like
10 about the trial on those social medias.

11 MR. VOIGT: You only posted on Facebook?

12 JUROR: Correct.

13 MR. VOIGT: Okay. And --

14 JUROR: As far as Instagram --

15 MR. VOIGT: I haven't asked a question yet.

16 JUROR: Okay. I'm sorry. I just wanted to make
17 sure I didn't leave anything out.

18 MR. VOIGT: That's okay. There's three of us over
19 here, we'll figure it out.

20 JUROR: Okay.

21 MR. VOIGT: Have you ever served on a jury before?

22 JUROR: I have not.

23 MR. VOIGT: Have you ever been called for jury
24 service before?

25 JUROR: Yes.

1 MR. VOIGT: Okay. In this building?

2 JUROR: No.

3 MR. VOIGT: What's your familiarity with the legal
4 system how jurors are selected and that sort of thing?

5 JUROR: I mean, just kind of based off TV kind of
6 thing. I would assume that they're not supposed to be on
7 social media, they're not supposed to watch the news, things
8 like that. So with me knowing that they were coming in for
9 maybe a jury duty that was for today for this particular
10 case, I wanted to make sure that they know that I was just
11 deleting you until the trial was over.

12 MR. VOIGT: Okay. So because you believe that
13 they shouldn't have any interaction with social media --
14 talking about all jurors now.

15 JUROR: Right.

16 MR. VOIGT: You specifically reached out to three
17 jurors.

18 JUROR: Correct. Because I saw them, and I knew
19 that they were my Facebook friends, so I wanted to make sure
20 that they understood that I'm deleting you because I'm not
21 sure if you're going to be picked for this particular
22 situation.

23 MR. VOIGT: Thank you, Judge.

24 THE COURT: Mr. Edgeworth.

25 MR. EDGEWORTH: Briefly, Your Honor.

1 Ms. Davis.

2 JUROR: Yes.

3 MR. EDGEWORTH: Did you go to the Clerk's office
4 this morning and request copies of the indictments related
5 to your cousin's case?

6 JUROR: I didn't request any documentation. I
7 actually have a copy of the receipt. I was only asked to
8 pay for it because someone didn't have the cash on them.

9 MR. EDGEWORTH: Okay. And who is that someone?

10 JUROR: The person was actually Tasha Johnson.
11 She lives in Georgia. She's a family member of JR.

12 MR. EDGEWORTH: Okay. And how did she contact you
13 to ask you to do that?

14 JUROR: She didn't contact me. She contacted her
15 niece and I happened to be sitting beside her. And when she
16 said something about it, she asked for her niece to actually
17 go pay for it, she didn't have the cash, so I volunteered my
18 debit card.

19 MR. EDGEWORTH: Okay. And who is the niece?

20 JUROR: Khyianna (ph).

21 MR. EDGEWORTH: What is her last name?

22 JUROR: I think Khyianna last name is Moultrie, or
23 I think it's -- I think -- I think -- to be honest, I don't
24 want to lie. I don't know exactly. I can't remember.

25 MR. EDGEWORTH: Okay. So Ms. Moultrie was asked

1 by --

2 JUROR: Yes. When I mentioned Mickey Johnson,
3 that's Mickey Johnson's sister.

4 MR. EDGEWORTH: Okay. So we have a big tangent
5 here. But you went and paid for the copies of this
6 paperwork?

7 JUROR: Yes. But I didn't see any of the actual
8 paperwork. It was actually emailed to her.

9 MR. EDGEWORTH: Okay.

10 JUROR: So I didn't actually tangibly see anything
11 that may have been on there.

12 MR. EDGEWORTH: You brought some papers into the
13 courtroom with you is that what that is?

14 JUROR: Yeah, that's what that is.

15 MR. EDGEWORTH: Okay. So you have copies of the
16 indictments related to the --

17 JUROR: No, I don't have any copy of any
18 indictment. I just have the receipt from where I paid for
19 it.

20 MR. EDGEWORTH: That's just a receipt?

21 JUROR: That's just a receipt.

22 MR. EDGEWORTH: Okay. Now with the individual
23 that's the niece, what was her name again?

24 JUROR: Khyianna.

25 MR. EDGEWORTH: What is her relationship to you or

1 the decedent?

2 JUROR: Again, extended family.

3 MR. EDGEWORTH: Are they here in support of --

4 JUROR: Yes. Of -- of -- of Brittani, yes.

5 MR. EDGEWORTH: Are you -- are you aware of
6 whether they have or Khyianna has a Facebook account?

7 JUROR: To be honest with you, I don't see her
8 active on Facebook, so I'm not sure if she even has one.
9 But I know that Tasha called her.

10 MR. EDGEWORTH: How did Khyianna receive the
11 message to get copies of the document?

12 JUROR: She was called. And she -- and I'm
13 assuming, because I wasn't -- like I said, I only paid for
14 it. I'm assuming that Tasha wanted the copy. so she was
15 told she had to pay for it, but because she was out of
16 state, someone needed to pay for it so that she could
17 receive it. So she went ahead and asked Khyianna to pay for
18 it, because Khyianna was here at the courthouse at the time
19 and she knew that Khyianna was here, so she asked her to pay
20 for it and Khyianna didn't have the cash, so I paid.

21 MR. EDGEWORTH: Okay. And do you have any
22 knowledge of why Tasha would want a copy of those documents?

23 JUROR: I'm not sure, no.

24 MR. EDGEWORTH: And what is the relationship to
25 Tasha to the individuals you're speaking of, I think you

1 mentioned Micha [sic]?

2 JUROR: Mickey?

3 MR. EDGEWORTH: Mickey.

4 JUROR: Mickey. That is his sister. and they were
5 all -- that's Leon Harrison Jr's. cousin, Tasha is his
6 cousin.

7 MR. EDGEWORTH: Tasha is -- is the decedent's
8 cousin?

9 JUROR: Yes.

10 THE COURT: All right. Solicitor, anything
11 further?

12 MS. RICHARDSON: No, Your Honor.

13 THE COURT: All right. Let me ask you this.

14 JUROR: Yes, sir.

15 THE COURT: You were here -- you're here today or
16 were here early this morning for moral support, correct?

17 JUROR: Correct.

18 THE COURT: And so I take it that some of the
19 family members that you were there to provide moral support
20 with, y'all communicated, y'all spoke?

21 JUROR: Right. We spoke, yes.

22 THE COURT: Did you tell any of them that you were
23 going to -- I don't know, I'm not big on Facebook --
24 unfriend these folks? Are you going to reach out --

25 JUROR: No, I just --

1 THE COURT: Hold on.

2 JUROR: I'm sorry.

3 THE COURT: You're fine. But let me finish my
4 question. Did you tell any of those folks that you were
5 here today to provide moral support, or anyone else this
6 morning, did you tell them, Hey, I better go and let these
7 people know I'm going to de-friend them or unfriend them
8 while this trial is going on?

9 JUROR: No. I don't -- I'm really sitting here
10 thinking I don't think I did, because like I said I didn't
11 really want to make a big commotion about it.

12 THE COURT: Okay.

13 JUROR: Yeah.

14 THE COURT: All right. And let me ask you this.

15 JUROR: Yes, sir.

16 THE COURT: Did any of the folks that you were
17 here today to provide moral support for, are you aware of
18 any of them perhaps electronically communicating with any of
19 these jurors, perhaps just to do what you did, to let folks
20 know that they were going to unfriend them while this trial
21 was going on. Do you understand my question?

22 JUROR: Yes.

23 THE COURT: Okay.

24 JUROR: I'm not sure. I just know that that's
25 what I did.

1 THE COURT: All right. Anything further in
2 response to the Court's question from the State?

3 MS. RICHARDSON: No, Your Honor.

4 THE COURT: From the Defense?

5 MR. VOIGT: No, Your Honor.

6 MR. HAZZARD: Yes. Yes, sir.

7 Maybe I'm missing it, but I'm trying to figure out
8 the name Antionette Moultrie with the jury list. And
9 there's a Brittany A. Brown, and she did indicate that their
10 correct last name was Moultrie.

11 JUROR: I wanted -- yeah, that's what I was
12 stating earlier, I wasn't exactly sure what her name, like,
13 as far as the name that she was actually carrying, but that
14 was the name on Facebook, Antionette Moultrie. And I want
15 to say that it is -- her name is Brittany.

16 MR. HAZZARD: Okay. Thank you, ma'am.

17 JUROR: You're welcome.

18 THE COURT: All right. Ma'am, I don't think we've
19 got any more questions for you.

20 JUROR: Yes, sir.

21 THE COURT: And don't contact any jurors directly
22 or indirectly about this matter. Okay?

23 JUROR: Yes, sir.

24 THE COURT: I also -- ma'am, I'm instructing you
25 that until this case is resolved, you are not to discuss

1 with anyone what went on in this courtroom this morning.

2 JUROR: Yes, sir.

3 THE COURT: Okay. Do you understand that?

4 JUROR: Yes, sir.

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

6 Thank you for coming in, okay.

7 JUROR: Thank you.

8 THE COURT: All right.

9 JUROR: That's all you guys need?

10 THE COURT: I think that's all we need.

11 Is there anything further from the State
12 concerning this witness, anything further before I discharge
13 this witness?

14 MS. RICHARDSON: No, Your Honor.

15 THE COURT: All right. Anything further from the
16 Defense, Mr. Hazzard?

17 MR. HAZZARD: No, sir.

18 THE COURT: Mr. Voigt? Anything further,
19 Mr. Voigt from this witness?

20 MR. VOIGT: I have a thought, Judge, but it --
21 I'll just say it, since it popped into my head: Should any
22 of these persons wind up on our jury, I think it might be
23 appropriate to limit Ms. Davis's access to the courtroom
24 while the trial is in session. If they do not, then I don't
25 think that it matters.

1 THE COURT: Okay. We'll talk about that. I'm --
2 what I'm really specifically interested in is there anything
3 that anyone wants to ask or do before I discharge this
4 witness from the stand?

5 MR. VOIGT: That will be it, Your Honor.

6 THE COURT: Mr. Edgeworth?

7 MR. EDGEWORTH: No, Your Honor.

8 MS. RICHARDSON: No, Your Honor.

9 THE COURT: All right. Thank you, ma'am.

10 THE WITNESS: Thank you.

11 THE COURT: All right.

12 Madam Clerk, we should still have a juror out
13 there that's waiting. Unfortunately, let's let her wait a
14 few more minutes.

15 MADAM CLERK: That's what I was getting ready to
16 do, Judge.

17 THE COURT: Yes, ma'am. Thank you.

18 All right. Solicitor, let me hear from you on
19 this matter.

20 MS. RICHARDSON: Your Honor, it appears and based
21 on the evidence that we've gotten so far, it's just limited
22 to three jurors. It does appear that Ms. Davis somehow
23 thought she was doing the right thing in this regard.

24 I think what we should do, Your Honor, as far as
25 Jasmine, she has expressed some fear and some concern, which

1 gives me concern as to whether she could be fair, that she
2 would be excused. As far as the other two, I think that
3 perhaps we should question them and see if that's effected
4 their ability to be fair as well.

5 I believe Ms. Brown actually approached you when
6 we were in jury qualifications and said that she was related
7 to the victim or related to somebody in the case. I know
8 someone approached and you said we would deal with that
9 tomorrow. So I think it just goes down to whether anything
10 would cause them not to be fair and impartial jurors in this
11 case.

12 THE COURT: All right. Let me hear from the
13 Defense, Mr. Hazzard.

14 MR. HAZZARD: At this point, Your Honor, on behalf
15 of Alexander Rhue Sr., I move that Juror Number 224, Jasmine
16 Torrance, be removed from the jury panel. Juror Number 10,
17 Ashley Anderson be removed from the jury panel. And Juror
18 Number 25, once it is determined definitely that it the
19 Antionette Moultrie that was testified to, the name on the
20 jury list is Brittany A. Brown. And the Prosecutor is
21 right, she did approach during jury qualification. I do not
22 know what she approached about, but I did hear her say that
23 the name should be Moultrie and not Brown.

24 So assuming that that is the individual in
25 question, I would move that all three of them to be removed

1 from the jury panel. I would further move that the
2 remaining panel members be specifically questioned regarding
3 whether or not they have received any contact from anyone
4 regarding this case. Whether they've received text
5 messages, instant messages, Snapchat messages, any form of
6 social media messages because this is something that I fear
7 is quickly getting out of hand.

8 I find that, in my opinion, Ms. Davis's testimony
9 was not completely truthful and forthright. I am sure the
10 Court could discern that when she was simply asked, Read
11 verbatim what you sent Ms. Torrance, that she basically
12 moved heaven and earth to leave out the part regarding, So
13 that they don't see.

14 And so I have really grave concerns that when she
15 says, Oh, I didn't message anybody else and to my knowledge
16 no other family member or friend of the family did either.
17 I have grave concerns whether that is true. And I assume at
18 the point all the Court can do is query the jury members
19 regarding any contact, Your Honor.

20 THE COURT: Mr. Voigt?

21 MR. VOIGT: Your Honor, I have to join with
22 Mr. Hazzard in requesting that these juror members be
23 eliminated for cause. I will also point out, I find it very
24 interesting in passing, that Ms. Davis appears to have a
25 tattoo of the victim on her arm, a person with whom she

1 claims to be only very distantly related.

2 I've become convinced of the corrosive power of
3 social media recently and I believe it is trickling down
4 here. The consequence of Ms. Davis's actions are to
5 eliminate approximately 50 percent of the African American
6 jury pool in this case. And I don't think that was her
7 intention, but I think that is what is going to wind up
8 happening.

9 And it's really disturbing to me that I'm not sure
10 that my client can get a jury of his peers when people like
11 Ms. Davis are sabotaging the very people that I would
12 ordinarily rely on to be in this jury. I have to join that
13 these three individuals be cut for cause. And that the
14 jury, when they come back tomorrow, be both questioned about
15 outside contact, both in this building and on social media
16 and also be warned about social media. For things like
17 Snapchat, there effervescent, they can come and go and leave
18 very little trace. At least with Facebook Messenger there
19 is some sort of trace. And I will, just as an aside,
20 commend Ms. Torrance for bringing that to our attention. I
21 think it was worthwhile and speaks very well of her.

22 THE COURT: Mr. Edgeworth.

23 MR. EDGEWORTH: Yes, Your Honor. On behalf of my
24 client, Ms. Tiesh Rhue, I'm joining in with Mr. Hazzard's
25 motion and the request from other Counsel and Mr. Hazzard,

1 too, to inquire the jury panel. I don't think there's
2 really anything new that I can present, but I'm joining in
3 the motion.

4 THE COURT: Anything further, Solicitor?

5 MS. RICHARDSON: No, Your Honor. I also agree
6 that the jury panel should be questioned. We want to make
7 sure that there's been no contact by anyone at all. So just
8 so it's not directed directly to the victim's family, just
9 if anyone had contacted them.

10 THE COURT: All right. All right. I think no
11 doubt that Ms. Torrance needs to be excused from the panel.
12 I think that she, A, has acknowledged receiving the Facebook
13 or the text or whatever it was -- and I'm sorry I show my
14 ignorance when it comes to that -- whatever electronic
15 communication was directed, she acknowledged she got it.

16 The other two folks, we don't know that yet. I
17 suspect they did, but I do think that we owe it to everyone,
18 including the jurors who honored their summons and showed up
19 today in the middle of a pandemic. I think we owe it to
20 those jurors to inquire to whether or not they in fact
21 received that. If they received it, I know that
22 Ms. Torrance indicated that it could effect her ability, she
23 might think someone's watching her, and for all of those
24 reasons I think it's appropriate at this point to go ahead
25 and discharge her.

1 With the instruction that she not communicate with
2 any other jurors about this matter. And, quite frankly, any
3 social media conduct at this point, while I can't tell her
4 not to, she needs to be real careful, because if she
5 accidentally goes and contacts somebody, I mean, she's got a
6 real problem at that point, and that's what I plan on
7 telling her. But I think she needs to be excused now.

8 I think the other two jurors are going to have to
9 be questioned individually. And what I think, gentlemen, is
10 that if they -- I'll listen to what they say, I will tell
11 you that my thoughts are that if they, in fact, have
12 received those documents and acknowledged that they've
13 received them, then I may be leaning toward excusing those
14 jurors also. I haven't made my mind up on that, I'm just
15 going to put that out there. And we owe it to them to find
16 out.

17 So I'm going to have the Clerk bring Ms. Torrance
18 back in. I'm going to discharge her with the instruction
19 about not contacting any other jurors. All right.

20 Any objection to my ruling as it relates to I
21 think Ms. Torrance from the State?

22 MS. RICHARDSON: No, Your Honor.

23 THE COURT: Anything from the Defense,
24 Mr. Hazzard?

25 MR. HAZZARD: No objection in that regard, but I

1 will also note, as I sit here and think about it, what are
2 the odds that anyone would enter this building and in
3 passing come across not one, not two, but three individuals
4 they recognize. I think that is virtually infinitesimal.

5 So what that leads me to believe is that Ms. Davis
6 was actively monitoring the jury panel. And my concern is
7 that, what appears to be a large group or contingent of the
8 decedent's family, was possibly in the lobby or outside the
9 door doing the same. And that gives me a great deal of
10 concern. I am this close to asking for a mistrial and
11 asking for a change of venue, Your Honor.

12 THE COURT: All right. Mr. Bailiff, would you
13 have the Clerk keep -- I need to respond to that on the
14 record have the Clerk keep the witness out.

15 THE BAILIFF: Keep her out. Okay, Sir.

16 THE COURT: Yes, sir. Somebody will come get you
17 in just a minute.

18 THE BAILIFF: Okay.

19 THE COURT: Well, Mr. Hazzard, you know, in regard
20 to that I would just say that, you know, I practiced law in
21 a small county, and while Georgetown certainly is larger
22 than Colleton, it doesn't strike me that someone would know
23 three people coming in the house, so to speak, as it relates
24 to that. And I think that could happen. I don't think
25 that's unbelievable. The odds are against it, I'm with you,

1 but I don't think their infinitesimally small. But I
2 just -- and I do agree one of you -- I think Mr. Voigt, I
3 agree with you, sir, that the witness just a moment ago,
4 there were -- she did do everything she could -- or
5 Mr. Hazzard brought this up -- not to reveal the last
6 sentence of the text.

7 But you know it kind of goes back to the witness,
8 you know, you can believe some of what the witness says, all
9 of what a witness says or, or none of what a witness says.
10 And so, to that extent, I think this witness, in my opinion,
11 certainly falls in the, you can believe some of, perhaps not
12 all of, because I certainly -- my observations of her right
13 here was that certainly, you know, there some what I thought
14 to some genuineness to certain aspects of the information
15 that she was presenting to the Court.

16 So I understand and I appreciate that, but for
17 right now that's what my ruling is going to be.

18 Anything further Mr. Voigt as it relates to my
19 ruling?

20 MR. VOIGT: No, Your Honor. I will just also note
21 for the record, or just as an aside, that when I prepare
22 whitenesses for trial, I tell them to excise that frame --
23 that phrase, I'm being honest with you, because normally the
24 next thing out of your mouth is not. And that was a tic
25 that Ms. Davis had, and it was an unfortunate one, and it

1 colored my perception of her truthfulness.

2 THE COURT: I understand that. I understand that.
3 Mr. Edgeworth?

4 MR. EDGEWORTH: Nothing further at this time, Your
5 Honor.

6 THE COURT: All right. Anything else from the
7 State?

8 MS. RICHARDSON: Your Honor, just from the State's
9 perspective, I do believe questioning the other jurors, like
10 Your Honor has indicated he would do tomorrow, would make
11 sure that this information was not relayed to any other
12 juror. And by questioning the jury panel under oath we can
13 see if anybody else has been contacted in any way.

14 And, just as an aside, we have had situations in
15 Georgetown where multiple people stand up and know some of
16 the parties involved. It's not that unusual for somebody to
17 know that many people.

18 THE COURT: All right. Mr. Bailiff, can you get
19 the clerk to bring Ms. Torrance back in, please?

20 THE BAILIFF: Yes, sir.

21 THE COURT: Thank you.

22 Hey, Ms. Torrance, come on up. That's great.

23 Ms. Torrance, thank you very much. Thank you for
24 bringing this matter to the Clerk's attention. You did the
25 absolute right thing. I appreciate, first of all, you even

1 showing up today honoring your subpoena, be willing to serve,
2 and for bringing this information to light.

3 I also want to thank you for the testimony that
4 you provided. You were quite forthcoming. You were honest,
5 it was clear to tell. And I certainly understand the way it
6 perhaps makes you feel. And so, with that having been said,
7 what I want to do is as a result of the contact that was
8 made, contact that you didn't elicit, contact that someone
9 made to you. Because of the way you've testified that it
10 made you feel, I'm going to release you from your duty this
11 week and you're going to be free to go.

12 Now, what I would ask you is this, ma'am, I would
13 ask you that, while this matter is pending, that you not
14 post about this matter on any type of social media. I can't
15 order you to do that. I'm not going to order you to do
16 that, I just ask you to be very careful about what you might
17 post, if anything. I'd also ask that you not discuss this
18 matter with any of your others jurors. So any other juror
19 you may know, I'd ask that you not discuss this matter with
20 them.

21 And anything further from the State concerning the
22 instructions that I've given this juror before I release her
23 from service?

24 MS. RICHARDSON: No, Your Honor.

25 THE COURT: Anything from the Defense,

1 Mr. Hazzard?

2 MR. HAZZARD: No, sir. But I do want to go on the
3 record as saying I also commend you on your honesty and
4 forthrightness. Thank you so much.

5 JUROR: You're welcome.

6 THE COURT: All right. Anything else from
7 Mr. Voigt concerning my instructions to this witness before
8 I release her -- excuse me, this juror?

9 MR. VOIGT: No, Your Honor, and I concur that I
10 wanted to thank you on behalf of my client, as well.

11 THE COURT: All right. Mr. Edgeworth?

12 MR. EDGEWORTH: Nothing further, Your Honor. And
13 thank you again.

14 THE COURT: All right. You're free to go. And
15 thank you and hope you have a huge, huge sale later this
16 week, okay?

17 JUROR: Thank you.

18 THE COURT: All right. Yes, ma'am.

19 (WHEREUPON, the juror was excused and exited the
20 courtroom.)

21 All right. I think I'm going to have to skip
22 taking the plea. The hour that we had to spend on this has
23 sort of eaten into our time. I apologize. If we have time
24 later in the week, depending on what happens I may be able
25 to do that. It's ten to 1:00, so what I want to do is have

1 everybody back at 2:00 and we'll be prepared to commence
2 with the motions at that time.

3 Anything further? Does that meet the State's
4 approval? I'm very flexible.

5 MS. RICHARDSON: It does, Your Honor.

6 THE COURT: All right. Anything further from the
7 State then before we break for lunch?

8 MS. RICHARDSON: Just after -- after you take a
9 recess if we can confer about setting up the room.

10 THE COURT: All right. Anything from the Defense,
11 Mr. Hazzard, anything at all before we break for lunch, sir?

12 MR. HAZZARD: No, sir.

13 THE COURT: Anything, Mr. Voigt?

14 MR. VOIGT: No, sir.

15 THE COURT: Mr. Edgeworth?

16 MR. EDGEWORTH: No, Your Honor.

17 THE COURT: All right. We'll be at ease. At
18 2:00, we'll be ready to pick up with these motions at that
19 time. Thank you.

20 (WHEREUPON, there was a break for lunch from 12:51
21 p.m until 2:06 p.m.)

22 THE BAILIFF: All rise.

23 THE COURT: Thank you. You can be seated.

24 All right. Solicitor.

25 MS. RICHARDSON: Your Honor, first of all, the

1 State would like to admit State's Exhibit Number 1, which is
2 the memorandum with affidavits attached from search warrant
3 hearing, just so that it's a part of the record, but since
4 we didn't take testimony from officers, so it does have the
5 testimony and the proffer of what the State's testimony was
6 going to be in reference to that hearing. Just for purposes
7 of that search warrant hearing we held virtually.

8 MR. VOIGT: No objection to that.

9 THE COURT: Any objection from the Defense?

10 MR. HAZZARD: No, sir.

11 THE COURT: All right. That's fine. Admitted
12 without objection.

13 (WHEREUPON, State's Exhibit Number 1, was moved
14 into evidence for the Jackson v. Denno Hearing
15 only.)

16 MS. RICHARDSON: And that's just to complete the
17 record.

18 And, Your Honor, I know that we previously talked
19 about sequestration, I'm not sure who all is in the
20 courtroom on the Defense side? The State, sitting beside
21 me, is Allen Morris who's the chief investigating officer,
22 and we'd ask that he be allowed to remain in the courtroom
23 through all of the hearings. And then I have Investigator
24 Bert Powell who will be testifying first.

25 THE COURT: Any objection from the Defense?

1 MR. HAZZARD: No objection for this hearing, Your
2 Honor.

3 MR. VOIGT: No objection.

4 MR. EDGEWORTH: No objection, Your Honor.

5 THE COURT: All right. Without objection.

6 Yes, ma'am.

7 MS. RICHARDSON: Your Honor, as we discussed
8 previously, the State will be seeking to admit several
9 out-of-court statements made by each of the Defendants.
10 It's the State's position that the majority of these, I
11 think other than maybe two were not while in custody, but
12 the State is requesting a Jackson v. Denno Hearing and is
13 prepared to proceed so the Court can rule on the
14 admissibility of these statements for voluntariness. And
15 also, Your Honor, so that any issues regarding the
16 codefendants, Bruton, Crawford, hearsay, those type of
17 things can be addressed as well.

18 THE COURT: All right.

19 MS. RICHARDSON: So with that, Your Honor, the
20 State will call Bert Powell to the stand.

21 THE COURT: All right. come around, Mr. Powell.

22 BERT POWELL, having been duly sworn,
23 testified as follows:

24 THE WITNESS: My name is Sergeant Bert Powell. I
25 work for the Georgetown County Sheriff's Office now, but I

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1 previously worked for Georgetown City Police Department as
2 an investigator in the CI Division.

3 JACKSON V. DENNO HEARING DIRECT EXAMINATION

4 BY MS. RICHARDSON:

5 Q. Okay. And your legal name is not Bert, that's
6 what you're nicknamed?

7 A. No, that's my middle name, that's the name I go
8 by. My first name is Alroy, A-L-R-O-Y.

9 Q. Okay. And that's how it is on the incident
10 reports that have been provided to the Defense?

11 A. I think so, yes, ma'am.

12 Q. Okay. And tell us again how long you've been in
13 law enforcement?

14 A. About 13-and-a-half years.

15 Q. Okay. And what positions have you held?

16 A. I've been a patrol officer, field training
17 officer, I've also been a narcotics investigator, a criminal
18 investigator, a bloodhound handler, a narcotics canine
19 handler, and an instructor in defensive tactics, as well as
20 a specific skills instructor.

21 Q. Okay. And what is your educational level?

22 A. Some college.

23 Q. Okay. And do you have military experience?

24 A. Yes, ma'am.

25 Q. And what is that?

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1 A. I did six years in South Carolina National Guard.

2 Q. Okay. And where are you employed now?

3 A. I'm employed with the Georgetown County Sheriff's
4 Office.

5 Q. And in February and March of 2017 where were you
6 employed?

7 A. With Georgetown City Police Department.

8 Q. And what was your position there?

9 A. At the time of this case I was an investigator.

10 Q. And on March 9, 2017, did you receive a report
11 regarding Leon Harrison Jr.?

12 A. Yes, ma'am. It was from Mr. Harrison Jr.'s dad,
13 Mr. Leon Harrison Sr., he wanted to report him missing.

14 Q. Okay. And how did he make that report?

15 A. He came to the police department.

16 Q. And what was the basis of his concern?

17 A. He said that he had not seen his son in
18 approximately two weeks and it was unlike him to not be in
19 contact with his family for that period of time.

20 Q. And was he able to give you detailed information?

21 A. Not really. He didn't have a whole lot of
22 information other than his son was missing.

23 Q. And did you make -- do some other contact or
24 investigation based on that?

25 A. Ma'am?

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1 Q. What did you do, based on that?

2 A. We did an incident report and then I think a
3 Ms. Green came forward as well wanting to report him
4 missing.

5 Q. Okay. Ms. Green, do you recall her first name?

6 A. I think it's Brittany.

7 Q. Okay and what was her relationship with him?

8 A. She was the mother of Leon Harrison Jr.'s
9 children.

10 Q. And they were minors?

11 A. Yes, ma'am.

12 Q. And did she give you any further information
13 regarding his wife?

14 A. She told me who his wife was. We tried to find
15 information on her, but we had, I think, the wrong spelling
16 at the time, so we couldn't find anything on her.

17 Q. Okay. Can you --

18 MS. RICHARDSON: Are y'all having trouble hearing
19 or is just me?

20 Q. Can you pull up a little bit, I'm just having a
21 little trouble hearing?

22 A. Okay.

23 Q. Maybe it's that shield or something, I don't know.
24 Okay.

25 So I'm sorry. Go ahead.

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1 A. She gave us his wife's name, Tiesh Rhue, I think
2 she gave us the wrong spelling, we couldn't find anything on
3 her. I can't remember if it was her that told us where she
4 worked at, I wasn't sure. I can't remember who -- whether
5 it was her or it was another person, Johnson, that worked at
6 our DC.

7 Q. Detention Center?

8 A. Yes, ma'am.

9 Q. Okay. And at that point, did you -- you actually
10 did a report?

11 A. Yes, ma'am. We did a report when Mr. Leon
12 Harrison Sr. came in.

13 Q. Okay. All right. And then what action did you
14 take? Did you --

15 A. We talked with Ms. Johnson at the jail. And then
16 we went out to -- I think we went out to the steel mill to
17 contact Ms. Rhue.

18 Q. And did you enter him as a missing person?

19 A. Oh, yes, ma'am. And entered him into NCIC.

20 Q. And so that was on I believe that was Thursday,
21 March 9?

22 A. Yes, ma'am.

23 Q. And you found out the wife worked at the steel
24 mill?

25 A. Yes, ma'am.

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1 Q. Okay. And you went there to talk with her?

2 A. Yes, ma'am.

3 Q. Okay. And who was with you?

4 A. Investigator Allen Morris.

5 Q. And did Ms. Rhue talk with you?

6 A. She did.

7 Q. At that time was she in custody?

8 A. No, ma'am.

9 Q. Was she under arrest?

10 A. No, ma'am.

11 Q. And did she voluntarily speak with you?

12 A. Yes, ma'am.

13 Q. Did you threaten, promise her anything, or coerce
14 her in any way?

15 A. No, ma'am.

16 Q. And did she appear to be in her right mind as far
17 as not intoxicated and that sort of thing?

18 A. Yes, ma'am.

19 Q. She was at work?

20 A. Yes, ma'am. She was work.

21 Q. Okay. And at this point did you know if anything
22 was wrong? What was your...

23 A. No. We didn't know if anything was wrong, if
24 there was any foul play suspected, or anything. We were
25 just trying to find out where he was at if she may know

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1 where he was at, so we could, you know, let the family know,
2 Hey, this is what we found out.

3 Q. Okay. And so she agree to talk with you?

4 A. Yes, ma'am.

5 Q. Okay. And what did she tell you at that time?

6 A. She told us that on the 25th he had come over to
7 their house. They had an argument. After the argument,
8 she -- he went in the house and got some of his things then
9 he left. She didn't know which way he had left or which way
10 he had gone. She hadn't heard of seen from him since.

11 Q. Okay. And did she say what the argument was over?

12 A. The fact that he had a girlfriend.

13 Q. Okay. And did she give you any more information
14 about him leaving?

15 A. She just said he grabbed some of his things, he
16 left, and she told us where he worked at.

17 Q. Okay. And where was that?

18 A. I can't remember the name of the company, but it
19 was on North Fraser Street where they built the new bridge
20 at Yauhanna across the Pee Dee River, PCL, or something,
21 maybe.

22 Q. Okay. And did she say anything about his cell
23 phone on that first conversation with her?

24 A. She said that she had taken his cell phone from
25 him but she had given it back to him after the argument.

BERT POWELL - JD CROSS BY MR. EDGEWORTH

1 Q. Okay.

2 MS. RICHARDSON: Your Honor, that would be the
3 first statement of Ms. Rhue, which would be an unrecorded
4 statement to law enforcement. I don't know if you want me
5 to continue with the rest of the statements or if they want
6 to go ahead and cross-examine on that one statement.

7 THE COURT: Let's go ahead and take care of one
8 statement at a time.

9 Mr. Hazzard?

10 MR. HAZZARD: Nothing on behalf of Alexander Rhue
11 Sr.

12 THE COURT: Mr. Voigt?

13 MR. VOIGT: Nothing on behalf of Mr. Alexander
14 Rhue Jr.

15 THE COURT: All right. Mr. Edgeworth?

16 MR. EDGEWORTH: Briefly, Your Honor.

17 JACKSON V. DENNO HEARING CROSS-EXAMINATION

18 BY MR. EDGEWORTH:

19 Q. Investigator -- I apologize what your current
20 title is.

21 A. I'm Sergeant Powell.

22 Q. Sergeant Powell, when you presented to Ms. Rhue at
23 work and you had another officer with you, did you all go
24 into any -- where were you at when you spoke with her?

25 A. We were -- I think we were at the steel mill, I

BERT POWELL - JD CROSS BY MR. EDGEWORTH

1 think. At the guard shack.

2 Q. Did you take her into a private room? Did you
3 stand out in public? Where were you at?

4 A. I can't remember if we -- we wasn't recording, so
5 I think we talked to her there where the little guard shack
6 is at, or right outside of the gate.

7 Q. Did you -- did you advise her why you were there?

8 A. Yeah, we told her that it was a report of her
9 husband being missing.

10 Q. And did you feel the need to read her her Miranda
11 Rights?

12 A. No, sir. At the time we didn't suspect her as --
13 we were just trying to find out where he may be if she knew.

14 Q. And about how long did your conversation take?

15 A. I can't remember, sir. If I gave you a timeframe,
16 I may not be accurate.

17 Q. Okay. Well, I mean, were you -- could you
18 estimate were you there for five minutes, fifteen minutes
19 thirty minutes, two hours?

20 A. Guesstimate, maybe ten to twenty minutes, maybe.
21 I mean, it wasn't an extended period of time, but we were
22 there more than five minutes.

23 Q. And do you know around what time that conversation
24 took place?

25 A. Without looking at the report, no, sir. I'd have

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1 to look at the -- refer to the report.

2 Q. Okay.

3 MR. EDGEWORTH: All right. No further questions,
4 Your Honor.

5 THE COURT: All right. Anything else?

6 MS. RICHARDSON: Not on that statement, Your
7 Honor. The State would seek to admit that statement as
8 freely and voluntarily given and that Miranda was not
9 required because she was not in custody.

10 THE COURT: All right. I would agree, I think the
11 statement was given freely and voluntarily based on the
12 information that has been presented. She was not in
13 custody, they were at work, it took anywhere from ten,
14 twenty minutes at or near the guard shack.

15 So I think that's fine and I'll admit that --
16 allow that to be admitted.

17 JACKSON V. DENNO FURTHER DIRECT EXAMINATION

18 BY MS. RICHARDSON:

19 Q. All right. And after you took the statement from
20 her and she told you where he worked, what did you do at
21 that point?

22 A. Can I refer to the report?

23 Q. Would that help you refresh your recollection if
24 you looked at your report?

25 A. Most likely.

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 Q. Did you bring it up there with you?

2 A. Yes. It was on the desk when we left.

3 Q. I think I took it back downstairs. I'm going to
4 have somebody bring up a clean copy, because mine has notes,
5 and I don't want to give you a copy that has my notes on it,
6 but I'm just going to go through this.

7 But you went to -- did you go to his place of
8 employment?

9 A. Yes, ma'am.

10 Q. And what did you find out there?

11 A. His direct supervisor stated that, whatever date,
12 February 25th was, I think that was maybe -- I don't even
13 know if it was a Friday or Saturday, he said that was the
14 last day that Mr. Leon Harrison Jr. had come to work.

15 Q. Okay. All right. And then did you also talk with
16 what was described as his girlfriend, Mr. Harrison's
17 girlfriend at some point?

18 A. Yes, Ms. Grate. We did speak to her. She stated
19 that she received a phone call from Mr. Harrison's phone on
20 the night of the 25th, I think, but it wasn't him, it was
21 Mr. Harrison Jr's. wife, Ms. Rhue.

22 Q. Ms. Tiesh Rhue?

23 A. Yes, ma'am.

24 Q. And you get her phone at that point, Ms. Grate's
25 phone?

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 A. Yes, she voluntarily gave us her phone to be
2 dumped, to get the information dumped from it.

3 Q. Okay. And at that time did you decide to talk
4 with Ms. Rhue again?

5 A. I think we did.

6 Q. Had she mentioned the girlfriend in your first
7 conversation at the steel mill?

8 A. Yeah, because she told us that one day she came
9 up -- when she got home, Mr. Harrison was on the back porch
10 on the phone and she took the phone from him, because she
11 suspected him of having a girlfriend, and I guess they had
12 some words. And after an argument between her and Mr. Leon
13 Harrison Jr., she gave him the phone back and said he went
14 in the house and got some clothes and then he left.

15 Q. Okay. But on that first interview did she tell
16 you that she had talked to Ms. Grate?

17 A. Without looking at the report, I can't.

18 Q. You don't recall?

19 A. I can't recall.

20 Q. So you decided to get her back in and talk with
21 her?

22 A. Yes, ma'am.

23 Q. And that was on the next day, March 10th?

24 A. I think so, yes, ma'am.

25 Q. Okay. And how did she come in at that point? Was

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 she under arrest?

2 A. No, ma'am.

3 Q. And she came to the police station to meet with
4 you and that interview is recorded?

5 A. No, ma'am.

6 Q. Who else was present for that interview?

7 A. Investigator Allen Morris.

8 Q. And did she come with you voluntarily?

9 A. Yes, ma'am.

10 Q. And do you recall if you had to give her a ride
11 there?

12 A. I think she did ride with us.

13 Q. Okay. So you went and picked her up from the
14 steel mill?

15 A. Yes, ma'am. She was in uniform during the
16 interview.

17 Q. Okay. And did at any time you tell her she was
18 not free to leave?

19 A. No, ma'am.

20 Q. Okay. And actually she did leave afterwards; is
21 that right?

22 A. She did, yes.

23 Q. Okay. And did you threaten her, promise her
24 anything, or coerce her in any way to get her to talk with
25 you?

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 A. No, ma'am.

2 Q. And did she appear to be under the influence of
3 alcohol or drugs or anything that would have affected her
4 ability to understand what was going on?

5 A. No, ma'am.

6 Q. And that interview was recorded in your room at
7 the police station?

8 A. Yes, ma'am.

9 Q. Okay. Let me show you what has been marked as
10 State's Exhibit 2, that's just the CD, we put this in case
11 it gets out of the package.

12 All right. Let me show you what's been marked as
13 State's Exhibit Number 2 for identification purposes.

14 Do you recognize that?

15 A. Yes, ma'am. My initials are on it.

16 Q. Okay. And what is it?

17 A. It's an interview with Ms. Rhue on March 10th,
18 2017.

19 Q. That was recorded at Georgetown Police Department?

20 A. Yes, ma'am.

21 Q. Okay. And you said your initials on the CD?

22 A. Yes, ma'am.

23 Q. Okay. And have you viewed that prior to court and
24 you're the one that put the initials on there?

25 A. Yes, ma'am.

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 Q. And is that an accurate copy of the interview that
2 you did?

3 A. Yes, ma'am.

4 Q. Okay. And your interview room actually records
5 from two different angles?

6 A. It does.

7 Q. But it's the same thing, just from two different
8 camera views?

9 A. Right. One from behind. One from the door in,
10 and then one from behind where we sat showing our backs and
11 whoever we're interviewing front of them.

12 MS. RICHARDSON: Your Honor, at this time I'd
13 offer this in evidence for purposes of this hearing and
14 would ask to go ahead and publish it to you.

15 THE COURT: Any objection from the Defense?

16 MR. HAZZARD: No, objection.

17 MR. EDGEWORTH: No objection.

18 THE COURT: All right. That will be fine,
19 admitted without objection.

20 (WHEREUPON, State's Exhibit Number 2, was moved
21 into evidence for the Jackson v. Denno Hearing
22 only.)

23 MR. HAZZARD: Your Honor.

24 THE COURT: Yes.

25 MR. HAZZARD: Mr. Rhue Sr. and I do not have a

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 monitor. If it is -- if it pleases the Court, may we move
2 over to the jury box so we can have a monitor to see?

3 THE COURT: Absolutely. And for purposes of
4 today, gentlemen, ladies, if anybody can't move or can't
5 see, feel free to move to do whatever you need to do. Okay?

6 MS. RICHARDSON: And I'm just going to play the
7 first view, there are two views that are on the CD, I'm just
8 going to play the first view.

9 THE COURT: All right.

10 MS. RICHARDSON: Actually, I'm going to play the
11 second view. The first view is from the side, the second
12 view is a face-on camera view of Ms. Rhue.

13 Do you have any objections for me fast-forwarding
14 to when they come in the room?

15 THE COURT: It's not playing.

16 MS. RICHARDSON: Oh. If you'll turn on the
17 monitor.

18 THE CLERK: It's on.

19 (WHEREUPON, a brief pause in the proceedings.)

20 MR. HAZZARD: Your Honor, may it please the Court.
21 I don't know or recall how long it takes for someone to
22 enter the room to initiate the questioning, but I have no
23 objection to the State fast-forwarding to that point.

24 MS. RICHARDSON: Okay. We'll do that. The audio
25 is not playing. Is it on?

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 THE CLERK: Everything should be on. Do you have
2 your audio plugged in? It's on.

3 MS. RICHARDSON: It's on.

4 (WHEREUPON, State's Exhibit Number 2 was played.
5 Not transcribed herein.)

6 BY MS. RICHARDSON:

7 Q. And she was free to go and left after that?

8 A. Yes, ma'am.

9 Q. And we heard the video, but she didn't ask for
10 anything to drink or water or food or anything like that,
11 you didn't deny her any of that?

12 A. No, ma'am.

13 MS. RICHARDSON: Your Honor, that would be my
14 questions as to Exhibit 2. That way we'll break it up like
15 that.

16 THE COURT: Mr. Hazzard?

17 MR. HAZZARD: Your Honor, I figure that at least
18 some portion of it is admissible. I do have questions and
19 concerns regarding certain portions. The portion where
20 there's a reference to the police picking up Alexander Rhue
21 Jr. the next day. I would submit that that is not, you
22 know, probative, and very prejudicial, as well as confusing,
23 because there's no explanation as to what they're picking
24 him up for.

25 THE COURT: Is that when she made some reference

1 about a warrant?

2 MR. HAZZARD: Yes.

3 THE COURT: Okay. Solicitor, what about that?

4 MS. RICHARDSON: Your Honor, I agree with that, as
5 far as from her statement. We would like to be able to
6 cover that issue with law enforcement just to say that they
7 were investigating -- perhaps when they testify, they were
8 investigating another matter, and had contact with him.
9 Just to show that he's in the house. Because -- but I don't
10 have any problems with redacting it from her statement.

11 THE COURT: Well, as it relates to her statement,
12 there's no reason for it to come in, in my opinion. And I
13 would agree with you, Mr. Hazzard. I think as it relates to
14 her statement, that's what you're referencing right now?

15 MR. HAZZARD: Yes, sir.

16 THE COURT: I agree with you completely.

17 MS. RICHARDSON: I agree with that, Your Honor.

18 MR. HAZZARD: And that during the interview,
19 Investigator Morris, I don't know there's any way in the
20 world this can be admissible, where he, you know, talks
21 about, We're getting calls from everywhere. We're getting
22 information from people from D.C. on down telling us we need
23 to look at you.

24 I think our Supreme Court has made it very, very
25 clear that those kinds of statements from law enforcement,

1 that type of hearsay is not appropriate to be broadcast to a
2 jury. So I would object and ask that that be redacted,
3 because he specifically says, You know, yeah, we're getting
4 phone calls from all over saying that they should look at
5 Ms. Rhue.

6 So we would object to that coming in as part of
7 the statement. We feel that should be redacted.

8 THE COURT: All right. Let me hear from you,
9 Solicitor.

10 MS. RICHARDSON: Your Honor, the State's position
11 is those aren't being offered for the truth of the matter
12 asserted. That they were getting those calls, but just sort
13 of to get her reaction and to see -- well, of course, they
14 were getting those calls -- but to see of an investigative
15 tactic to see how she would respond.

16 MR. HAZZARD: And in reply --

17 THE COURT: Hold on.

18 MS. RICHARDSON: I know there's a recent case on
19 this, as well.

20 MR. HAZZARD: She's right. That's what I was
21 about to say.

22 MS. RICHARDSON: There's a recent case on this.

23 MR. HAZZARD: That says the exact same thing. The
24 State said in the recent case, Well, you know, it wasn't for
25 the truth of the matter asserted, it was to -- it was a

1 tactic. And the Supreme Court said, Yeah, but it's an
2 inappropriate tactic, because you're taking what is hearsay
3 and broadcasting it to the jury.

4 So either they are getting the calls, and it's
5 hearsay that's being broadcast to the jury, or it's a tactic
6 which the jury has no idea of and it's being broadcast to
7 the jury. Either way it's inappropriate.

8 THE COURT: All right. I'm going to agree with
9 you on that one, also. I don't think that's relevant in
10 this matter and shouldn't be included.

11 MS. RICHARDSON: Okay.

12 MR. HAZZARD: The third thing is Ms. Rhue makes a
13 statement that concerns me when they start asking her about
14 searching the house. And she says something along the lines
15 of, Can I talk to someone first? And they, basically, then
16 talk about -- they say, We're not going to tear the house up
17 or anything of that nature.

18 And then she says something along the lines of --
19 and I apologize for having to paraphrase, but it was very
20 hard to hear -- something along the lines of, My dad told me
21 not to. Which would be Alexander Rhue Sr. And we have some
22 concerns about that, because there's no -- there is no -- no
23 context as to why they would have ever had conversation,
24 when he would have told her that, and we feel that might be
25 misleading to a jury. And that any probative value, as for

1 the purposes of the admissibility of her statement, would be
2 possibly very prejudicial to my client.

3 So we would ask that that be redacted, her saying,
4 My dad told me not to, as far as whether to allow the
5 police to just enter your home, which is actually very
6 understanding.

7 THE COURT: All right. So your objection is to
8 the part about, "My dad told me not to."

9 MR. HAZZARD: Yes.

10 THE COURT: Not that she wants to go and talk to
11 somebody or whatever -- seeking, that just kind of came out.

12 MR. HAZZARD: Yes, sir.

13 THE COURT: I don't necessarily have a problem
14 with that. You're talking about, "My dad told me not to."

15 MR. HAZZARD: Yes, sir.

16 THE COURT: Because we don't know when the dad may
17 have said it, in addition to that, the dad is a defendant in
18 this matter.

19 All right. Let me hear from you, Solicitor.

20 MS. RICHARDSON: Your Honor, that just puts it
21 into context. She's not saying that he didn't tell her not
22 to in this situation, but it explains when she saying, Is
23 there anybody I can talk to first, that she's eluding to --
24 appears to be eluding to family.

25 THE COURT: Well, no, I kind of, you know, as a

1 dad I tell my daughter all sorts of things: Don't walk home
2 from the library at night. Which they always do. But...

3 MR. HAZZARD: And my concern -- I apologize, Your
4 Honor.

5 THE COURT: No, go ahead.

6 MR. HAZZARD: My concern, obviously, is there is
7 no way for me to suss out and ever place it into context.

8 THE COURT: Exactly. And I agree with you,
9 because there's no way to then go necessarily and have that
10 be explained away. And so I don't think that dad -- the
11 mention of her dad suggested that.

12 Now, that she wants to talk to somebody and those
13 types of things, Solicitor, I think that's fine. But as it
14 relates to the statement that her dad always told her or
15 told her not to let somebody search the house, I would agree
16 with the Defense in that.

17 MR. HAZZARD: Thank you. And then there's a
18 portion where, based on what Investigator Morris said
19 earlier about these calls they're getting, Tiesh Rhue then
20 says, Yeah, you mentioned about these calls you're getting,
21 I don't care, because I don't associate with people. And
22 then Investigator Morris comes back behind that and follows
23 it up with, Yes, we're getting these calls. So that issue
24 comes up again a little bit later on.

25 After that --

1 THE COURT: I mean, that's kind of a repeat of
2 what we've already talked about.

3 MR. HAZZARD: Yes, sir.

4 THE COURT: Anything about the calls, the number
5 of calls they're getting, I don't think that that should be
6 allowed as relevant. I think it's prejudicial and I think
7 it's hearsy.

8 MR. HAZZARD: And then Investigator Morris says
9 something again trying to -- wanting to search the house,
10 getting her to allow the search of the house. I guess he's
11 trying to reassure her, because then he says, You know,
12 look, we're not worried about weed in the house or anything
13 like that -- which I think is a very gratuitous statement --
14 and we would submit that that is prejudicial, especially
15 given the fact that I don't think there -- there were --
16 there was any contraband found in the house. But just that
17 mention of, You know, if that's what you're worried about,
18 we're not worried about finding weed in the house, we're
19 just worried about looking for, you know, information about
20 Mr. Harrison Jr.

21 I would ask that that be taken out excluded from
22 the recording.

23 THE COURT: Solicitor.

24 MS. RICHARDSON: Your Honor, the State is going to
25 seek to admit a video of Ms. Rhue and Mr. Harrison, where

1 they are smoking weed in the house to show the condition of
2 the room. So I think this would just be merely cumulative
3 at that point if you want.

4 THE COURT: Well, we're not there yet. As it
5 relates to weed, I don't think there's any reason that that
6 should be included. I mean, you know, I mean, weed, what if
7 he had said meth. I mean, what's the -- what's the
8 difference. I mean, it's contraband and I don't think that
9 they should be -- as it relates to weed, I think weed comes
10 out.

11 MR. HAZZARD: Then a little bit later on, either
12 Sergeant Powell or Investigator Morris then talks about
13 numerous resources from whom they've gotten calls about
14 Alexander Rhue Jr. and I would move that that be excluded
15 from this recording.

16 THE COURT: All right. Let me hear from you on
17 that, Solicitor. Or hold on a second.

18 Tell me a little more about that, because I'm not
19 remembering that.

20 MR. HAZZARD: Okay.

21 THE COURT: Talk to me about that. I'm not
22 following you.

23 MR. HAZZARD: To my recollection, and this is
24 getting closer to the end, either Sergeant Powell or
25 Investigator Morris, then they kind of shift things up,

1 because throughout most of this they've been talking about
2 Ms. Rhue. They then kind of shift it and, as you recall,
3 they then start asking her about, Well, how did your brother
4 and he get along? You know, did they have fights? Did they
5 have arguments? Did your brother ever threaten him?

6 And then at some point, as I recall, and what I've
7 jotted down, one of the two officers says, and the actual
8 phrase used was, "numerous resources." They say, Yeah,
9 we've gotten calls about, you know, your brother Alexander
10 Rhue Jr. And then he goes on to say, Yeah, numerous
11 resources have reached out to us about him having something
12 to do with this.

13 And I would submit for the same reason as before
14 that that would be impermissible hearsay to present to the
15 jury.

16 THE COURT: Hold on one second.

17 MR. HAZZARD: Yes, sir.

18 THE COURT: Solicitor, let me hear from you on
19 that.

20 MS. RICHARDSON: Your Honor, the State has no
21 objection when it comes to the portion that says, where he's
22 repeating hearsay, "resources have said."

23 THE COURT: Okay.

24 MS. RICHARDSON: I think you've already ruled on
25 that.

1 THE COURT: Yes. Yes.

2 MS. RICHARDSON: So when he's talking about the
3 phone calls, because that's the hearsay. The hearsay is,
4 "Other people have said that this." So I get that that's
5 the hearsay within the hearsay and I think you've already
6 ruled on that.

7 THE COURT: All right.

8 MR. HAZZARD: The only other point, and it may not
9 be an issue, but, again, as a way of reassuring Ms. Rhue, as
10 to providing the phone so that they can download all of the
11 information off of it, he then says, We're not looking for
12 nude -- he actually says it a couple of times, he says it in
13 the beginning, I guess, about nude photos, that, If there
14 are any they'll skate right past those. But then in the
15 interview he says, Yeah, we're not looking for nude photos.

16 I would submit that that would not be appropriate
17 for the jury to hear or consider. I think it might possibly
18 paint Ms. Rhue in a very false and inappropriate light to
19 the jury.

20 That would be my statement on behalf of Mr. Rhue
21 Sr., Your Honor. Thank you.

22 MS. RICHARDSON: And, Your Honor, there are nude
23 photos and there are very sexual conversations with other
24 men, including the day that we believe he was killed and
25 before his body was found. We believe that goes to malice

1 and motive and would be appropriate for the jury.

2 THE COURT: Yeah, but you're not going to get it
3 in through him saying nudes, right? I mean...

4 MS. RICHARDSON: Well, I mean --

5 THE COURT: That's not where that would -- I mean,
6 I understand -- I understand that could go to motive, maybe.
7 But, I mean, as it relates to him, at least right now, as it
8 relates to this statement, I mean, I heard him saying nudes
9 two or three times, and I just didn't know -- I mean...

10 MS. RICHARDSON: Your Honor, and part of the
11 State's burden with the jury, even if you ruled that the
12 statement is admissible, part of our burden with the jury is
13 show that it was freely and voluntarily given.

14 So when we take out the statements like, I don't
15 want to consent, because I want to talk to somebody, my dad
16 said. Then it kind of leaves open the question and takes
17 out the context of that.

18 Same thing with this, if she's expressing -- we've
19 got to show that she voluntarily consented that phone over.
20 If she's expressing some reservations, which she brings up,
21 I've got pictures on there, then the jury needs to -- it
22 puts it in context for them to understand that this is
23 freely and voluntarily. That she was concerned about some
24 legitimate things and they were reassuring her, but if we
25 take that out, it's just going to show her hesitation with

1 no reason for that hesitation.

2 THE COURT: Well, I mean --

3 MS. RICHARDSON: And I don't see where the fact
4 that -- we're going to seek to bring that in anyway, as far
5 as part of her behavior around the time of the disappearance
6 and while the body was missing.

7 THE COURT: Right. Right. But did he know about
8 the nudes when he was interviewing her? Did he know about
9 the nude photographs on her phone?

10 MS. RICHARDSON: He didn't.

11 THE COURT: Because he certainly gives the
12 impression that he knew about nudes on the phone before he
13 even got it, it did to me. And I think --

14 MS. RICHARDSON: Well, and to me, the way I saw it
15 is --

16 THE COURT: -- I think the jury -- hold on.

17 I think the jury absolutely, particularly when you
18 try to put this in, it almost make it look like he knows
19 what's on the phone to begin with, Don't worry about your
20 nudes. I'm not -- I mean, I'm not --

21 MS. RICHARDSON: Well, she brought up pictures
22 first.

23 THE COURT: Well...

24 MS. RICHARDSON: She's the one, in fact, let me
25 look. She said -- he asked -- they're talking about the

1 phone, Can we still search it though? And she was saying
2 one of them didn't work. And he said, Can we still search
3 it, though, since you have it on you?

4 And at that point she said, Um, I have pictures
5 and stuff on my phone that I don't want you to see.

6 THE COURT: Right. I'm not -- I'm not going to
7 allow the nudes in at that point. That needs to be --

8 MS. RICHARDSON: Just his statements regarding the
9 nudes?

10 THE COURT: Well, I don't -- I don't think she
11 said nudes. So I think his statements concerning nudes
12 doesn't need to come in. Now, you -- and I'm not making any
13 rulings about what may come later, but as it relates to
14 that, I would agree with them and I've sustained that.

15 MR. HAZZARD: Thank you, Your Honor.

16 That concludes the objections on behalf of
17 Alexander Rhue Sr. with regard to --

18 THE COURT: All right.

19 MR. HAZZARD: -- the second interview.

20 THE COURT: All right. Mr. Voigt.

21 MR. VOIGT: Thank you, Judge.

22 Mr. Hazzard has covered most of the territory I
23 planned to cover. I'm going to circle back around, though,
24 to the initial conversation that Investigator Morris had
25 concerning getting consent to go into the home and the

1 warrant that -- he had talked about a warrant. And I know
2 that the Court has ruled at a certain point having to do
3 with the father.

4 I would add this additional point. The search of
5 the home is pursuant to the search warrant, that's my
6 understanding of the State's case, that this is not a
7 consent case, they've never argued it as such. And the
8 Fourth Amendment covers that.

9 And what I see Ms. Rhue doing in that conversation
10 is asserting her Constitutional Rights under the Fourth
11 Amendment. I think it's analogous to asserting your
12 Constitutional Rights under the Fifth Amendment. I don't
13 believe that the State then gets to highlight the fact that
14 she's doing something that every ordinary citizen has a
15 right to do and somehow then casts it in a negative light.

16 So I think that his attempt -- and I have to say,
17 if you go back and listen to this, it's really when
18 Investigator Morris opens his mouth that the problems start.
19 He's trying to coerce her, frankly, into allowing a consent
20 search, because I think we all know he didn't have probable
21 cause to go in. And it looks as though she's merely
22 asserting her right to not be coerced.

23 And I think that entire part with Investigator
24 Morris, I think it's inappropriate. I think it's -- I don't
25 think -- it's more prejudicial than probative and, really,

1 is not something that the jury should consider.

2 THE COURT: Solicitor? If you need a minute to
3 think about it, go right ahead.

4 MS. RICHARDSON: Yeah. And I would like to kind
5 of research this issue a little bit. But it's almost like
6 he's doing this in a nature of like a Doyle Violation. She
7 was not Mirandized and advised of her rights. And in those
8 cases, when you talk about a defendant's -- an officer or
9 somebody commenting on a defendant's silence or right to
10 remain silent and that sort of thing, we look at whether
11 they've been Mirandized.

12 And at this point she had not been Mirandized.
13 And I do believe that her unwillingness to give the consent
14 to search is an issue. And that also goes to the continuing
15 conspiracy to conceal what had happened to Mr. Harrison.

16 But I don't think it's a violation of her
17 Constitutional Right to comment on her refusal to give
18 consent because she had not been advised of any rights.

19 MR. VOIGT: Let me see if I understand that.

20 THE COURT: Hold -- hold -- hold on. Hold on.

21 MR. VOIGT: Thank you.

22 THE COURT: Solicitor. Anything else?

23 MS. RICHARDSON: And I -- and I can pull some case
24 law on that, I think I've got some downstairs and we're
25 trying to look at that. More of these cases are on the

1 Fifth Amendment Right. There's not very many as far as
2 commenting on the Fourth Amendment Right.

3 THE COURT: All right. Yes, sir.

4 MR. VOIGT: Thank you, Judge.

5 What I think I just heard the State argue is that
6 somehow Tiesh Rhue was conspiring by herself in a room being
7 questioned by Investigator Morris. And I cannot believe
8 that that can be placed into evidence as some sort of
9 evidence of conspiracy. It does violence to the very nature
10 of what a conspiracy count is, to how we even formulate.

11 There is no indication there that two or more
12 people, or three or more people, or my client, especially,
13 have somehow instructed her to block -- consent can be
14 freely given, assuming it can be freely given and it's not
15 coerced. The fact that you don't consent is not in
16 furtherance of any conspiracy cannot be considered by a jury
17 for that evidence --

18 THE COURT: So is your concern, sir, the fact that
19 she exercised the right. And, in doing so, if that is
20 basically via the video, that basically then her exercising
21 her right is going to be used against her or argued that
22 basically she's done something wrong by the mere exercising
23 of her right. Is that what you are saying?

24 MR. VOIGT: Yes, Your Honor, that's exactly what
25 I'm saying?

1 THE COURT: What about that, because it seems to
2 me that if she -- I mean, she did exercise her right, as far
3 as I'm concerned when she said, Hey, I don't want you to
4 search it, I want to talk to somebody first. I mean, she
5 had that right to do that. And so I understand that they
6 advise her of her rights, but I mean, you know, maybe she's
7 watched Law and Order, I don't know. But, I mean, she
8 certainly took advantage of that right, whether she knew
9 what she was doing or she didn't know what she was doing.

10 So, to that extent, are you looking to ultimately
11 capitalize on the fact that she exercised that right as
12 trying to use that against her through some ongoing
13 conspiracy or other are there other matters, Solicitor?

14 MS. RICHARDSON: Well, even not conspiracy, but of
15 knowledge, if you had knowledge of what was in that house
16 and the significance that. Just like in cases where they
17 comment on lack of remorse. Or in child abuse cases, a
18 parent's lack of concern, or lack of giving what the injury
19 is. Those are probative and relevant issues as to what was
20 going on.

21 Otherwise, if we take that part out, it's like
22 she's just being cooperative. She -- and then it's going to
23 be turned the other way, that she's letting them do whatever
24 she wants, because she's innocent, you know as far as --

25 THE COURT: But isn't she deemed, by merely

1 exercising her Constitutional Right, is she not -- does that
2 make her not cooperative?

3 MS. RICHARDSON: It shows she's -- to me it shows
4 that she had something to hide and she was concerned about
5 what was in the house. And I don't think that -- I think
6 that is probative evidence of guilt and guilty knowledge.
7 And that -- the fact that she -- I don't think it would be
8 excluded just because she's exercising her Constitutional
9 Right. But I can pull some case law on that and we can come
10 back to that one point.

11 THE COURT: All right. Well, she's going to send
12 me something, *Simmons v. State*, 419 SE 2nd 255. It says the
13 offender was denied effective assistance of counsel by
14 Defense Counsel's failure to object to the government's
15 comments when the accused exercised of his Constitutional
16 Right to refuse to allow warrantless search of his vehicle.

17 So aren't they asking for her to consent to a
18 warrantless search of her car -- of her home?

19 MS. RICHARDSON: They are. They're asking her at
20 that point to consent to having the home searched to see if
21 he could be located.

22 THE COURT: All right. Let me tell you what I'm
23 going to do. Let's take a break. You've got the citation
24 to that case. And we'll come back -- we'll come back in
25 ten minutes and we'll keep going at it. Okay?

1 MS. RICHARDSON: Okay.

2 THE COURT: All right.

3 (WHEREUPON, there was a break held from 3:47 p.m.
4 until 4:03 p.m.)

5 THE BAILIFF: All rise.

6 THE COURT: All right. Thank you, you can be
7 seated.

8 All right. Solicitor, I was going to give you a
9 second to respond to, I guess, Mr. Voigt's concern that the
10 exercise of his client's Constitutional Rights could be
11 looked at or construed or argued against her exercising
12 those rights and I'm happy to hear from you on that.

13 MS. RICHARDSON: Your Honor, first of all, it's
14 not his client. That would be Mr. Edgeworth's client.

15 THE COURT: Yes, ma'am.

16 MS. RICHARDSON: And that's kind of one of the
17 issues and why I wanted to flush some of this out. Just
18 going back to the statement she made going to -- about the
19 father. I believe that would be admissible in a trial
20 against her, but perhaps not one against the father.

21 But, Your Honor, we again look at it as sort of
22 like a Doyle-type analysis when they're given Miranda. And
23 I did find State v. Rice where it was allowed for an officer
24 to say that a defendant didn't cooperate with
25 fingerprinting.

1 THE COURT: Well, I'm going to rule that that's
2 going to be excluded. I do not believe that any argument,
3 any inference concerning her exercising her Constitutional
4 Right as it relates to the search, I just don't think that's
5 going to be appropriate.

6 And for the sake of my ruling, I've referenced
7 the, I think, the State v. Simmons case that I mentioned
8 earlier. And then also -- what's that case -- State v.
9 Simmons -- let's see -- okay. And also I believe in the
10 Doyle case itself, it references the fact that someone --
11 that a defendant should not be penalized and it should not
12 any inference to be drawn from the fact that he or she
13 exercises their Constitutional Rights. And that's 96 SCT
14 2240.

15 So that's going to be my ruling in these matters.

16 MS. RICHARDSON: So what is excluded, then asking?
17 What is excluded?

18 THE COURT: What is excluded in this -- in this
19 matter is the -- all right, what's going to be excluded
20 is -- what's going to be excluded is her objecting to the
21 search of her home.

22 Is that what you were asking for, Mr. Voigt?

23 MR. VOIGT: Yes, Your Honor. Because it looks as
24 though Investigator Morris is presenting her either with a
25 consent form or a search warrant, can't really tell because

1 the volume was so low and she resisted consenting and went
2 through the detour that Mr. --

3 THE COURT: All right.

4 MR. VOIGT: -- Hazzard explored with her father.

5 But, nevertheless, she basically, at the end of
6 that conversation, tells the officers to do what they need
7 to do. In other words, if you can get probable cause to get
8 a search warrant, get probable cause to get a search
9 warrant. We know they couldn't, but they did anyway. And
10 she wasn't going to consent that whole -- I mean it's --

11 THE COURT: Well, now as far as doing what you
12 need to do, I don't have -- necessarily have a problem with
13 that. Okay?

14 MR. VOIGT: I don't know -- but that --

15 THE COURT: But as it --

16 MR. VOIGT: -- that's the end of it. That's the
17 end of that conversation.

18 THE COURT: But as it relates to her making a
19 statement about the search of the home, all of that, I'm not
20 going to let that in, because I just think that's
21 commenting -- ultimately it's going to be commenting on her
22 exercising her right. But as it relates to, Do what you
23 need to do, and those types of things, I mean, I think
24 that's fine.

25 MS. RICHARDSON: So, Your Honor, in that regard

1 then the State would seek to limit any line of questioning
2 or argument that indicates that she did everything they
3 asked them to do or that she was completely cooperative and
4 consented and that sort of thing, because basically that's
5 not completely true.

6 MR. VOIGT: I believe you can be completely
7 cooperative and require the police to do the minimum that
8 the law requires, and this isn't that hard.

9 MS. RICHARDSON: I don't think he should be able
10 to comment on that, because, basically, it's not really what
11 happened. I mean, it's misleading.

12 THE COURT: Well.

13 MS. RICHARDSON: If they're going to comment, She
14 did everything you asked her to do or she was cooperative,
15 she was an open book, that kind of thing, then that's
16 opening the door, because that's different. And I can
17 understand where the State can't bring it out. I understand
18 your ruling that we can't bring it out as substantive
19 evidence against her.

20 THE COURT: All right. I'm going to agree with
21 the State on that.

22 MR. VOIGT: Judge, I'm -- I -- to the extent the
23 State would like to guess what I'm going argue, I mean,
24 but...

25 THE COURT: Well, in that --

1 MR. VOIGT: I'm -- I -- I'm not going to spend a
2 whole bunch of time exploring and questioning Tiesh Rhue's
3 cooperation with officers, that doesn't -- that's not my
4 client.

5 THE COURT: Well, all right. So we're ready --
6 what's next?

7 MR. VOIGT: I've got one last thing.

8 THE COURT: All right.

9 MR. VOIGT: And Mr. Hazzard did touch on it, and
10 you've ruled on it a bit, but, again, I'd like to expand it
11 just a little bit.

12 At the very end of -- maybe the last three minutes
13 or so of that statement -- Investigator Morris begins, as he
14 did frequently with, Well, we've heard so much, we've been
15 getting this, and this time the focus is on my client. And
16 what I would posit to the Court is that this is actually one
17 of the tricky places where trying us all together kind of --
18 I think we have to tease out the various threats.

19 As to my client, I believe having a conversation,
20 both with the investigator and with Ms. Rhue about my
21 client's ultimate guilt, the truth of the matter asserted,
22 because he's charged with murder and we're talking, Would he
23 kill him? You know, I think that's pretty -- that's pretty
24 dead on. I think that's impermissible hearsay.

25 I think as to the other two it is -- I think it

1 fails the relevancy balancing test. In other words, I think
2 it's far more prejudicial than probative and is not strictly
3 relevant as to either one of them. I believe it should be
4 excluded. It's about two minutes of tape. It doesn't take
5 out the substance of what the State is trying to get at. It
6 can't be used, as far as I can tell factually, for some
7 other purpose to bolster some piece of evidence that they
8 intend to produce. It is merely a hearsay commentary
9 between two people about the relative propensity for
10 violence of my client, which I think the State has other
11 ways of proving, perhaps, and is not -- this isn't the place
12 to try to bring it out. So I would ask that it be excluded.

13 THE COURT: Well, where is?

14 MR. VOIGT: Huh?

15 THE COURT: Where is the place to bring it out,
16 sir?

17 MR. VOIGT: Well, I think, certainly, if my client
18 takes the stand, we have a different issue about whether or
19 not that can come in. The State, as far as I know, purports
20 to have witnesses to have claimed to hear my client threaten
21 the victim months before he disappeared.

22 THE COURT: Right.

23 MR. VOIGT: That -- you know when those people
24 testify, I'm going to seek to have that excluded as well as
25 a prior bad act perhaps, and too far removed in time and

1 place as to be relevant to this proceeding.

2 I may lose that argument, but that's a very direct
3 way through a direct -- it's not hearsay --

4 THE COURT: All right. But what --

5 MR. VOIGT: -- you don't have to jump through
6 things to get there.

7 THE COURT: But what is your concern about this
8 particular -- I want to make sure I follow you on that,
9 because you kind of -- kind of bounced me around here --

10 MR. VOIGT: I have, Judge, because --

11 THE COURT: -- on a couple of different issues.

12 So let's focus on this and why it is that you say
13 that this isn't permissible.

14 MR. VOIGT: Okay. What we have here is a brief
15 conversation between an investigator, who's clearly bringing
16 it up, and doing what Mr. Hazzard was saying, which is
17 bringing in impermissible hearsay to raise the question. To
18 ask Ms. Rhue if Alex would ever do anything to him and to
19 talk about a previous incident.

20 THE COURT: Right.

21 MR. VOIGT: And I believe -- and ultimately she
22 says, No. I mean, you know, so if we were to go down he
23 road where that was admissible, I'd say for the rule of
24 completeness, we'd have to get her response where she says,
25 No, I don't think he would.

1 But I think the whole -- I think it's -- you know,
2 I've just got to view this as the trial of my client, as
3 though everybody isn't here, this isn't proper testimony
4 against my client.

5 THE COURT: Is it proper testimony against another
6 defendant?

7 MR. VOIGT: I'm not sure it is.

8 THE COURT: All right.

9 MR. VOIGT: I'm not sure it's proper testimony at
10 all.

11 THE COURT: All right. Solicitor?

12 MS. RICHARDSON: Your Honor, I say that it's
13 definitely proper testimony against her. Now, I think we're
14 going to have to pick apart the hearsay within hearsay where
15 he's saying, People have said. I get that part, like, We're
16 getting phone calls, we're getting rumors. I think you've
17 ruled on that. But when she's asked specifically about her
18 relationship or her brother's relationship and her
19 observations of her brother's relationship with her husband,
20 I think that is probative of -- the State's theory is that
21 they all worked in concert on this and I think it's
22 probative that she knew there was bad blood between her
23 brother. And she also makes comments that her family would
24 defend her. So when we're talking bout them coming
25 together, if it's not relevant against him, I believe it is

1 relevant against her.

2 Now, as far as this direct observations from
3 people who are testifying, I think that's -- you know, right
4 now we're looking at sort of hearsay. But as far as the
5 direct, I think that's -- that's probably a different
6 argument that we're not onto yet. But as for her, I think
7 that it is -- it is relevant.

8 And, Your Honor, this goes back to -- you know,
9 the Court could give an instruction regarding, you know
10 which evidence can be used against which defendant. But
11 whether prior -- prior statements and problems between --
12 statements regarding problems between Mr. Rhue and the
13 victim, especially inculpatory, as far as Bruton, because I
14 think it would have to be combined with other acts or other
15 testimony to get that way, just in and of itself, it just
16 kind of shows a background.

17 But I do believe this is kind of the issue of
18 trying them all together, what I was saying are we going to
19 object to anything that she says against him or that sort of
20 thing.

21 THE COURT: So why do you think it's permissible
22 against her?

23 MS. RICHARDSON: Against her.

24 THE COURT: No. I'm sorry. The statement, you
25 think it's permissible against who?

1 MS. RICHARDSON: I think it's permissible against
2 Ms. Rhue.

3 THE COURT: Yes.

4 MS. RICHARDSON: To show that she was aware of the
5 problems between her and her brother. She talks about him
6 coming to her -- to her after the argument. And also we
7 have a voice mail message where she is calling her father to
8 come in to the room with her. But just to show sort of the
9 history between the two of them and that she knew that there
10 had been these threats. And then she says they were over
11 me, they were over me. That when they had these problems it
12 was over how he treated me.

13 THE COURT: Was she making reference to threats
14 that she knew of or threats that other people have told her?
15 Because I couldn't -- I'm trying to...

16 MS. RICHARDSON: I took it as things that she
17 had -- that she was aware of. And his argument, from what
18 I'm gathering is, that it's hearsay for us to put Ms. Rhue
19 saying this, because she can't be cross-examined. But if
20 it's against her -- if it were a trial against the statement
21 comes in against her to show that she knows the
22 volatility -- you know, how volatile things were between her
23 brother.

24 THE COURT: All right. I'm going to allow it.

25 MR. VOIGT: Okay, Judge. Please note my

1 exception.

2 THE COURT: Yes, sir. Anything further,
3 Mr. Voigt?

4 MR. VOIGT: No, I think that was it. I think I
5 got in my list.

6 THE COURT: Great. Thank you. All right.
7 Yes, sir.

8 MR. EDGEWORTH: Thank you, Your Honor.

9 For the record, of course I join in all the
10 motions set forth before you thus far and the rulings, but I
11 also would like to take it one step further and say the
12 statement, in and of itself, is altogether inadmissible.

13 And the reason why I posit that before the Court,
14 is, Number 1, this whole interrogation is, in fact,
15 custodial. And I think that law enforcement intentionally
16 circumvented Miranda by way of their acts to include the
17 first statement, they had it at her place of work. They
18 went to her, they talked to her there.

19 Here, they go to her work, two law enforcement
20 officers, isn't -- we didn't get to fully develop any
21 testimony, but it appears that they placed her in their --
22 their vehicle, the law enforcement vehicle, took her to the
23 law enforcement facility, placed her in a room, and as the
24 Court could see, a very small room, left her there,
25 initiated recording, and then commenced an interrogation.

1 And, not only that, they utilized standard
2 custodial interrogation tactics. They began by asking her a
3 series of simple, air quote, simple questions. And then
4 started using tactics such as, Well, we've heard from this
5 person, We are getting phone calls from that person,
6 implying that they have information that they're not sharing
7 under the guise of what they later say is a missing person
8 incident, when they're going to get their search warrant,
9 but in this particular -- in this particular interrogation,
10 Investigator Morris specifically tells her, Something bad
11 has happened. Cluing her in to the fact that, not only do
12 they have reasonable suspicion but maybe even probable
13 cause, and they've intentionally not given her Miranda under
14 the guise that this is just type of missing -- well, what
15 they're calling a missing person, even though they've
16 already acknowledged in the same interrogation that they're
17 getting calls that says, My client did it.

18 So, you know, the particular manner in which this
19 was -- which the interrogation was held, demonstrates law
20 enforcement's, what they believe to be, a custodial
21 interrogation. What the facts and circumstances around the
22 totality of what this investigation was supposed be to
23 include how they managed and put her in this particular
24 place.

25 From her perspective it would be reasonable to

1 assume that they're talking to me at work, maybe they're
2 asking me a few questions. They're talking to me at the law
3 enforcement facility, I must be under arrest.

4 And even though, later on they let her go, that
5 was after, as they acknowledge, she's cooperated to the
6 extent that, Yes, search my phone. You know, Let me talk to
7 you about this, let me talk to you about that. When they
8 don't get her consent to search for the house, we'll just
9 get that a different way.

10 And at no time was there Miranda. There's the
11 indication that she's made the comment that says, You know I
12 need to speak to someone. Well, there was no follow up,
13 Well, did you mean an attorney? And maybe that's not
14 necessary, but given the clues of what's going on in this
15 particular example, if she were to give them something
16 inculpatory, were they going to stop it, let's do this thing
17 all over again so we can Mirandize you?

18 I believe that this particular -- the whole -- the
19 whole statement should be excluded on the basis that it
20 wasn't voluntary because she was essentially coerced given
21 the totality of the circumstances related to the environment
22 in which and the way law enforcement handled the
23 interrogation.

24 THE COURT: All right. Well, now as far as
25 development, the witness is here. I mean, if you want to

1 ask questions of this witness, sir, as it relates to -- you
2 said we hadn't had an opportunity to develop, now is the
3 time to do it.

4 MR. EDGEWORTH: Yes, Your Honor.

5 THE COURT: Because I don't -- I don't want, you
6 know, no one's prohibiting you from asking those questions
7 and developing whatever you need to be developing.

8 You understand?

9 MR. EDGEWORTH: Understood, Your Honor. But --

10 THE COURT: Okay. So if you want to do that, then
11 now is the time.

12 MR. EDGEWORTH: Well, I believe in this particular
13 example, I would like to stand on the Court's acknowledgment
14 and review of the video that was shown as it relates to how
15 the interrogation was conducted.

16 THE COURT: Well. That's what -- that's what you
17 want to stand on, that's fine. But I don't -- I'm giving
18 you every opportunity to ask this man anything you want as
19 it relates to development, because you made reference to
20 something not being developed or having the opportunity to
21 be developed.

22 MR. EDGEWORTH: Yes, Your Honor.

23 THE COURT: And so I'm giving you that opportunity
24 for the record.

25 MR. EDGEWORTH: Yes, sir. Then I shall do so, and

1 I apologize.

2 THE COURT: That'll be fine.

3 MR. EDGEWORTH: Thank you, sir.

4 THE COURT: Now, you understand I'm not forcing
5 you to do that, I'm just telling you for the record, you
6 know, you're saying he didn't. I want to give you every
7 opportunity to do what you need to do. All right, sir?

8 MR. EDGEWORTH: Absolutely, Your Honor.

9 THE COURT: Yes, sir. Go ahead.

10 MR. EDGEWORTH: Let me step back for a moment and
11 check this out.

12 JACKSON V. DENNO HEARING RECROSS-EXAMINATION

13 BY MR. EDGEWORTH:

14 Q. All right. Sergeant Powell, on -- on this
15 particular day, I believe it was -- of this video was
16 March -- March 10th, 2017?

17 A. I think so.

18 Q. Okay. And you had already previously spoken to
19 Ms. Rhue?

20 A. Correct.

21 Q. Okay. At that time when you talked to her the
22 first time you spoke to her at her place of work?

23 A. Yes, sir.

24 Q. And when you went to speak to her the second time
25 you went to her place of employment again?

BERT POWELL - JD RECROSS BY MR. EDGEWORTH

1 A. Yes, sir.

2 Q. And who was with you at that time?

3 A. Investigator Morris.

4 Q. Did you arrive in a law enforcement vehicle?

5 A. We were driving an unmarked vehicle.

6 Q. Okay. When you arrived were you also wearing the
7 apparel that we see -- that we saw on the video?

8 A. Yes, sir.

9 Q. It was Georgetown County or Georgetown?

10 A. City.

11 Q. City.

12 A. Like a polo shirt.

13 Q. Law enforcement clothing? Investigator clothes?

14 A. Like a blue polo shirt.

15 Q. Did you have your weapon on you at the time?

16 A. Yes.

17 Q. When you spoke to Ms. Rhue and advised her that
18 you wanted to talk to her again did you Mirandize her?

19 A. No, sir.

20 Q. Did you tell her the purpose of why you needed to
21 speak to her again?

22 A. We asked her if she would come down to the police
23 department and talk with us again.

24 Q. Okay. Did you offer her the ability to drive over
25 herself?

BERT POWELL - JD RECROSS BY MR. EDGEWORTH

1 A. Yeah, which I don't think she had a car, so we
2 offered to take her.

3 Q. Okay. And you took her over there and sat her
4 into the interrogation room?

5 A. Yes, sir.

6 Q. Okay. You initiated or turned on the video
7 recordings?

8 A. Yes, sir. One of us did.

9 Q. And you saw on the video that there was a period
10 of time prior to your entry where you were recording
11 Ms. Rhue?

12 A. Yes, sir.

13 Q. When you initiated the contact with her had you
14 already been doing investigation between the time that you
15 spoke to her the first time and time that you spoke to her
16 the second time?

17 A. Yes, sir.

18 Q. And did you, in fact, have contact from third
19 parties related to this particular case?

20 A. We had -- we had some other people, yes, tell us
21 that we -- that if something was wrong she needed to be --
22 we needed to look at her. I think that's in my report, as
23 well.

24 Q. Understood. So when you went and spoke to her,
25 did you -- did you believe her to be a suspect?

BERT POWELL - JD RECROSS BY MR. EDGEWORTH

1 A. Well, we were trying to find out at that point if
2 she was or if she wasn't. We didn't know.

3 Q. Well, if you believed that she was or was not a
4 suspect, did you believe that a crime had been committed?

5 A. We were -- that's what we were trying to figure
6 out. Was he missing or did something happen to him? That's
7 where we were trying to go with the whole interview and
8 stuff.

9 Q. When you -- when you were asking her questions
10 during the interrogation and she -- she spoke to you
11 about -- my apologies. Court's indulgence, Your Honor.

12 THE COURT: Of course.

13 BY MR. EDGEWORTH:

14 Q. Had you -- had you prepared beforehand any of the
15 consents to which you presented to her to include the
16 consent to search her phone?

17 A. You mean prepared to, like, prefilled it out?

18 Q. In other words, you had planned to ask her that
19 before you picked her up?

20 A. I don't know if we had or not.

21 Q. Okay. Had you planned to ask her to search her
22 residence before you picked her up?

23 A. I don't remember if we had or not. I don't know.

24 Q. Were you under the impression that Mr. -- or the
25 decedent was residing at her residence at that time?

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 A. Who?

2 Q. The decedent.

3 A. Oh, okay. We -- that's what we were trying to
4 figure out, did he live there or did he not live there.
5 Because you know there was some questions of whether he
6 lived there or not even though they were married.

7 Q. So you didn't know at that time during the --
8 during that interrogation whether -- whether the decedent
9 lived there or not?

10 A. No. Because she would -- she told us that he
11 sometimes he was here, sometimes he was gone. So we didn't
12 know for sure if he was living there or he was living -- you
13 know, where was he living.

14 Q. Got you.

15 MR. EDGEWORTH: Your Honor, I have no further
16 questions at this time.

17 THE COURT: All right. Does anybody else -- does
18 the State have any questions they need to ask the officer?

19 I just want to give everybody an opportunity to
20 ask questions to the officer and then.

21 MS. RICHARDSON: I do, Your Honor.

22 THE COURT: Okay.

23 JACKSON V. DENNO FURTHER DIRECT EXAMINATION

24 BY MS. RICHARDSON:

25 Q. Based on the questions that Mr. Edgeworth asked,

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 there had been some issues with her vehicles had been
2 wrecked; is that right?

3 A. Yes, ma'am. I think that's why she didn't have a
4 vehicle somebody got in a wreck or something.

5 Q. Okay. And did she -- did you force her to come
6 with you?

7 A. No, ma'am.

8 Q. And she left when it was over or was taken back to
9 work?

10 A. Yes, ma'am.

11 Q. And in subsequent interviews did she ask for an
12 attorney?

13 A. Ask for?

14 Q. Like, later on, were there additional interviews
15 where she --

16 A. Yes. Yes. In one interview she did say that she
17 wanted to speak to a lawyer and at that point we stopped
18 that interview.

19 Q. Okay. And did -- did you have any information
20 about her background as far as being a security officer?

21 A. Not that I can recall.

22 Q. You just knew that she had worked at the security
23 gate?

24 A. Well, that was through, I think, Johnson that
25 worked for our Detention Center, maybe.

BERT POWELL - JD CROSS BY MR. HAZZARD

1 Q. Okay. And just for the record and they Judge
2 that's not here, she worked at IP; is that right? IP,
3 International Paper?

4 A. No. She worked at the steel mill.

5 Q. I meant the steel mill?

6 A. Yeah.

7 Q. Okay. And she worked as a security guard at the
8 steel mill?

9 A. Yes, ma'am.

10 MS. RICHARDSON: All right. I have no further
11 questions.

12 THE COURT: Either one of you gentlemen have any
13 questions, Mr. Hazzard? Mr. Voigt?

14 MR. HAZZARD: Very briefly, Your Honor. May it
15 please the Court.

16 THE COURT: Please.

17 JACKSON V. DENNO HEARING CROSS-EXAMINATION

18 BY MR. HAZZARD:

19 Q. Sergeant Powell, I want to be very clear, your
20 testimony to Mr. Edgeworth was that on March 10th of 2017,
21 you nor Investigator Morris knew where Leon Harrison Jr.
22 lived?

23 A. Well, it was the question of if he was living
24 there full time or if he was living there part time because
25 we had conflicting information.

BERT POWELL - JD CROSS BY MR. HAZZARD

1 Q. Okay. And when you say "conflicting information,"
2 who did the conflicting information come from?

3 A. Well, Ms. Rhue said that she -- that he was only
4 here sometimes, that he was not there permanently.

5 Q. Okay. And what information did you receive that
6 conflicted with that?

7 A. Well, we had other people that we had talked to
8 said that's where he lived at.

9 Q. And who were these individuals?

10 A. That would be, like, his I guess his dad,
11 Ms. Johnson and Rosario, I think.

12 Q. Okay. So his girlfriend said that he lived with
13 Tiesh Rhue?

14 A. Uh-huh.

15 Q. Didn't his girlfriend actually say that he spent
16 the vast majority of his time at her residence?

17 A. Gosh, she may have. Without looking at the
18 report, I'm going off four years of memory. It's been a
19 long time ago and a lot of cases in between.

20 Q. Okay. And this was on March 10th of 2017?

21 A. Yes, sir.

22 Q. And when you talked with Ms. Rhue on that day she
23 basically said that he had basically moved out, correct?
24 She said he had taken his work clothes and he had left.

25 A. Yeah, she also told us that he had done it seven

BERT POWELL - JD CROSS BY MR. HAZZARD

1 times prior.

2 Q. Uh-huh. But that on that day --

3 A. So did he come home seven times and then move out
4 seven times? I mean, so...

5 Q. Okay. But on that particular date the owner of
6 the residence said he does not live here, correct?

7 A. I don't know, did she say that? I don't know.

8 Q. Well, you said you had conflicting evidence.
9 Rosario Grate and Leon Harrison Sr. presumably said they
10 believed he lived with Ms. Rhue. And so the conflicting
11 evidence would be Ms. Rhue saying, no he doesn't. Would
12 that be the conflicting information?

13 A. I guess you can say that.

14 Q. Well, I'm not saying it, I'm asking you, sir, your
15 testimony.

16 A. Well, there was -- there was a question whether he
17 lived there permanently or not, because she said she told us
18 that he had left. But we also had people tell us that they
19 knew that to be his -- his wife, so if you're married, you
20 should be living with your wife, I assume, correct?

21 MS. RICHARDSON: Your Honor, I believe -- and I
22 object. I believe we're kind of getting away from this
23 statement and must be kind of jumping back to the search
24 warrant issue.

25 THE COURT: Well, I'm not even -- I mean, I'm

BERT POWELL - JD CROSS BY MR. HAZZARD

1 going to sustain your objection. Let's try to real this in,
2 sir, and get to the issue as it relates to the
3 voluntariness, I guess, of the statement.

4 MR. HAZZARD: Yes, sir.

5 THE COURT: Yes, sir.

6 MR. HAZZARD: I have no further questions.

7 THE COURT: All right. Anything further?

8 MR. EDGEWORTH: Nothing further, Your Honor.

9 THE COURT: All right. I'm going to -- I'm going
10 to rule that this statement -- oh yeah, I don't mean to
11 leave out my friend over here, and when I say friend, I
12 don't know him.

13 MR. HAZZARD: That's why he's your friend.

14 THE COURT: It's a long story on another matter,
15 I'm sorry, I shouldn't have said that. Not that he's my
16 enemy. I don't know him, but I didn't mean to leave you
17 out, Mr. Voigt. Do you have any questions that you need to
18 ask the officer, sir?

19 MR. VOIGT: Judge, I can shine no more light.

20 THE COURT: All right. Thank you.

21 I believe the statement was voluntary. They came,
22 they approached, asked her, gave her a ride, she agreed,
23 questioned her, she was free to leave. She didn't ask for
24 any -- she didn't ask to leave and was prohibited. They
25 didn't keep her there some extended period of time. They

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1 didn't deprive her of a snack or drink or things of this
2 nature. And so I think that the statement was voluntary.

3 Are there other issues that you have, sir, that
4 concerning -- Mr. Edgeworth, concerning the statement?

5 MR. EDGEWORTH: Nothing further, Your Honor.

6 THE COURT: All right. So is that everything
7 concerning this statement?

8 MS. RICHARDSON: Yes, Your Honor.

9 MR. HAZZARD: So the statement is voluntary, but
10 we've covered all the redactions necessary?

11 THE COURT: Yes, sir. I think we have.

12 MR. HAZZARD: Yes, sir.

13 THE COURT: All right. What have we got next?

14 We only have eight more to go?

15 MS. RICHARDSON: We got have a good bit more to
16 go, Your Honor. All right. All right.

17 JACKSON V. DENNO HEARING FURTHER DIRECT EXAMINATION

18 BY MS. RICHARDSON:

19 Q. So subsequent to that interview is when the first
20 search warrant was executed on the residence; is that right?

21 A. Yes, ma'am. I think so.

22 Q. So he was reported missing on the 9th.

23 THE COURT: Let me ask you: Does he have his
24 report?

25 MS. RICHARDSON: He doesn't.

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 THE COURT: Well, you know, he had said that his
2 report would be helpful.

3 MS. RICHARDSON: He did.

4 THE COURT: And what I want to try to do is move
5 things along. And so is there any objection to him
6 referring to his report from the Defense?

7 MR. HAZZARD: No, sir.

8 MR. VOIGT: No, Your Honor.

9 MR. EDGEWORTH: None, Your Honor.

10 THE COURT: All right. Great.

11 MS. RICHARDSON: And, Your Honor, these reports
12 are extremely lengthy portions without the narrative, so I'm
13 going to point him to the narrative parts. Okay.

14 BY MS. RICHARDSON:

15 Q. So after you met with her on that day, the
16 interview that we just watched, then another witness was
17 interviewed as well, right? Ms. Meyan Thomas?

18 I'll refer to Page 41 of the report.

19 A. I did not interview Meyan.

20 Q. Okay. But you were part of the investigative
21 team?

22 A. Correct.

23 Q. And after that is when the decision was made to do
24 the first search warrant of the residence?

25 A. According to the report, after Meyan Thomas was

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1 interviewed, the next entry we or narrative was where we did
2 do a search warrant at 1015 Highmarket Street.

3 Q. Okay. And you were not the officer who presented
4 that search warrant to the judge; is that right?

5 A. No, ma'am.

6 Q. Okay. And that was Officer Ian Anderson?

7 A. Correct.

8 Q. And so during the process of that search warrant,
9 you all found the missing carpet, the first section of
10 missing carpet --

11 A. Right.

12 Q. -- and went and got a search warrant; is that
13 right?

14 A. Correct.

15 Q. Okay. And you were present when we had the search
16 warrant hearings virtually --

17 A. Correct.

18 Q. -- a few Fridays ago, correct?

19 A. Yes, ma'am.

20 Q. Okay. And multiple items were seized including
21 the carpet padding, some foams, and that sort of thing from
22 the search warrant?

23 A. Yes, ma'am.

24 Q. Okay. And so then on Saturday, March 11th.

25 A. Yes, ma'am.

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1 Q. Did you interview Ms. Rhue again?

2 A. Yes. Investigator Morris and I did.

3 Q. Okay. And at that time was she under arrest?

4 A. No, ma'am.

5 Q. And the purpose of that interview was to discuss
6 the things that had been found in the search warrant; is
7 that right?

8 A. Yes, ma'am.

9 Q. Okay. And did she -- did you handcuff her or
10 force her to come to the interview?

11 A. No, ma'am.

12 Q. Didn't take her into custody?

13 A. No, ma'am.

14 Q. Do you recall how she got there?

15 A. I can't remember if we picked her up on that one,
16 it's not in the report how she got here.

17 Q. Okay. And did you threaten her, promise her,
18 coerce her, or in anything in that regard to try to get her
19 to talk to you?

20 A. No, ma'am.

21 Q. And at that point, at that morning when she was
22 being interviewed on the 11th, where you -- had a body been
23 found at that point?

24 A. I don't think it had been yet.

25 Q. Okay. And so you and Investigator Morris began

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1 that interview, right?

2 A. We did --

3 Q. Did she appear to be under the influence of any
4 substances or distress that would have effected her ability
5 to --

6 A. No, ma'am.

7 Q. -- understand what was going on?

8 Did you deprive her of any food or water or
9 anything like that that she requested?

10 A. No, ma'am.

11 Q. And let me show you -- and you actually weren't
12 present for this whole interview or present for a portion of
13 it?

14 A. Yes. I ended up leaving partially through the
15 interview.

16 Q. Okay. Let me show you what has been marked as
17 State's Exhibit 3.

18 MS. RICHARDSON: Do you all want to see this?
19 It's the same as before with this.

20 Your Honor, what we've done is we've put the
21 evidence sticker on the outside of the case and then just
22 written the corresponding exhibit number on the CD itself so
23 that the exhibit sticker won't make the CD drag.

24 THE COURT: That's fine.

25 MR. HAZZARD: I don't have a problem with that. I

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1 would ask that there be some specification made with regard
2 to which investigative report he is reading from, because
3 there are several of them. So if they could specify exactly
4 which report he is referring to refresh his recollection,
5 I'd appreciate that.

6 BY MS. RICHARDSON:

7 Q. Can you see what narrative report, is it 05?

8 A. What are you asking on this one, ma'am?

9 Q. Read the report number at the top, please.

10 A. Are you talking about the case number?

11 Q. Yeah, the case number with the...

12 A. This would be -- it looks like 51.

13 Q. Okay. Read the whole case number.

14 A. 17003242-051.

15 Q. Okay. And how many pages is that report? Is
16 there not a number on the bottom?

17 A. This -- you talking about by page numbers?

18 Q. Yeah, what's the page numbers at the bottom?

19 A. This would be on Page 44.

20 Q. Okay. Does it say 44 of?

21 A. 73.

22 Q. Okay. So it's a 73-page incident report with
23 supplement number 51?

24 A. Yes.

25 Q. Is that what you're telling me?

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1 A. Yes.

2 Q. All right. Let me show you what's been marked as
3 State's Exhibit Number 3. Can you tell me what that is how
4 do you know what that is?

5 A. It says Tiesh Rhue, March the 11th, it says two
6 interviews and my initials are on it.

7 Q. Okay. It's two views of the interview?

8 A. Yeah, two views.

9 Q. And you reviewed that again prior to court?

10 A. Correct.

11 Q. Is that an accurate reflection of the interview
12 that was done on March 11th?

13 A. Yes, ma'am.

14 Q. And again you left during part of it?

15 A. Correct.

16 Q. And the two views are just the side view and the
17 front view?

18 A. Correct?

19 Q. All right.

20 MS. RICHARDSON: Your Honor, at this time I'd
21 offer State's Exhibit Number 3 into evidence for purposes of
22 this hearing and would ask to publish it.

23 THE COURT: All right. Any objection?

24 MR. VOIGT: No, Your Honor.

25 MR. EDGEWORTH: No, Your Honor.

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1 MR. HAZZARD: I have no objection to that. I
2 would point out that the case report number he's referring
3 to I have not been provided. I've got Case Report Number
4 17003242-038, one that ends in -045, and one that ends in
5 -002. I do not have one that ends in 051. So I do not know
6 the report to which he is referring.

7 THE COURT: All right.

8 (WHEREUPON, State's Exhibit Number 3 was moved
9 into evidence for the Jackson v. Denno Hearing
10 only.)

11 MS. RICHARDSON: Your Honor, I'll check on that.
12 They are -- what happens with the -- it's called P1, that's
13 their program, is every time an officer puts something in,
14 it's added as a supplement. And then the last one that's
15 reported is supposed to have all of the supplements, all the
16 information from the first ones.

17 I know we got some additional discovery by disk
18 prior to the last hearing, but I will make sure that he has
19 that.

20 THE COURT: All right. And we'll -- you can have
21 his copy if you need to take a look at that if we ask any
22 questions.

23 MR. HAZZARD: Thank you, Your Honor.

24 THE COURT: Yes, sir.
25

BERT POWELL - JD F. DIRECT BY MS. RICHARDSON

1 BY MS. RICHARDSON:

2 Q. So just looking at your report, what time of day
3 was that this interview?

4 A. 11:25 a.m., or approximately 11:25 a.m.

5 Q. On Saturday, March 11th?

6 A. Yes, ma'am.

7 MR. HAZZARD: I'm going to fast forward to when
8 they come into the room if everybody is all right with that?

9 THE COURT: Any objection to that?

10 MR. EDGEWORTH: We don't have a visual.

11 MS. RICHARDSON: Oh, can you turn the monitor on
12 Madam Clerk?

13 THE CLERK: It's on.

14 MR. EDGEWORTH: It's on.

15 THE COURT: All right.

16 MS. RICHARDSON: Is it on.

17 THE COURT: We've got video.

18 MS. RICHARDSON: Okay. I'm going to try to fast
19 forward while he's while no one's in the room with her. Is
20 everybody okay with that?

21 MR. HAZZARD: Yes.

22 MR. VOIGT: Yes.

23 THE COURT: All right.

24 MR. HAZZARD: Can you back it up a little?

25 (WHEREUPON, State's Exhibit Number 3 was played.

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1 Not transcribed herein.)

2 THE COURT: All right. Stop the video and take a
3 break. We'll be back in ten minutes.

4 (WHEREUPON, there was a break held from 5:34 p.m.
5 until 5:40 p.m.)

6 THE BAILIFF: All rise.

7 THE COURT: Thank you. Please be seated.

8 MR. HAZZARD: Your Honor, my apologies.

9 THE COURT: Oh, that's no problem at all, sir.
10 Solicitor, let me ask you, we got 20-plus more
11 minutes on this video?

12 MS. RICHARDSON: Yes, Your Honor. This is the
13 longest video.

14 THE COURT: Well.

15 MS. RICHARDSON: We do.

16 THE COURT: Um -- well, I anticipate, Solicitor,
17 that many of the arguments that were made are going to be
18 the same arguments that were made earlier.

19 MS. RICHARDSON: Okay.

20 THE COURT: And -- all right. Let's go back and
21 watch a few more minutes of this.

22 MS. RICHARDSON: Do you want me to tell you how
23 many other interviews there are and kind of...

24 THE COURT: Well, yeah, what are the other ones,
25 please, yes, ma'am?

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1 MS. RICHARDSON: So as far as Ms. Tiesh Rhue,
2 there's this interview, I believe it's an hour and
3 14 minutes, I think we're at almost 50 minutes now. There
4 is -- she has another interview at the police department.
5 And then there are two -- there is one short, kind of,
6 body-cam footage interview of her.

7 As for Mr Alexander Rhue Sr., there is a body-cam
8 interview on the same day as this. That's probably the
9 longest one. There is a body-cam interview at the house.
10 And then there's a couple of short statements made during
11 his arrest. But I believe the majority of those would have
12 to be redacted.

13 As for Alex Rhue Jr., there is a -- there is an
14 interview on March 13th. So it's one interview with him.

15 THE COURT: Well, let me tell you what, I
16 anticipate a motion that this is a custodial interrogation
17 on this video. And if that motion is made, I'm just going
18 to tell you right now, after 27 minutes, I think it becomes
19 a custodial interrogation, and I just don't think we need to
20 continue to -- I'm happy to hear other arguments.

21 But I will just tell you, after the first break
22 the officer came back in and said twice, I know you're
23 tired. He didn't offer her a cigarette, he didn't offer her
24 a glass of water, he didn't offer to stretch, fresh air,
25 nothing. She's stuck there without a phone. And then the

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1 officer also went and made a comment, "Before we get her out
2 here," I wrote that down.

3 And, Solicitor, I think clearly when the officer
4 said, Before we get her out of there -- oh, and the other
5 thing was, she did not want to go back over her -- when he
6 came back in, after he said she was tired, then we go and he
7 says, I want to go over this again. She indicated she
8 didn't want to go over it again. At that point, I think
9 from my observations, reluctantly, she began to do that.
10 And then later, in the very same segment, before he went out
11 again, that's when he said, "Before we get her out of
12 there."

13 And I just think that all of that combined, when
14 you look at the totality of circumstances as it relates to
15 the interview after approximately 26 to 27-minutes, I think
16 that becomes custodial.

17 And so -- I mean, I just don't know, we've got
18 hours worth of work to continue to do and I want to give --
19 but I just don't know that listening to 20-plus more minutes
20 of this video is -- is going to change my mind.

21 When -- when -- when I hear of those things
22 brought up at the end of the first break, and really that's
23 what I'm talking about, I mean, what would be your argument
24 as it relates to that?

25 MS. RICHARDSON: Well, clearly, Your Honor, she

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1 says she knows she's not under arrest. She says she knows
2 this is her third time. She said, he thinks that your
3 brother's not under arrest. She said nobody is, you would
4 have to read me my rights or something.

5 So she clearly knows that she's not under arrest.
6 When she indicates that she doesn't really want to go back
7 through the statement, it's not an unequivocal invocation of
8 her right to remain silent. And she says something to the
9 effect of, What else did you want to know or something in
10 that regard.

11 So she kind of -- I mean -- I mean, clearly, I
12 would agree that she's, you know, tired of talking about it.
13 But she never unequivocally invokes her right to remain
14 silent. And clearly she knows she's not under arrest, she
15 says that. She says, I'm not under arrest. She knows she
16 was not in custody.

17 So -- so I don't think it rises to the level of
18 her being in custody and not being free to leave. And when
19 you look at the totality of the circumstances, you look if
20 her will was overborne, and there's not indication that her
21 will was overborne. She's still going back and forth with
22 them and gives explanations for things. And I know this is
23 a long interview.

24 THE COURT: Well --

25 MS. RICHARDSON: And, Your Honor, just to kind of

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1 put this on the record, during this interview is when the
2 body was found out in the county, during this interview.
3 But, at this point when they initiated the interview the
4 body had not been found.

5 THE COURT: All right. All right. Well, look --
6 I'm going to hold my thoughts. Let's go ahead and play the
7 rest of the video and I'll let you get that on the record.
8 And then I'll hear from everybody and then I'll make a
9 ruling. Okay?

10 MR. HAZZARD: Thank you.

11 THE COURT: Uh-huh. Go ahead.

12 MS. RICHARDSON: Does everybody want me to skip
13 ahead until somebody is in the room?

14 THE COURT: That's fine with me.

15 MR. VOIGT: Yes.

16 (WHEREUPON, State's Exhibit Number 3 was played.
17 Not transcribed herein.)

18 MR. VOIGT: Stop just right there. Approximately
19 how long did you skip ahead in real time?

20 MR. EDGEWORTH: It was 18 minutes or so.

21 MR. VOIGT: 18 minutes, okay. Just wanted to put
22 that on the record.

23 MS. RICHARDSON: I don't know. I'd have to go
24 back and verify it.

25 MR. HAZZARD: Well, I think we were at 49 minutes

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1 when we stopped.

2 MR. VOIGT: And we're at 105 now?

3 THE COURT: Right.

4 MR. VOIGT: Okay.

5 (WHEREUPON, State's Exhibit Number 3 was played.

6 Not transcribed herein.)

7 BY MS. RICHARDSON:

8 Q. And Officer Powell, you left during the middle of
9 the interview to go talk to Mr. Alex Rhue Sr.?

10 A. Yes, ma'am.

11 MS. RICHARDSON: Okay. I have no further
12 questions. Answer any questions that the Judge or the other
13 attorneys would have for you.

14 THE COURT: Mr. Hazzard?

15 MR. HAZZARD: Your Honor, I would defer to
16 Mr. Edgeworth, since this relates to his client --

17 THE COURT: Yes, sir.

18 MR. HAZZARD: -- that would speed things up.

19 THE COURT: Yes, sir.

20 MR. EDGEWORTH: Your Honor, I have no questions to
21 this witness. Obviously, I do have a motion.

22 THE COURT: I'm happy to hear from you.

23 MR. EDGEWORTH: The video speaks for itself.

24 THE COURT: I'm happy to hear from you.

25 MR. EDGEWORTH: Thank you, Your Honor.

1 You know, obviously, at this point in what they're
2 deeming a missing person investigation, obviously, it's --
3 it's their attempt to have a criminal investigation. I
4 mean, to the point where, in the particular example, I
5 believe that this, in fact, was custodial. You've got three
6 interviews, three days in a row. This one being the
7 longest.

8 And some of the most poignant commentary that was
9 made by my client to have shown, and the State's already
10 mentioned, well, her will was overborne. Well, it was
11 overborne before she walked into the door and she couldn't
12 really leave.

13 Here's how we know that. One, she tells them, I
14 haven't slept. I couldn't go back to my home, because she
15 didn't want to see what maybe had happened during the search
16 warrant execution. She tells them that she hasn't slept.
17 During the video she's wiping her head and face the whole
18 time in being tired. They had to go pick her up again,
19 bring her to the precinct to commence this interrogation
20 knowing that she can't leave, she has no vehicle, she has no
21 phone.

22 They continuously tell her that you'll get your
23 phone back, you'll get your phone back. And there's
24 multiple breaks that where she -- she's obviously left in
25 there the most resent like 18-minute break. And when she

1 has specifically indicated that she does not want to
2 continue the conversation and law enforcement continues to
3 find ways to circumvent Miranda. And I'm asking that the
4 Court exclude the entirety of the statement.

5 THE COURT: Mr. Voigt?

6 MR. VOIGT: There are certain parts of this
7 statement that are brought up by Investigator Morris,
8 because I think that's his role, to impugn my client, and I
9 would always want those to be excluded, because I think
10 they're -- it's the officer bringing hearsay testimony in.

11 It is the most humanizing, human interaction with
12 a police official that I have maybe ever seen. And the fact
13 that somehow the State believes this is evidence of guilt is
14 appalling to me. I think it's only going to get worse from
15 here.

16 I almost don't want to exclude it, because it
17 makes us all look so good. But it's Mr. Edgeworth's client.
18 It's Mr. Edgeworth's motion. And I won't oppose.

19 THE COURT: Solicitor.

20 MS. RICHARDSON: Your Honor, I reiterate what I
21 said earlier, in that she clearly knew and said in her own
22 words, I know -- you know, I know I'm not under arrest, and
23 I know you'd have to read my Miranda. She held her own.
24 She would give it back to the officer, it's clear that her
25 will was not overborne.

1 And, Your Honor, yes they were investigating a
2 missing person. Now, during this interview -- during this
3 day it turned into a homicide investigation, but at this
4 point they had searched the house. She was giving them
5 additional information. She had still put the blame on
6 other people. You know, asking about if they had talked
7 other people. And at one of those points after she had said
8 she was kind of tired of talking about it, she initiated
9 with them, What are you doing to find him? How do you know
10 somebody doesn't have him locked up somewhere? What are you
11 doing to help him? So she was doing that as well and trying
12 to get some information from them.

13 I know it was long, but clearly she was not in
14 custody. Her will was not overborne. The totality of the
15 circumstances shows that her free will had not been
16 overborne and that she -- although she may have been
17 aggravated, she did not clearly invoke and say, I don't want
18 to talk to you anymore. And when there were things she
19 didn't want to do, she said it, I don't want to take a
20 polygraph.

21 So and just like she did with the search warrant
22 previously. So she didn't -- it's not a situation where she
23 was just agreeing with whatever they said or, you know, that
24 sort of thing, she said, No, to certain things and was
25 adamant about that, so.

1 THE COURT: So did they know during the course of
2 this interview that the body had been found?

3 MS. RICHARDSON: I don't know if they did, it's
4 not noted. It -- the -- this interview started, I think, at
5 11:30, and went until 1:14.

6 THE COURT: All right.

7 MS. RICHARDSON: I'm assuming the body -- the 911
8 call came in at noon, around noon.

9 THE COURT: I'm sorry? They saw the what? I'm
10 sorry.

11 MS. RICHARDSON: I believe the 911 call for the
12 body came in at -- which was to the county police -- came in
13 at -- the county police report indicates that the call came
14 in, I think, at 12:15.

15 THE COURT: Okay.

16 MS. RICHARDSON: Around -- so around noon is when
17 the call came in.

18 THE COURT: So during the course of this
19 interview?

20 MS. RICHARDSON: It would have been during this
21 interview the call came into the Sheriff's Office. The
22 Sheriff's Office of was aware of the missing person and
23 notified Captain Pierce with the City Police.

24 THE COURT: All right. What I'm going to do is,
25 again, after 26 minutes I think that it becomes -- I think

1 it becomes a custodial interrogation and I think they should
2 have given her her rights at that point.

3 I think that -- I understand, Solicitor, your
4 argument as it relates to overpowering her will, but when I
5 sit here and watch this woman on the video, clearly she's
6 exhausted. She was there and, yeah, she came on her own,
7 but didn't have a vehicle. She couldn't leave on her own.
8 I mean, in terms of a vehicle, she didn't have a way to
9 leave.

10 The officer acknowledged that she was tired twice,
11 to my recollection. And I understand that it maybe the
12 State's position that she was just tired of going over or
13 rehashing the same thing. From my -- my appearance, to how
14 she appears on the video, she looks physically exhausted.
15 And, to that extent, she said she didn't want to answer
16 anymore questions or words to that effect, that she didn't
17 want to go through this again. And he continued to try to
18 elicit interaction with her. And I understand that she did
19 engage.

20 I acknowledge that there was engagement on her
21 part, Solicitor, I understand that. But I just think that
22 when you look at the totality of the circumstances the
23 timing of this hour-plus interrogation or interview, however
24 you want to define it, the fact that it took place at the --
25 at the police office -- at the Sheriff's Department or the

1 City Police Department in an interrogation room, the length,
2 her being tired, the fact that the officer indicated that,
3 Before we get you out of here, again, I just think that a
4 reasonable person under those circumstances wouldn't feel
5 that they were free to leave.

6 As a result, after the first break, that's where
7 I'm ruling that I think it becomes a custodial
8 interrogation. That it should stop. That they should have
9 her her rights.

10 Now, the first 26 minutes, Solicitor, I'm with you
11 and I don't personally feel that she was overrun or her will
12 was overrun during those first 26 minutes. And so, to that
13 extent, if you want to play the first 26 minutes -- now,
14 there's going to be some issues within that 26 minutes,
15 folks, I understand that when you get to that. But I don't
16 want to get into anything beyond 26 minutes, because I'm
17 ruling that that is not going to apply.

18 Now, as it relates to my ruling, I know that the
19 State may not agree with it. But do you understand the
20 ruling that I'm making?

21 MS. RICHARDSON: Yes, Your Honor. So my
22 understanding is if we should play this video, the end of
23 the video after the first break, around the 26-minute mark,
24 would need to be redacted and not included or submitted to
25 the jury. And no information from that video would be

1 relayed through officer testimony to the jury.

2 THE COURT: That's correct.

3 Do you gentlemen understand that?

4 MS. RICHARDSON: Yes, Your Honor.

5 THE COURT: All right. Now, as it relates to the
6 first 26 minutes of the video, okay, are there things that I
7 need to hear from each one of you gentlemen? I mean, for
8 instance, I know that there's probably some similar
9 arguments that we went thorough before. I'm happy to hear
10 from you and hopefully we can get this done expediently.

11 So I'm happy to hear from you, Mr. Hazzard.

12 MR. HAZZARD: Thank, Your Honor. May it please
13 the Court.

14 In reviewing, and I don't know where the 26-minute
15 mark is, but I think I have a fairly decent idea. The first
16 that struck me is when one of the officers says to Ms. Rhue
17 regarding the blood, they say why is it or what looks like
18 blood splatter?

19 And I would submit that's them making their own
20 opinion and to submit that to the jury, first of all,
21 they're not blood splatter experts. Second of all, they
22 aren't allowed to -- to put that into the jury through the
23 course of the interrogation by playing it for the jury, the
24 officer's opinion or whether he's trying to trick her. But
25 him characterizing it as blood splatter would be improper

1 and would be an argument for the Defense in that regard for
2 Alexander Rhue Sr.

3 THE COURT: Counsel?

4 MS. RICHARDSON: Your Honor, I think that's just a
5 common term. I don't think he was using it in that kind of
6 context. And when you see the photos you will see, sort of,
7 what he means. The blood on the sheet that he's talking was
8 not tested against any of the defendants, it was just
9 determined to be female blood.

10 MR. VOIGT: I don't think that's what he's talking
11 about.

12 MS. RICHARDSON: So I just think splatter is
13 just -- it's not necessarily a legal term. I mean, it's
14 just a description of what it looked like.

15 THE COURT: Yes, sir.

16 MR. VOIGT: Judge, there is a legal term and an
17 experienced investigator might actually know it, it's "blood
18 spatter." And there is a droplet of blood on the wall that,
19 if accompanied by others or perhaps by itself, might be
20 considered by an expert, of whom I'm unaware, because I'm
21 not sure that the State has bothered to go down that path,
22 might be considered blood spatter.

23 This is -- this officer's inexperienced way of
24 attempting to bring in what he thinks is expert -- he's
25 going to try to impress her and I think improperly. And I

1 don't know why the State would want me to embarrass him like
2 that, because I will.

3 THE COURT: Well, I mean, anything?

4 MR. EDGEWORTH: Your Honor, only briefly.

5 I mean, at that point we're talking about a term
6 that infers a crime and they're not talking about a crime.
7 They plan to be interrogating my client on a missing person
8 and that language, the connotation of that, implies a crime
9 has been committed.

10 MS. RICHARDSON: And, Your Honor, just to be very
11 clear this was on March 11. So on March 11, what they --
12 they took -- or on March 10th what they had taken was the
13 carpet padding, the sheet, and the mattresses.

14 The spatter on the wall -- there was a smear on
15 the wall that was discovered that they did not swab. The
16 other mark on the wall was not found until the next search
17 warrant on the 14th after the body was identified.

18 THE COURT: Are you all calling any experts as it
19 relates to a splatter or blood experts, for lack of better
20 words?

21 MS. RICHARDSON: The crime scene investigator --
22 as far as the sheets, no, that they're talking about, no,
23 Your Honor. As far as the spot on the wall, there will be.
24 The crime scene investigator will say it appeared to be
25 splatter.

1 THE COURT: I just think that he's -- I didn't
2 think from my listening to this that he was referring to
3 this as a term of art. And I think that, clearly, it could
4 be a term of art, and I think if they were going to try to
5 exploit this to turn it into, but I just haven't heard that.
6 I'm going to deny your motion on that.

7 What else, Mr. Hazzard?

8 MR. HAZZARD: Thank you, Your Honor.

9 There are several other matters that I believe are
10 in the first 26 minutes.

11 THE COURT: Yes, sir.

12 MR. HAZZARD: But they all seem to refer to
13 Alexander Rhue Jr., so in those arguments I will leave
14 those -- I will defer to Mr. Voigt on behalf of his client.

15 I'm not sure if this is within the prior to the
16 first break or not, but I noticed the officer refers to what
17 he believes is a pocket dial and he says, It sounds like you
18 and he were arguing and going at it. That is the officer's
19 opinion as to how he perceives it. That is obviously
20 something for the jury to make their own determination if
21 the State decides to attempt to play that -- that recording.

22 So to allow the officer to basically inject his
23 opinion of what it sounds like I would submit would be
24 improper.

25 THE COURT: All right. Solicitor?

1 MS. RICHARDSON: Ms. Smith is going to address
2 that, Your Honor.

3 THE COURT: Okay.

4 MS. SMITH: Your Honor, Under Rule 701, there is a
5 statement, I mean, it even says it is a rationally-based
6 perception. This is what he perceived. He is not making
7 any type of opinion testimony that would require a -- a --
8 the knowledge or skill or -- or any of the other
9 requirements that would be under 702 or 703, Your Honor.

10 I believe -- I mean, you can look at somebody's
11 face -- I can look at somebody's face and say, Oh, they seem
12 to be angry, and that's not opinion testimony. That's
13 actually the basis of law school definition of
14 rationally-based perception. Here that is exactly what we
15 have. Him saying anything about them going at it, he's not
16 making any type of opinion, expert testimony, Your Honor.

17 THE COURT: Well, let me ask you one --

18 MS. SMITH: It's a rationally-based perception.

19 THE COURT: -- let me ask you one thing.

20 The example you gave me involved looking at
21 somebody's face?

22 MS. SMITH: Yes, Your Honor.

23 THE COURT: All right. This is a recording that
24 he was listening to?

25 MS. SMITH: Your Honor, yes.

1 THE COURT: So this -- okay, so this is not --
2 this is just listening to the recording and his
3 characterization of the recording; is that right?

4 MS. SMITH: Yes, Your Honor.

5 Your Honor, but you can also tell -- I mean, I do
6 believe that -- let's go with somebody -- seeing somebody
7 speed, you can say that they were speeding or your hear
8 somebody scream, there's a difference between children
9 screaming in terror and there's a difference in children
10 squealing in delight.

11 THE COURT: All right.

12 MS. SMITH: I mean, there is rational basis behind
13 this. This is just normal, it's common sense. I mean, this
14 is just something that you and I could perceive.

15 THE COURT: All right.

16 MR. HAZZARD: And I appreciate that, Your Honor,
17 if I might be heard very briefly.

18 THE COURT: Yes, sir.

19 MR. HAZZARD: The problem is why is his opinion as
20 to what the recording sounds like the lease bit relevant
21 when, I'm assuming, the jury will be able to hear the
22 recording and reach their own conclusion as to what's on the
23 recording.

24 THE COURT: And I -- and I think that the jury is
25 going to be the best folks to make a determination of

1 whether somebody is going at it and not the officer.

2 So I'm going to sustain that and we're not going
3 to -- we're not going to get into -- I'm going to sustain
4 that. So, Mr. Hazzard, we're not going to let the
5 officer -- we're not going to let the officer characterize
6 the pocket call or whatever it was and, Going at it. Okay?

7 MR. HAZZARD: As I said, Your Honor, there are
8 other matters, I will leave those --

9 THE COURT: All right.

10 MR. HAZZARD: -- to Mr. Voigt --

11 THE COURT: All right. Thank you.

12 MR. HAZZARD: --- as they are related to Mr. Rhue
13 Jr.

14 THE COURT: Mr. Voigt?

15 MR. VOIGT: Thank you, Judge.

16 I'll start specifically with those, because I
17 think after that we -- I'm pretty sure we get beyond
18 26 minutes.

19 We keep hearing his name. We heard he hopped a
20 Greyhound Bus and headed to D.C. This is all out of
21 Investigator Morris's mouth. I think that that, again,
22 that's improper. I think that he's a flight risk and it's
23 factually not true, which the -- you know, why we would
24 include something like that to mislead the jury, I don't
25 know.

1 THE COURT: Wasn't there a bunch of testimony
2 about -- about him going to D.C. and again -- get people
3 telling them that he had gone to D.C. and things of this
4 nature.

5 MS. RICHARDSON: One of his friends and on the
6 phone records the night that all of this occurred, the night
7 of 2/25 to 2/26, he did send a text message to a friend
8 who's going to testify and we have copies of the message.
9 That -- something about there being a family emergency and
10 him getting out of town and going to D.C.

11 THE COURT: Well, isn't this like what we ruled on
12 earlier about lots of people calling and telling this or
13 telling them that and kind of relaying that to her. I think
14 that's substantially similar of what we argued on the first
15 video, isn't it?

16 MS. RICHARDSON: Well -- and, Your Honor, the
17 distinction would be -- and if Your Honor says that any
18 statements that Officer Morris made that says, So-and-so
19 said to me that he went to D.C., then I can see that. But
20 as far as --

21 THE COURT: Or a lot of people or sources --

22 MS. RICHARDSON: And I think you've ruled on that.

23 THE COURT: He used "sources." He used something
24 other than, I thought, a specific person. He made some
25 type -- I thought -- so anything that's dealing with

1 Sources, you know, People tell us, I don't think any of that
2 would be permissible.

3 MS. RICHARDSON: But this is a -- so this is a
4 hearsay ruling to exclude that hearsay portion that the
5 officer said from his statement. This would not go to the
6 substance -- the other issue of whether the phone records or
7 the other person who got this message actually can introduce
8 that.

9 THE COURT: You mean like --

10 MS. RICHARDSON: I think that would be competent
11 evidence against --

12 THE COURT: At another -- at another time.

13 MS. RICHARDSON: Yes.

14 THE COURT: I'm not ruling on that. I'm not
15 making any ruling on that. But as it relates to this video
16 and -- and things about, you know, sources or who told them
17 this, that they got this information about him being out of
18 town. I don't think that's appropriate, but I'm not passing
19 any judgment on other information that you may be able to
20 admit, absolutely not.

21 MR. VOIGT: Judge, there's also some talk about
22 when they were young in D.C. and whether or not Mr. Rhue
23 ever had a gun.

24 MS. RICHARDSON: I have no problem redacting that,
25 Your Honor.

1 MR. VOIGT: Okay.

2 MS. RICHARDSON: No objection whatsoever.

3 MR. VOIGT: All right.

4 THE COURT: Man, we're working. I like that.

5 MR. VOIGT: Yeah. All right.

6 THE COURT: All right. Good.

7 MR. VOIGT: And then I don't -- and -- and tell me
8 if I'm past 26 minutes, but there was a discussion that
9 Investigator Morris had about the freshness of the carpet
10 cut and his opinion as to how fresh it was. And I think it
11 was, and I think that's beyond his purview in this
12 particular argument, although that may have come at minute
13 35 or minute 40 or something like that.

14 MS. RICHARDSON: Your Honor, he is just
15 confronting her with the evidence he's seen in the house and
16 giving her a chance to explain it. And that is just simply
17 and interrogation in that regard. And her commenting on it
18 and explaining it is relevant and probative, it's just a, We
19 observed this, why?

20 THE COURT: Well --

21 MS. RICHARDSON: What time frame?

22 THE COURT: -- I agree with you, but for this one
23 thing, "the freshness." The reason he's saying it's fresh
24 is because he lifted it up and it wasn't dirty, he made --
25 that's really what he was referencing, as I recollect.

1 There was a comment about he thought it was fresh because
2 something wasn't dirty. Am I -- am I --

3 MS. RICHARDSON: Well, what he's saying is -- in
4 his statement what he said is the carpet padding itself,
5 when you look at the pictures of the room the carpet is very
6 dirty, not just with stains, but also with debris, like,
7 clearly had not been vacuumed in a while. And so that is
8 the distinction he's making.

9 There's also carpet fibers, I don't know if he
10 talked to her about those, but there are carpet fibers --

11 THE COURT: All right.

12 MS. RICHARDSON: -- laying around. So I think
13 he's just confronting her with what he --

14 THE COURT: Well, can't he do all of that except
15 just not mention "freshness"? Because to me the freshness
16 does indicate that it's new. And --

17 MS. RICHARDSON: That's what he's asking her.
18 He's asking her if it's new.

19 THE COURT: Well --

20 MS. RICHARDSON: And it's just like confronting
21 somebody who says, Well, you know, we argued. We didn't --
22 I mean, it's just confronting them. That's how you --
23 that's how you question somebody. You confront them with
24 what you've seen.

25 THE COURT: All right. Mr. Voigt, I'm going to --

1 I'm going to deny you on that. We're going to keep that in,
2 okay, sir?

3 MR. VOIGT: And it may -- like I said, it may be
4 moot, because it may roll in at minute 32 or something.

5 THE COURT: Right. And, again, this is assuming
6 that whole conversation happens before the first break.

7 MS. RICHARDSON: Yeah.

8 THE COURT: But if it does, then I'm going to
9 overrule you on that. Okay?

10 MR. VOIGT: Note my exception for the record.

11 THE COURT: Okay.

12 MR. VOIGT: Well, no, I get that you made notes.

13 THE COURT: All right. Anything -- anything else
14 he was shaking his hands back and forth, I thought that was
15 interesting, that's all.

16 All right. So anything else concerning this video
17 then?

18 MR. EDGEWORTH: One -- one final request, Your
19 Honor. And I believe this is early on, well within the
20 26-minute mark that would make this request relevant.

21 They're discussing the execution of the second
22 search warrant and the officer renders an opinion as to what
23 they found, and he specifically said, "And we found some
24 alarming stuff." And I believe that that portion of the
25 commentary, that opinion should be struck.

1 MS. RICHARDSON: Your Honor, they did find some
2 alarming stuff. And, again, they're asking her about the
3 alarming stuff they found in their house. And if it's
4 alarming to him, it's part of the investigation. I don't
5 see where the characterization of that would be
6 inadmissible.

7 THE COURT: All right. I'm going to overrule you
8 on that. Yeah. All right.

9 All right. What else? We knocked them all out?

10 MS. RICHARDSON: No, Your Honor.

11 THE COURT: All right. I'll tell you -- y'all --
12 I want the staff to know that I knew we had some -- I knew
13 that we had some motions, but I didn't know that we were
14 going to have these -- this length of motions and I
15 apologize for that to you all and to the Court Reporter.

16 And I also -- of course, we got sidetracked today,
17 folks, on the whole juror debacle and lost an hour and a
18 half there. And I'm hoping you all can stick with us just a
19 little bit longer. This is an important case. Y'all know
20 it's an important case. And I think everybody wants to
21 hopefully get this case resolved. I see several people
22 shaking their head.

23 But to the staff don't -- if you want to hold it
24 against anybody, hold it against me. I'm sorry. But we're
25 going to continue to try to work a little bit longer and may

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1 have to come in a little bit early tomorrow and try to knock
2 that out, and I think that's okay. All right.

3 All right. Solicitor, what have we got next?

4 JACKSON V. DENNO FURTHER DIRECT EXAMINATION

5 BY MS. RICHARDSON:

6 Q. So during the conversations with Ms. Rhue, you
7 left and went and interviewed Mr. Rhue Sr. at that house?

8 A. Yes, ma'am.

9 Q. Or at a house?

10 A. Yes, ma'am.

11 Q. Okay. Tell me where you encountered him.

12 A. I think it was 509 Palm Street in Georgetown City
13 limits.

14 Q. And did you take him into custody and give him a
15 ride back to station?

16 A. No, ma'am.

17 Q. Okay. He was actually there babysitting children?

18 A. Yes, sir -- yes, ma'am.

19 Q. Ms. Rhue's children?

20 A. Uh-huh.

21 Q. Okay. And did he agree to talk with you?

22 A. Yes, ma'am.

23 Q. All right. And did you -- and you went into the
24 home he was staying?

25 A. Correct.

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1 Q. And did you threaten or coerce him or force him in
2 any way --

3 A. No, ma'am.

4 Q. -- to talk with you?

5 A. No, ma'am.

6 Q. Okay. And at that point did you know that the
7 body had been recovered?

8 A. No, ma'am.

9 Q. Okay. And did he appear to be under the influence
10 or anything like that?

11 A. No, ma'am.

12 Q. Okay. And actually they were eating when you came
13 in?

14 A. Yes, they had just had breakfast.

15 Q. And did you feel that he was voluntarily talking
16 with you at that point?

17 A. Yes, ma'am.

18 Q. Okay. Let me show you what has been marked --

19 MS. RICHARDSON: Same thing as before, if anybody
20 wants to see it, State's Exhibit 4.

21 MR. VOIGT: I'll accept your stipulation.

22 MS. RICHARDSON: Okay. All right.

23 BY MS. RICHARDSON:

24 Q. So I seek to admit State's Exhibit 4 -- it was
25 recorded on a body camera?

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1 A. Yes, ma'am.

2 MS. RICHARDSON: I'd seek to admit that, Your
3 Honor, and play it for the jury.

4 THE COURT: All right. Any objection from
5 anybody?

6 MR. VOIGT: No, Your Honor.

7 MR. EDGEWORTH: No, Your Honor.

8 MR. HAZZARD: No, sir.

9 (WHEREUPON, State's Exhibit Number 4, was moved
10 into evidence for the Jackson v. Denno Hearing
11 only.)

12 MS. RICHARDSON: Or play it for you, not the jury,
13 sorry.

14 MR. HAZZARD: Before we get into that.

15 THE COURT: Yes, sir.

16 MR. HAZZARD: On behalf of Alexander Rhue Sr., in
17 reviewing this interview, which my understanding is it was
18 March 11th, 2017, at approximately 11:55 a.m., at 509 Palm
19 Street, and conducted by Sergeant Bert Powell.

20 The only matters that concerned me were at the
21 eight-minute-and-32 mark there's a reference by
22 Sergeant Powell to the police arresting Alexander Rhue Jr.
23 on a warrant the following morning. And when I say, the
24 following morning, that's February 26th, because the State's
25 theory is everything that happened in this case happened on

1 the evening of February 25th.

2 So he's referring to having arrested Alexander
3 Rhue Jr. on a warrant the following morning, February 26th,
4 and there is no context there. And we would submit that
5 that would be inappropriate.

6 The Court has basically ruled on the other
7 concerns I have by admitting the results of the search
8 warrant. Because at the nine-minute-15-second mark,
9 Sergeant Powell references going into the house with a
10 search warrant. At the nine-minute-30-second mark he
11 references spots that are cut out of the carpet in Tiesh's
12 bedroom. That's obviously something that the State will be
13 allowed to get into through the course of it.

14 And at the 20-minute mark, my client says he wants
15 to go straighten the house up, and Sergeant Powell says,
16 "they," meaning the police, have the keys, but he doesn't
17 have them with him.

18 What's going to be significant for our purposes is
19 not an objection. With regard to the obstruction of justice
20 charge, I believe the obstruction of justice charge is based
21 on the allegation Mr. Rhue Sr. gave misinformation to the
22 police regarding the whereabouts of Mr. Rhue Jr.

23 At about the 13-minute-32nd mark, my notes
24 indicate my client says, He does not know where Jr. is. He
25 says that Jr. left yesterday March 10th, without calling Sr.

1 And then he goes on to talk about they couldn't get into the
2 house, because the police took the keys after conducting the
3 search warrant.

4 So I don't -- particularly, based on the Court's
5 prior rulings, I do not have a particular objection. To the
6 statement of March 11th, 2017.

7 THE COURT: Solicitor?

8 MS. RICHARDSON: Your Honor, and the State would
9 agree to redact -- I think you've already ruled about the --
10 any reference to Mr. Rhue Jr. being arrested or having a
11 warrant. The only thing I would -- and it wouldn't have to
12 be in this statement, but with law enforcement, I would
13 probably want to bring out in their testimony just the fact
14 that they knew he was there the next day. And we can figure
15 out how to catch that.

16 THE COURT: I don't think that's a -- is that an
17 issue, sir?

18 MR. HAZZARD: No. If they can independently prove
19 what they're saying, obviously, I cannot object in that
20 regard.

21 One other matter, and I do not -- I've never
22 addressed this before, I have no idea how the Court will
23 address it, during the course of Sergeant Powell's
24 interview, Mr. Rhue Sr. isn't the only person present and
25 isn't the only person who was talked to. Because at about

1 the 10-minute-and-15-second mark, he talks with Jermayne,
2 and Jermayne makes a statement for approximately
3 two-and-a-half to three minutes.

4 So I don't think that would necessarily be
5 appropriate for the jury to consider.

6 THE COURT: Solicitor?

7 MS. RICHARDSON: Your Honor, we can redact the
8 conversations with Jermayne.

9 THE COURT: All right. So you can agree to redact
10 the conversation with Jermayne. And also to take out the
11 information about the warrant?

12 MS. RICHARDSON: Yes.

13 THE COURT: All right. Anything -- anything else,
14 Mr. Hazzard? Does that address it?

15 MR. HAZZARD: If the Court will give me one moment
16 to check my notes.

17 THE COURT: Yes, sir.

18 MR. HAZZARD: The only other thing that came to my
19 attention is that the recording is not a full and complete
20 recording. It is a little over 30-minutes long -- oh, no, a
21 little over -- a little over 20-minutes long. Because I
22 noted that it stopped at the 20-minute 45-second mark and
23 then it starts back. But I also noted that Sergeant Powell
24 is actually still talking when he turns off the body cam.
25 There is no standard conclusion to the interview.

1 As the Court knows, normally, at the conclusion of
2 an interview the officer says, Okay, now the time is this
3 time on this date, this concludes the interview. He is
4 literally still talking when he turns off the body camera.

5 So I have no idea what is said after that point or
6 whether he intends to testify to some other statement that
7 was allegedly made after that point.

8 MS. RICHARDSON: No additional testimony regarding
9 any statements made after that point, Your Honor.

10 THE COURT: All right. So we've got an agreement
11 then as it relates to the content of the video, at least as
12 far as you're concerned Mr. Hazzard?

13 MR. HAZZARD: That's correct, Your Honor.

14 THE COURT: All right. What about it, Mr. Voigt?

15 MR. VOIGT: With the redactions concerning my
16 client I'm in agreement as well, Your Honor.

17 THE COURT: Mr. Edgeworth?

18 MR. EDGEWORTH: Likewise, Your Honor.

19 THE COURT: All right. And so as far as -- as far
20 as no -- no concern concerning the voluntariness of this
21 statement? None?

22 MR. HAZZARD: No, sir. No concerns --

23 THE COURT: I want to make sure I get that on the
24 record, sir.

25 MR. HAZZARD: Yes, sir. No concerns with regard

1 to the voluntariness of the statement. And I would say, for
2 the record, with regard to statements made about the search
3 warrants or search warrants, I posit it based on the Court's
4 previous rulings in that regard --

5 THE COURT: I understand.

6 MR. HAZZARD: -- by saying I agree to having it
7 come in through the recording. I'm not saying that I
8 withdraw the objection previously made with regard to the
9 search warrants. I still stand on those objections.

10 THE COURT: All right. I understand that.

11 MR. HAZZARD: But based on the Court's previous
12 rulings and knowing that there will be testimony regarding
13 search warrants as the case goes forward, no, for the
14 purposes of this recorded interview, no, I don't have any
15 objections.

16 THE COURT: All right. Solicitor, as it relates
17 to the stipulation based -- I consider the stipulation that
18 Mr. Hazzard's made, as it relates to the voluntariness of
19 the statement, would there be anything -- I'm assuming you
20 don't oppose that?

21 MS. RICHARDSON: No, Your Honor.

22 THE COURT: All right. And so as a result of
23 that, would there be anything that would prohibit me from
24 accepting that stipulation without listening to or any
25 further inquiry? I want to make sure that the State is of

1 that opinion.

2 MS. RICHARDSON: Yes, Your Honor.

3 THE COURT: All right. In that case we will
4 consider that stipulated to. Great. Thank you. Thank you,
5 Mr. Hazzard, I appreciate it.

6 All right. Let's take five minutes and then we'll
7 come right back, okay? Thank you.

8 (WHEREUPON, there was a break taken from 6:39 p.m.
9 until 6:46 p.m.)

10 THE CLERK: All rise.

11 THE COURT: All right. Thank you, you can be
12 seated.

13 Solicitor, what's next?

14 MS. RICHARDSON: Your Honor, just sort of a
15 housekeeping thing. We have a different officer who took
16 the statement on Alexander Rhue Jr. He was kind of on
17 standby, so I haven't called him and told him to come back
18 up here yet. Do you want to try to do that one tonight or
19 that one in the morning?

20 THE COURT: Well, let's just go with who we've got
21 right here. All right?

22 MS. RICHARDSON: Okay.

23 THE COURT: And we'll see about doing that in the
24 morning. Or who knows, hope springs eternally, you all
25 might be able to work something out on that, you just never

1 know.

2 MS. RICHARDSON: Well, we were talking.

3 THE COURT: And that's what I like to hear.

4 But, no, let's just go ahead with what you've got
5 and with him here and we'll keep going. Is that all right?

6 MS. RICHARDSON: That's all right.

7 THE COURT: Okay.

8 MS. RICHARDSON: And I'm going to lead a little
9 through this to kind of get to the interviews.

10 JACKSON V. DENNO HEARING FURTHER DIRECT EXAMINATION

11 BY MS. RICHARDSON:

12 Q. So after that interview of Tiesh, you left and
13 went and interviewed Mr. Rhue and Jermayne. After that, the
14 body was found later that -- or sometime that day; is that
15 right?

16 A. Yes, ma'am.

17 Q. And then the body was identified as Mr. Leon
18 Harrison Jr. on March 14th; is that right?

19 A. Yes, ma'am.

20 Q. And then the other search warrant of the house,
21 that we've already had the motions on, was on March 14th, as
22 well, and that's the one where you did the affidavit?

23 A. Is this the one you're referring to is where all
24 of us went back with the county officer?

25 Q. Right. Right.

1 A. Yes, ma'am.

2 Q. Okay. And after that on March 15, did you and
3 Investigator Morris go back to the residence at
4 1015 Highmarket Street?

5 A. What date?

6 Q. March 15th.

7 A. Yes, we did.

8 Q. Okay. And that was for the purposes of
9 photographing some scratches on Ms. Rhue's face?

10 A. Yes, ma'am.

11 Q. And you ended up -- you ended up talking to
12 Mr. Rhue Sr.?

13 A. Yes, ma'am.

14 Q. Okay. And how did that come about?

15 A. He came up as we were talking to Ms. Tiesh.

16 Q. Okay. And did he volunteer and engage in
17 conversation with you?

18 A. He pulled up and I think I acknowledged him and we
19 started talking and while we were talking I asked him about
20 the fight that she had gotten into.

21 Q. Where she said the scratches came from?

22 A. Correct.

23 Q. And this was recorded on body camera?

24 A. Yes, ma'am.

25 Q. And did you -- and you did ask him some questions?

1 A. Yes, ma'am.

2 Q. And this occurred outside in the yard?

3 A. Yes, ma'am.

4 Q. Was he handcuffed?

5 A. No.

6 Q. Was he in any sort of custody by you?

7 A. No, ma'am.

8 Q. And you were actually just out in his yard?

9 A. Correct.

10 Q. And did you threaten, promise, or coerce him to
11 get him to talk to you?

12 A. No, ma'am.

13 Q. Okay. And did he appear to understand what was
14 going on?

15 A. Yes, ma'am.

16 Q. And he was able to answer your questions?

17 A. Yes, ma'am.

18 Q. And did he appear to be under the influence at
19 that time?

20 A. No, ma'am.

21 Q. And previously you have watched that body camera
22 video?

23 A. Yes, ma'am.

24 MS. RICHARDSON: And I believe -- is everybody
25 going to stipulate to that, that would be State's Exhibit

1 Number 5 being played -- admitted for the purposes of this
2 hearing and played for the jury -- I mean, for the Judge?

3 MR. HAZZARD: Without objection.

4 MR. VOIGT: Without objection.

5 MR. EDGEWORTH: No objection.

6 THE COURT: All right.

7 (WHEREUPON, State's Exhibit Number 5, was moved
8 into evidence for the Jackson v. Denno Hearing
9 only and played. Not transcribed herein.)

10 MS. RICHARDSON: Answer any questions that the
11 other attorneys may have in regard to this statement.

12 THE COURT: Mr. Hazzard?

13 MR. HAZZARD: No questions, Your Honor.

14 THE COURT: All right. Mr. Voigt?

15 MR. VOIGT: No, questions, Your Honor.

16 MR. EDGEWORTH: None, Your Honor.

17 THE COURT: All right. I think clearly this is
18 voluntary. He was at the home. Seemed to be at complete
19 ease as he answered the officer's questions. And, to that
20 extent, I find this voluntary and admissible.

21 JACKSON V. DENNO HEARING FURTHER DIRECT EXAMINATION

22 BY MS. RICHARDSON:

23 Q. Ms. Tiesh Rhue was also interviewed that day as
24 well?

25 A. Yes, ma'am.

BERT POWELL- JD F. DIRECT BY MS. RICHARDSON

1 Q. Okay. And that was more by Officer Morris?

2 A. Yes, ma'am.

3 Q. Okay. And then on March 22nd, did you conduct
4 another interview with Tiesh Rhue?

5 A. You said the 22nd?

6 Q. Yes. Can I refer you to Page 60 on the incident
7 report if that will help you.

8 THE COURT: Page 60?

9 THE WITNESS: Page 60?

10 BY MS. RICHARDSON:

11 Q. Uh-huh.

12 A. Yeah, I'm showing it says the 23rd.

13 Q. Okay. And you and Investigator Morris interviewed
14 Ms. Rhue?

15 A. Yeah, I see what you're talking about at the
16 bottom. Yes, ma'am, we did.

17 Q. And was she under arrest at that time?

18 A. I don't think we had arrested her yet.

19 Q. And did you -- do you recall how she got to the
20 police station? And if you don't that's, okay. Do you
21 recall?

22 A. I don't.

23 Q. You have you've previously reviewed this
24 interview?

25 A. Yes, ma'am.

BERT POWELL- JD F. DIRECT BY MS. RICHARDSON

1 Q. And, again, this is State's Exhibit Number 7, and
2 you had initialed that you have reviewed it? You
3 initialed -- let me show you State's Exhibit Number 7. Did
4 you initial that indicating that you reviewed that?

5 A. Yes, ma'am.

6 Q. Okay. And would it refresh if we go ahead and
7 just play this interview?

8 A. Yes, ma'am.

9 MS. RICHARDSON: Your Honor, at this time I'd move
10 State's Exhibit Number 7 and offer to publish this -- this
11 last interview with Ms. Rhue.

12 THE COURT: That's fine.

13 (WHEREUPON, State's Exhibit Number 7, was moved
14 into evidence for the Jackson v. Denno Hearing
15 only and played. Not transcribed herein.)

16 THE COURT: I can't hear what she's saying. So,
17 we've got to -- I can't hear what she's saying.

18 MS. RICHARDSON: Still can't hear, Your Honor?

19 THE COURT: No. I don't understand what she's
20 saying. I'm sorry, we've got to -- the other ones you could
21 work to hear.

22 MS. RICHARDSON: Yeah.

23 THE COURT: This one, I can't even work to hear
24 it.

25 MS. RICHARDSON: I'll try a different media player

1 and see if that helps. Because I can hear it on mine.

2 (WHEREUPON, State's Exhibit Number 7, continued
3 playing.)

4 THE COURT: All right. I can hear it.

5 MS. RICHARDSON: You can hear that? It may just
6 be the beginning.

7 THE COURT: Back it up, that' would be great.
8 Thank you.

9 (WHEREUPON, State's Exhibit Number 7, continued
10 playing.)

11 THE COURT: Can't hear it. Can't hear it,
12 Solicitor.

13 MS. RICHARDSON: Your Honor, I'm going to have to
14 get a separate speaker.

15 THE COURT: Okay.

16 MS. RICHARDSON: It looks like it's just the
17 beginning of it is low volume. Do you want me to go get
18 that?

19 THE COURT: Well, let me ask you. So, if you go
20 further into the interview, you can hear it?

21 MS. RICHARDSON: I've always been able to hear it
22 on my computer, but I didn't realize over the sound system
23 it was doing that. But honestly a lot of times when I'm
24 listening to it I have on headphones.

25 THE COURT: Well, I mean, what else you got? I

1 mean, where's your speaker?

2 MS. RICHARDSON: It's downstairs.

3 THE COURT: Well, this is worthless, because I
4 can't hear it.

5 MS. RICHARDSON: Okay.

6 THE COURT: So however you want to fix it, but
7 we're going to go until 7:30. Okay?

8 MS. RICHARDSON: Okay.

9 THE COURT: And then I don't know.

10 MS. RICHARDSON: All right. I'll go get that and
11 be right back.

12 THE COURT: Thank you.

13 (WHEREUPON, there was a brief pause in the
14 proceedings.)

15 MS. RICHARDSON: Is that good?

16 THE COURT: I can hear it.

17 (WHEREUPON, State's Exhibit Number 7, continued
18 playing.)

19 THE COURT: Just keep playing it.

20 (WHEREUPON, State's Exhibit Number 7 continued
21 playing. Proceedings resumed as follows.)

22 BY MS. RICHARDSON:

23 Q. And she did leave after that interview?

24 A. Yes, ma'am.

25 Q. All right. Please answer any questions the other

BERT POWELL - JD CROSS BY MR. VOIGT

1 attorneys may have for you.

2 THE COURT: All right. Mr. Hazzard.

3 MR. HAZZARD: Your Honor, I don't have any
4 questions for Sergeant Powell. I just have motions to
5 exclude.

6 THE COURT: All right. Let me -- anybody else
7 have any questions of the officer?

8 MR. VOIGT: I really want to.

9 THE COURT: I've done nothing but give everybody
10 an opportunity to voice everything they want to today. I'm
11 not going to stop now. If you want to ask a question --

12 MR. VOIGT: I get it. I get it. I just -- I
13 think I'm going to have plenty of time, but let's let me ask
14 you a couple of questions.

15 THE COURT: Okay.

16 JACKSON V. DENNO HEARING CROSS-EXAMINATION

17 BY MR. VOIGT:

18 Q. When Investigator Morris left the room, was it
19 your intention to continue to engage with Ms. Rhue?

20 A. No, sir. We just happened to start talking.

21 Q. And you got a lot of expertise in blood stains, is
22 that what I'm led to believe?

23 A. How do you mean?

24 Q. You don't have any expertise in blood stains,
25 that's what I mean.

BERT POWELL - JD CROSS BY MR. VOIGT

1 A. I wouldn't call myself an expert, no.

2 Q. No. You're not an expert. You have no idea how
3 much blood was used to cause that stain, do you?

4 A. It was a lot.

5 Q. You have no idea how much blood that was, do you?

6 A. I would say it was a pretty good bit of blood.

7 Q. Do you know how many milliliters it may have been?

8 A. I have no idea.

9 Q. Do you know the viscosity of blood?

10 A. I sure don't.

11 Q. Do you know the properties of that particular
12 plywood subflooring, if it's been treated with any chemicals
13 or anything like that?

14 A. No.

15 Q. Now, as a police investigator, that's exactly the
16 sort of thing you would ask an expert to do, right?

17 A. Possibly.

18 Q. Right. So you left that room because you made a
19 big deal about -- I mean, you were talking about the tracing
20 and how it shrank as it dried. You didn't show her a
21 picture though of the actual padding, did you?

22 A. I don't think there was a picture of the padding
23 in the -- I don't think the padding was in that picture.

24 Q. Right. And you went there, you knew that blood
25 stain was there when you started those questions, right?

BERT POWELL - JD CROSS BY MR. VOIGT

1 A. Well, we already had pictures of it.

2 Q. You had pictures of it. You and Investigator
3 Morris had talked about how you were going to crack Ms. Rhue
4 during -- you were going to show her some pictures, you were
5 going to show her all of that, right?

6 A. I don't know if we talked about that.

7 Q. That was an organic strategy that you came up
8 with, kind of like spur of the moment with all your
9 extensive interview technique training?

10 A. We did want to question her about it, yes.

11 Q. And you did.

12 A. Yeah, we did.

13 Q. And when did you decide -- you knew she was guilty
14 of something when you walked in there, right?

15 A. Well, no, not yet. We were still trying to find
16 out who did what. Or how blood got in her bedroom. How her
17 husband's blood got in her bedroom.

18 Q. We got -- at the end of that we're saying, You did
19 or you know who did it, right? That's what Investigator
20 Morris is saying, right? We just listened to it, it wasn't
21 --

22 A. That's -- that's what he said. I heard her --

23 Q. That's what he said. And you believe that too,
24 right? You were on the same page.

25 A. Yeah, I believe either she done it or she knows

BERT POWELL - JD CROSS BY MR. VOIGT

1 who done it.

2 Q. Right. And you knew that before you started
3 asking her questions, right?

4 A. I believe I probably felt that way, yes.

5 Q. All right. And you didn't advise her of her
6 Miranda rights knowing that you believed, as one of the two
7 people most principally involved in the investigation of
8 this, what we're going to call homicide --

9 A. Uh-huh.

10 Q. -- at least for now -- that she either did it or
11 knew who did?

12 A. She has to.

13 Q. You think she had to?

14 A. In my mind, yes.

15 Q. In your mind. And nevertheless you didn't think
16 it was important enough to ask her or read to her from a
17 card, in case you can't remember it, her core Constitutional
18 Rights involving Miranda, right? You didn't do that.

19 A. No, we didn't. She also wasn't under arrest.

20 Q. And you think that's the only time you have to use
21 Miranda --

22 A. And she --

23 Q. Oh, oh, let me finish my question.

24 THE COURT: Wait a second. Wait a second. All
25 right. You finish your question, it's just me, not a jury.

BERT POWELL - JD CROSS BY MR. VOIGT

1 All right?

2 MR. VOIGT: I'm with you.

3 THE COURT: You understand that, Mr. Voigt?

4 MR. VOIGT: Judge, I'm --

5 THE COURT: It's 8:00 o'clock. But if you'll
6 allow him to finish, and then when he finishes, you answer
7 however you want to answer assuming you understand the
8 question, okay?

9 THE WITNESS: Yes, sir.

10 THE COURT: All right. Go ahead.

11 MR. VOIGT: Judge, I just got one speed, so I do
12 this in family court, too.

13 THE COURT: Well, I...

14 BY MR. VOIGT:

15 Q. All right. So is it your belief as an
16 investigator that the only time someone has to be Mirandized
17 is when they're placed under arrest?

18 A. If we're interrogating her and she's not free to
19 leave, then we read Miranda. She was not being
20 interrogated, we were interviewing her, and she was free to
21 leave at any time. We weren't holding her against her will
22 and telling her she couldn't leave. We were asking her
23 questions. She was free to leave at any time.

24 Q. Do you remember how she got there?

25 A. I don't remember if we brought her or somebody

BERT POWELL - JD CROSS BY MR. VOIGT

1 brought her or if she came on her own.

2 Q. Have many --

3 A. She was free to leave at any time.

4 Q. Okay. How many interactions with her had you had
5 at that point?

6 A. That was probably four, maybe.

7 Q. Okay. In what time --

8 A. Four or five.

9 Q. -- in what time period are we talking about these
10 four or five?

11 A. I think this one was in -- the other date, maybe,
12 because was on the 22nd and I think the first time we talked
13 to her was the 10th, maybe, so 12 days.

14 Q. So about once every three days you're having a
15 conversation with her. And we've seen them and they tend to
16 be about the same subject, right?

17 A. Uh-huh.

18 Q. Okay. And you don't think that's an
19 interrogation?

20 A. We're asking her a question, she's free not to
21 answer and she's free to leave.

22 MR. VOIGT: Okay. I have nothing further.

23 THE COURT: All right. Any other questions for
24 the Officer?

25 MR. EDGEWORTH: Briefly, Your Honor.

BERT POWELL - JD RECROSS BY MR. EDGEWORTH

1 THE COURT: Yes, sir.

2 JACKSON V. DENNO HEARING CROSS-EXAMINATION

3 BY MR. EDGEWORTH:

4 Q. Obviously you were present during that interview,
5 slash, interrogation?

6 A. Yes.

7 Q. Okay.

8 A. I was there.

9 Q. And do you recall that just before Investigator
10 Morris left that she asked whether or not she should get an
11 attorney?

12 A. I don't remember hearing that. And I don't see it
13 in my notes here.

14 Q. Do you not recall her mentioning having an
15 attorney before Investigator Morris left the room to go
16 get -- to go the picture?

17 A. I do not, no.

18 Q. You do not recall?

19 A. No, sir.

20 Q. Do you recall whether or not that was a strategy
21 you all implored if she were to ask for an attorney one of
22 you would leave?

23 A. I don't think so.

24 MR. EDGEWORTH: No further questions.

25 THE COURT: All right. So there's some motions?

BERT POWELL - JD RECROSS BY MR. HAZZARD

1 I'm happy to hear from you, Mr. Hazzard.

2 Anything -- well, anything further, Solicitor?

3 I'm sorry.

4 JACKSON V. DENNO HEARING FURTHER DIRECT EXAMINATION

5 BY MS. RICHARDSON:

6 Q. Every time that you interviewed her, she left
7 afterwords; is that right?

8 A. Correct.

9 Q. Okay. And when -- at the end of the interview
10 when she clearly asked for an attorney, you all ended the
11 interview at that time?

12 A. When she said she wants to talk an attorney, you
13 see we immediately stopped what we're doing, and get up and
14 walk out.

15 Q. Okay. And did you in any way try to prevent her
16 from getting an attorney?

17 A. No, ma'am.

18 Q. Thank you. No further questions.

19 THE COURT: Any questions of this witness?

20 MR. HAZZARD: Yes, sir. very briefly.

21 THE COURT: All right.

22 MR. HAZZARD: May it pleases the Court.

23 JACKSON V. DENNO HEARING RECROSS-EXAMINATION

24 BY MR. HAZZARD:

25 Q. So you indicated that Ms. Rhue was free to leave

BERT POWELL - JD RECROSS BY MR. HAZZARD

1 at any time?

2 A. Yeah.

3 Q. Where on that recording did you advise her that
4 she was free to leave at any time?

5 A. I don't know if we did on the recording or not.

6 Q. Well, on any of the recordings did you advise her
7 that she didn't have to speak to you and she was free to
8 leave at any time?

9 A. I don't know if we did on any recording.

10 Q. Yes, sir. And each time, after the first time
11 that she was there, she's there for the purpose of hopefully
12 retrieving her cell phones; isn't that correct?

13 A. I know she asked about them.

14 Q. Yes, sir.

15 A. Uh-huh.

16 Q. After the first time when you seized her cell
17 phone, she asked about them each time, didn't she?

18 A. Yeah, I think it was. I don't know if she did on
19 this one.

20 Q. Because the purpose of her coming there was to
21 retrieve her cell phones; isn't that correct?

22 A. I don't know if it was the purpose of her coming
23 there. We asked her to come there and talk to us, yeah.
24 And when she was there she did ask for her cell phones.

25 Q. You asked her to come there and talk to you and

BERT POWELL - JD RECROSS BY MR. HAZZARD

1 she said, Hey, if I come down there, can I get my phones
2 back? Did you tell her no before she came there?

3 A. I don't remember her asking me that.

4 Q. Well, you recall her asking about the phones
5 correct? There's no questions that she asked about them.

6 A. Yes, sir. Each -- when we were in the interview,
7 yeah.

8 Q. But it's your sworn testimony before this Court,
9 when you would call this woman the second time, the third
10 time, the fourth time, in a 12-day period and say, Hey, we
11 want you to come and talk about whatever we've already
12 talked about, that she never said, Oh, by the way, can I get
13 my cell phones back?

14 A. I don't know if she did or not, Mr. Hazzard.

15 Q. You don't know?

16 A. I don't know if she did or not.

17 Q. So she didn't speak to you before she came down?

18 A. She may -- she could have spoken to Investigator
19 Morris or me, but I don't recall her asking me, personally,
20 Hey, can I get my cell phone when I come there, other than
21 when we were talking in the interview room.

22 Q. So you don't recall, but you don't deny that she
23 did?

24 A. Well, I don't know if she did or not.

25 Q. But you don't deny that she did?

BERT POWELL - JD RECROSS BY MR. HAZZARD

1 MS. RICHARDSON: Your Honor, this is -- this has
2 been asked and answered. He's asked the same thing over and
3 over.

4 THE WITNESS: How can I answer that --

5 THE COURT: Hold on.

6 MR. HAZZARD: I haven't gotten an answer.

7 THE COURT: Hold on. Let's -- I'm going to -- I'm
8 going to overrule your objection.

9 Ask your question and then we'll listen for an
10 answer. Go ahead, sir.

11 BY MR. HAZZARD:

12 Q. So you don't recall whether Ms. Rhue asked,
13 regarding her cell phones --

14 A. Me --

15 Q. -- before she came --

16 THE COURT: Woah, woah, sir, sir.

17 THE WITNESS: I'm sorry.

18 THE COURT: Sir.

19 THE WITNESS: I'm sorry.

20 THE COURT: He's going to ask a question, when he
21 finishes the question, then you're going to answer the
22 question assuming you understand it, okay?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right.

25 Mr. Hazzard, go ahead.

BERT POWELL - JD RECROSS BY MR. HAZZARD

1 MR. HAZZARD: Thank you. Your Honor, may it
2 please the Court.

3 BY MR. HAZZARD:

4 Q. So your testimony is you do not recall whether the
5 second time, the third time, and the fourth time, you
6 requested that Ms. Rhue appear at the police department, you
7 don't recall whether she asked about retrieving her cell
8 phones?

9 A. Okay. Before she came down?

10 Q. Yes, sir.

11 A. I do not.

12 Q. Okay. Because there's no question she asked about
13 it after she was there?

14 A. Correct.

15 Q. Okay.

16 MR. HAZZARD: No further questions.

17 THE COURT: All right.

18 Anything further, Solicitor, regarding the
19 testimony?

20 MS. RICHARDSON: No, Your Honor.

21 THE COURT: Or questions you may have of the
22 witness?

23 MS. RICHARDSON: No, Your Honor.

24 THE COURT: Okay. All right. All right.

25 Motions, Mr. Hazzard?

1 MR. HAZZARD: Your Honor, with regard to the
2 motion to suppress the statement I will leave that to
3 Mr. Edgeworth as it is his client. I would simply point
4 out, the Court knows where I'm going as we've seen this same
5 improper line of commentary questioning throughout the
6 course of these. And I would submit that the impermissible
7 hearsay, slash, commentary as determined to be inappropriate
8 by our South Carolina Supreme Court should be excluded.

9 They -- they tell her that they have sent the
10 voice mail to a company that they use and that they can hear
11 her calling for her father and that it sounds like an
12 altercation in the background. As we've previously
13 discussed, the jury can hear that and make their
14 determination of what they perceive, they don't need the
15 characterization of the officer to be given as this
16 recording being used as a vehicle for that.

17 Then they talk about the brother and the father's
18 phones on the move at 2:00 a.m. If they have evidence of
19 that through some for of expert testimony, I would submit
20 that would be the appropriate time for that.

21 They say how Mr. Harrison Jr.'s phone never leaves
22 the house. Again, I would submit that is hearsay, because
23 that's not something this witness would know. Either he's
24 trying to trick Ms. Rhue or he's repeating something that
25 he's been told from someone else.

1 Their characterization of the blood found on the
2 padding floor and the subfloor belongs to Mr. Harrison Jr.,
3 I would think would be inappropriate. Again, if they have
4 and can have sufficient and admissible expert testimony to
5 that regard, then that would be the appropriate time.

6 Their characterization there was spots of blood
7 going out the back door, I find that very interesting, but I
8 would submit that that characterization is something for the
9 jury based on the photographs, things of that nature, and
10 appropriate testimony at that time, not the vehicle of the
11 recorded interview.

12 Their characterization of this is a significant
13 amount of blood. I don't think their characterization of
14 how much blood it is, is appropriate. As you heard
15 Mr. Voigt touch on in his cross-examination, these officers
16 have absolutely no idea how much blood it is. So for them
17 to be allowed to say to the jury by way of this recording
18 that this is significant amount of blood. Again, their
19 characterization, I would submit is inappropriate.

20 Their characterization that, There's blood on the
21 walls that somebody cleaned up, I would submit is
22 inappropriate. If they have an expert who can testify to
23 that regard, then I would submit that would be appropriate,
24 not their characterization of what they perceive for walls
25 of the house to show.

1 Then we get to the, We heard that. And what the
2 Court will hear throughout the course of this trial is there
3 is literally a ton of, Word on the street says, but, yet, no
4 one can ever name, basically, who the word comes from. But
5 the characterization, We heard that Mr. Harrison Jr. gave
6 you a venereal disease and that that information came from
7 your brother, I would think is very inappropriate.

8 And then they're talking about, Yeah, we got
9 this -- the actual characterization or verbiage is, Oh, this
10 stuff is coming in from all over. Again, the statement of
11 you know, So many people are telling us so many things.

12 Then they say, People are saying this stuff, we're
13 just telling you what we heard. And then again the
14 characterization of being a significant amount of blood.

15 THE COURT: All right. Let me ask, you got an
16 expert that's going to say that the blood had been erased?

17 MS. RICHARDSON: I've got an expert who will say
18 that there's evidence of cleaning with some of the blood,
19 yes.

20 THE COURT: Okay.

21 MS. RICHARDSON: On the floor.

22 THE COURT: What about on the wall?

23 MS. RICHARDSON: On the wall, no, not that an
24 expert would say that, but it would just be...

25 THE COURT: All right.

1 MS. RICHARDSON: Your Honor, from what I'm
2 gathering, he's got, I guess, three different types of
3 objections. There's the hearsay objection, the
4 characterization objection, maybe there's just two. And
5 than, again, What we've heard that sort of thing.

6 I mean, that's how police interrogation is, You
7 tell somebody your fingerprint is in the house. Your -- you
8 know, we found the stolen property in your car. I mean,
9 that's how you confront them with the evidence that you've
10 gathered.

11 THE COURT: Well, I understand that. But, you
12 know, what happens is you gather and then you make up some
13 stuff and then what happens is that stuff ends up being --
14 comes before the jury. I mean, he basically said that
15 someone tried -- as I heard it -- someone tried to basically
16 remove blood from the wall. That's what I heard. And so
17 that's just not -- there's no evidence of that, no expert
18 testimony. He doesn't know. That's what their guess is.

19 And so that goes unchallenged, then it just sort
20 of floats in there and the jury is going to hear that
21 somebody tried to scrub the blood from the wall, when we
22 don't have any evidence of that, no expert testimony of
23 that. And the only testimony of an officer who doesn't have
24 anything -- doesn't have any experience to really say that's
25 the case.

1 Am I wrong there? I'm listening. That's what I
2 heard.

3 MS. RICHARDSON: I don't know that you have to
4 have an expert to say that there was efforts of cleaning. I
5 mean, when you look at the way some of it looked on the
6 wall. But you know they -- the police are allowed to do
7 certain things, but they're also allowed to confront them
8 with the steps of their investigation.

9 I mean, under this argument, telling somebody
10 their fingerprint has been found would be hearsay.

11 THE COURT: Yeah, but we're not talking about
12 that.

13 MS. RICHARDSON: We're not, we're talking about
14 DNA match of the blood --

15 THE COURT: We're talking about something that's
16 in a whole 'nother league than a fingerprint in a house.

17 But -- but -- but that having said, let's do this:
18 He's not making -- he was only bringing up those issues.

19 You got a motion to make?

20 MR. EDGEWORTH: Yes, Your Honor.

21 THE COURT: All right. Let's make -- let's
22 hear -- let me hear that motion, first. Because depending
23 on what I think his motion may be, it may be dispositive of
24 some of these issues that Mr. Hazzard's bringing up.

25 So let me hear from you, Mr. Edgeworth.

1 MR. EDGEWORTH: Thank you, Your Honor.

2 Once again, I'm asking the Court to exclude the
3 statement in total. And the reason being is that we're here
4 again with this duplicative attempts by law enforcement to
5 circumvent Miranda. They have -- they have gone through at
6 this point we're 11, 12 days in, and they're even telling
7 the witness that, We've heard this, we've heard that, we've
8 gathered all this stuff -- and they I think there's even a
9 comment in one of -- it might have even in the previous
10 statement, it was like, You, you're at the top of our list.

11 You know, so to sit here and say now that we can
12 continuously have her come in, ask her to go over it all
13 over again at the very beginning of this thing, and I think
14 this kind of proves the point that Mr. Hazzard was making,
15 you know, she's coming in under the -- under the guise of
16 trying to be cooperative, she wants her phone, she wants to
17 move on with her life.

18 And then she gets there and they say we need to
19 talk about this all over again. And in the very beginning
20 of this statement, Investigator Morris acknowledges her, I
21 know you're getting tired of this. And she says, I don't
22 want to talk about this again. Yet, they trudge on until
23 she gives in again and starts talking about this stuff. And
24 then that's when they start imputing their own theory, which
25 is the other arguments that Counsel is making about how

1 they're characterizing the evidence or what they claim to be
2 the evidence.

3 And then they get to the point where she asks for
4 an attorney. And I think she asked for an attorney, and her
5 words were not so specific, but she said, I think I should
6 ask for an attorney or, Should I ask for an attorney?

7 And that's when Investigator Morris leaves the
8 room, that's at approximately the, I think, the 22-minute
9 mark, and leaves for a while, and Investigator Powell
10 recommences the conversation.

11 They're just circumventing every single
12 Constitutional Right that Ms. Rhue has in this regard. And
13 I think that not only is it improper, but it's a little bit
14 despicable in that regard, because they know they're doing
15 it, they've heard the story already. Her story hasn't
16 changed. They keep on bringing her back in after they're
17 doing this investigation.

18 And to say that she's not -- she's not being
19 interrogated would be beyond belief. But I think that in
20 that particular case. And once they got to the end, they
21 already confronted her with this picture now, and they've
22 spewed off all of these characterizations and trying to shed
23 light on what they believe happened. And then -- and then
24 she asked for the attorney again, there would really be not
25 point for them to continue on.

1 THE COURT: All right. All right. What I would
2 say is this -- oh, go ahead. Go ahead. Go ahead, let me
3 hear from you.

4 MS. RICHARDSON: Your Honor, I don't -- I don't
5 see anything or hear anything in the statements that
6 indicates that she was tricked to come there to get the
7 phone. Every time she's appeared she was able to leave.
8 She was not placed under arrest.

9 The point about the interrogation, and this might
10 be semantics, but what we're looking at is, Was this a
11 custodial interrogation that required Miranda?

12 You watched her. We all watched her. She walked
13 out the door. She walked out the door just like she did
14 every -- and was free to go just like she was every time
15 that she had it.

16 This is also besides when -- she was and there
17 will be another talk with her at the house where we put the
18 evidence in with Mr. Rhue Sr.

19 THE COURT: Uh-huh.

20 MS. RICHARDSON: They had also talked to her at
21 that time. But this would be the first time that she sat
22 down once they knew and she was confronted with the fact
23 that the body had been found. Because in the first few
24 interviews it was, Where is he? Where is he? You guys
25 looking for -- you know, that kind of thing. But this is

1 the first full interview after the body had been found and
2 some of the forensics had been returned. I don't see
3 where -- I mean, clearly she knew she was free to leave.

4 Now, Your Honor, there is a point where she did
5 say when they were talking about the blood, my -- my notes
6 indicate she said, At some point in time can I ask for a
7 lawyer, because I may now feel like you're trying to tell me
8 something that I don't even in no shape, form, or fashion,
9 know anything on that, and on top of that I just don't
10 believe it. And she goes on, because those things are
11 significantly big, like to where a person bled out, and I
12 just don't understand it. And that is when Officer Morris
13 left the room, but that's when he got the picture for her.

14 THE COURT: Right.

15 MS. RICHARDSON: So I -- my position on that is
16 that was not an unequivocal request for an attorney. And
17 clearly in the end, when she did make it very unequivocal
18 that she wanted a lawyer, they did quit the interrogation at
19 that point.

20 THE COURT: All right. Well, let me just say, you
21 know, as it relates to this interview, I'm going to be
22 honest, I think these guys are bumping right up against the
23 line. I think they're skilled. I think they're very
24 knowledgeable in what they're doing and it shows. When you
25 look at this video it shows that these are skilled

1 questioners who are trained in what they are doing.

2 And with that, knowing that, I think that when she
3 asked for an attorney at approximately the 6:58 mark, that
4 should have gone and -- the interview should have been
5 terminated at that point.

6 And, yes, I understand you know suspect makes
7 reference to an attorney that's ambiguous that, you know,
8 again you've got to look to the circumstances in the case
9 and I think that there's enough there, given these
10 circumstances, that at 6:50 -- approximately 6:58, whenever
11 it was when that she -- that's just what I jotted down, so
12 it could have been 10 or 15 seconds either way, I don't
13 know. But when she asks for that attorney -- the other
14 thing is one of the questions were asked, Was that a
15 strategy that when -- I believe that's one of the questions
16 that were asked -- was that a strategy that when she sort of
17 asked for an attorney, one just popped up and left and then
18 was gone for several minutes, and it's just this kind of
19 one-on-one, and the conversation picks up again.

20 You know, I think the testimony was that, We don't
21 know if that was a plan, or if that was strategy or what
22 that was. But I can tell you from my observations of
23 this -- of the job that these gentlemen have done, they know
24 exactly what they're doing and were not leaving anything
25 to -- anything to chance.

1 And so to that extent, I believe at 6:58, or
2 thereabouts when she asked for an attorney, that nothing
3 else beyond that should be admissible as it relates to,
4 again, that video. I'm not making reference -- making
5 anything that Solicitor might be able to put into evidence
6 through other witnesses, but at 6:58 or thereabouts, no.

7 My other concern is the fact that for the first
8 four minutes, I couldn't hear anything. Okay?

9 And, in fact, excuse me, when I said 6:58, I
10 apologize. At 6:58 is when I -- when I started really
11 hearing things, okay? At 22 minutes in she asked for the
12 lawyer. I apologize. It is 8:15.

13 But that's what -- so at 6:58, I apologize that's
14 about when I began to really hear the testimony. And so my
15 concern is that the first four or five minutes, I had a real
16 problem hearing testimony. And I tell you the jurors will
17 too.

18 I can tell that I don't think there was anything
19 necessarily sinister that was going on, you can look at the
20 body language and so forth as you watch it, but I certainly
21 couldn't hear that. And so, you know, that's going to be a
22 real problem that the State needs to clear up.

23 But beyond 22 minutes where she asks for a lawyer,
24 I just don't -- I just don't think it's fair to continue.
25 I'm going to rule that after 22 minutes, or thereabouts,

1 wherever that occurred, that that's not admissible.

2 As it relates to Mr. Hazzard's concerns that he
3 brought up -- Mr. Hazzard, you're going to have to briefly
4 go over those again for me because I can't remember all of
5 them. I will tell you, the vast majority of them I was
6 agreeing with, but there was one or two I didn't. That's
7 why I can't remember it, and I apologize. But you're going
8 to have to go over those again for me, sir.

9 MR. HAZZARD: Yes, sir, Your Honor. May it please
10 the Court.

11 They tell Ms. Rhue that they sent the, what they
12 refer to as the "butt dial" or "voice mail" to a company
13 that they use, and that they got it all cleaned up and they
14 can hear her calling for her father and it sounds like an
15 altercation in the background.

16 Again, the jury will be able to hear whatever the
17 recording is. And it would be inappropriate for the
18 officers to be able to give their characterization of what
19 they think the evidence shows. The evidence speaks for
20 itself.

21 THE COURT: I agree. I don't think it's
22 appropriate for the officers to give their impression about
23 what the evidence shows. The jury is going to hear it and
24 they will be in a position to make that determination.

25 MR. HAZZARD: They then assert to her that, Her

1 brother and her father's phones were on the move at 2:00
2 a.m. Again, that is their -- either they are just lying to
3 her -- which, if they are, they are -- or if this is actual
4 information they have gleaned it from another source, and
5 that source would be the appropriate source to testify
6 regarding it. Not to present it, put it in front of the
7 jury, by way of using the vehicle of this interview
8 recording.

9 THE COURT: I agree. I don't think that it's --
10 if the State has the ability through expert testimony to
11 show that the phones are moving, and assuming that gets
12 admitted, I'm sure there'll questions concerning that, then
13 certainly, that testimony will be admitted, assuming it's
14 admitted, then they can argue that to the jury and argue
15 that in close.

16 But I don't think, Solicitor, that you're going to
17 be -- I mean, you're going to be able to just have them say,
18 Hey the phones are moving, and then all of a sudden that
19 evidence doesn't come in, let's assume you've got experts to
20 show that, and that -- and the -- if that -- if that
21 evidence for some reason didn't come in, then we've still
22 got the jurors hearing that the phones are moving, but there
23 could be a reason, for instance, that I wouldn't allow that
24 testimony in. I mean, I don't understand how that could not
25 be prejudicial to them.

1 MS. RICHARDSON: Your Honor, under that reasoning
2 then no forensics that they develop in an investigation, I
3 mean, you can't have the phone person come in and ask them.
4 I mean, the police have got to be able to -- to ask about
5 the leads and the forensics that they've developed.

6 Again, I bring it back the fingerprint. I mean,
7 if they get a fingerprint, they're not the ones who usually
8 develop the fingerprint, but you would be able to ask about
9 it. It's the same type thing. Cell phone analysis is a
10 common thing now.

11 THE COURT: Right.

12 MS. RICHARDSON: And they do have -- they do have
13 expert testimony to say that the phones left the house. And
14 that --

15 THE COURT: I agree.

16 MS. RICHARDSON: -- or left that sector -- that
17 sector. So they should be able to confront her with that
18 and get her information on that. I mean, that's just --

19 THE COURT: Which they did.

20 MS. RICHARDSON: -- stages of the investigation.

21 THE COURT: Which they did. But if they
22 gleaned -- as a result of that information, if they gleaned
23 something from that, if they told her about that and they
24 got some information that could be useful, then certainly
25 they may be able to follow up on that and make reference to

1 that information, correct?

2 MS. RICHARDSON: Correct. But when a person is
3 confronted with the evidence against them their reaction and
4 if they're voluntarily talking to the police and how they
5 explain it is relevant and probative and goes -- and goes to
6 the heart of the case. I mean, if -- if you confront -- if
7 somebody says, You know, my fingerprint -- I've never been
8 in that house. Well, your fingerprint's in that house. And
9 then they come back and say, Oh, well. You know, it's that
10 sort of thing. They have to be able to -- I don't see
11 anything improper about them confronting with the stages of
12 the investigation.

13 THE COURT: Confronting them with it, but I --

14 MS. RICHARDSON: Or confronting -- confronting her
15 in an interview --

16 THE COURT: -- the jury hearing about it. There's
17 nothing wrong with the jury hearing about the various stages
18 of the investigation. That's what's going on. That's
19 what's being -- that's what's being done, is the jury is
20 basically just hearing about the various stages of the
21 investigation.

22 And, in fact, the jury is hearing about the
23 various stages of the investigation that only law
24 enforcement wants them to hear in this scenario. Because, I
25 mean, that -- that's -- I'm not --

1 MS. RICHARDSON: And she's responding to them and
2 her story does change as she's confronted with the
3 different -- the different evidence.

4 MR. HAZZARD: I do not understand what part of
5 this issue of hearsay that is not clear. By playing that
6 unredacted statement for the jury, the jury is hearing an
7 officer say, Somebody else said this, or, So many other
8 people in the community said this --

9 MS. RICHARDSON: Somebody --

10 THE COURT: Hold on. Hold on.

11 MR. HAZZARD: -- that's improperly tainting the
12 jury panel.

13 THE COURT: Well, what I'm looking at is State v.
14 Washington.

15 MS. RICHARDSON: Right.

16 THE COURT: And I'm just looking right here, it
17 says, Detective's hearsay statements and audio recording of
18 interrogation of defendant regarding why the defendant's
19 fingerprints were found at the crime scene were inadmissible
20 even if statements were offered to give the defendants
21 answers context rather than for their truth, there was no
22 context exception to the hearsay rule.

23 MR. VOIGT: If I might, Judge?

24 THE COURT: All right.

25 MS. RICHARDSON: Well, under that, can we even

1 tell her that is body was found? I mean, because that came
2 from a different source.

3 THE COURT: I'm sorry.

4 MS. RICHARDSON: I mean, can we even say that his
5 body was found the river, because that came from a different
6 source, as well. I mean, everything they're gleaning is
7 from a different source. I understand when you say, you
8 know, multiple people called and there's -- you know,
9 multiple called and said this and said that. But when
10 you're offering it -- just -- it's just the stages of the
11 investigation.

12 It's almost like you can't question her about
13 anything you learned from another source at all?

14 MR. VOIGT: If I might, Judge?

15 THE COURT: Uh-huh.

16 MR. VOIGT: And just this week, if 20 minutes goes
17 by and I haven't it interrupted somebody, please, forgive
18 me.

19 THE COURT: Believe me, if five minutes goes by,
20 I'll bring it to your attention.

21 MR. VOIGT: Oh, I know. What I believe is
22 fundamental to what the State's misunderstanding of evidence
23 law is, is that this is not a confession, this is a
24 statement. And, in fact, it's in the form of a general
25 denial. And to allow the officers to so testify as to

1 hearsay it -- it has merely the purpose of putting before
2 the jury things that the officers could not testify to from
3 the witness stand.

4 So it is merely -- it is also bolstering, in an
5 odd way, because now the State is being able to present
6 through the officers their theory that -- using information
7 that they cannot get in through those very same officers.
8 And this is a general denial. No part of that -- in other
9 words, no part of that interrogation technique led to
10 further information. The -- the witness the person being
11 interrogated did not give up any information.

12 So all this is, is a springboard for officer's
13 performance and it should not be allowed to go before the
14 jury.

15 THE COURT: All right. Give me one minute.

16 All right. All right. I'm going to think about
17 this tonight.

18 How much more have we got to do? Because, you
19 know, I'm going to be honest, these are two days worth of
20 motions. I mean, we've gone forever on this. And I --
21 folks, somebody should have brought this to my attention
22 that we had two days worth of motions, because I am not
23 going to have the jury wait. We're going to start this case
24 at 9:30 tomorrow morning, okay? And we're going to pick a
25 jury and we're going to have opening statements and we can

1 go back and finish this.

2 But, I mean, we can not sit here and have -- I
3 mean, this -- this -- this can go on for another three,
4 four, five hours. So, I mean -- I mean, Solicitor, how many
5 more videos do we have to watch?

6 MS. RICHARDSON: Four.

7 THE COURT: Well, then y'all better structure your
8 case, because I am not making this jury wait. Because the
9 other thing is we're not going to be here until next week
10 trying this case. So y'all better do some -- y'all better
11 get together and do some streamlining.

12 That's all I've got to say, because, you know.

13 All right. All right.

14 Let me tell you what we're going to do. We're
15 going to start at 8:15 tomorrow morning, okay? These folks
16 here have agreed to do that. I'm here, so it ain't no big
17 deal, but we're going to start at 8:15 and we're going to
18 try to knock out as much as we can. And then what will
19 happen is maybe we'll pick the jury and then potentially
20 have openings, maybe send them -- and if there's more we've
21 got to do -- I just don't want the jury waiting.

22 I had to do that week before last and it is just
23 not fair. I don't think they like it, and I think they --
24 they'll take it out on one or both of y'all. And so that's
25 what we're going to do. All right?

1 So see what you all can do in terms of anything
2 you can do to move that along. We'll start at 8:15 and I'll
3 see everybody tomorrow morning at 8:15.

4 Anything before we break for the evening,
5 Solicitor? Anything you need to bring up, I'm happy to
6 listen to anybody, I'm not going anywhere.

7 MS. RICHARDSON: Your Honor, and I apologize, I
8 mean, I guess I couldn't really anticipate the length of
9 this either. I've never had -- even with a three-and-half
10 hour in one of my cases had it be this lengthy. I mean,
11 it's a long case, it's a serious case. And the fact that we
12 have three Defense attorneys, of course, doesn't make it any
13 easier.

14 Your Honor, besides getting through these
15 statements, I can tell you -- and I know that there will be
16 probably extensive motions or arguing on a multitude of
17 issues. And the other things we're going to have is
18 picture, photographs, none of that's been decided. There
19 will be statements from --

20 THE COURT: Have you all not stipulated or try to
21 stipulate as to what could be admissible?

22 MS. RICHARDSON: We have not, Your Honor. We have
23 not.

24 MR. HAZZARD: The Prosecution has never indicated
25 what they intended to place into evidence.

1 MS. RICHARDSON: Well, and you've never made a
2 motion as --

3 THE COURT: Well.

4 MS. RICHARDSON: -- as far as that's concerned.

5 But I think, probably, Your Honor, what happened,
6 you know --

7 MR. HAZZARD: Make a motion for what --

8 THE COURT: Hold on -- hold on --

9 MS. RICHARDSON: -- focusing on --

10 THE COURT: Hold on, Mr. Hazzard.

11 MS. RICHARDSON: We were focusing on the motion
12 regarding the search warrant because that may have taken
13 care of a lot of this.

14 THE COURT: Well, I mean, that -- that was
15 answered last week. Well, what is your suggestion,
16 Solicitor? What is your suggestion?

17 MS. RICHARDSON: Well, I think the three of us or
18 the four of us probably need to talk and kind of get an idea
19 of what sort of timeframe that we're looking at as far as
20 the motions are concerned and when we can meet to try
21 stipulate to some of these or what sort of timeframe we're
22 talking about.

23 THE COURT: All right.

24 MS. RICHARDSON: I'm like you, I don't want to --
25 I don't want to hold the jury, and I don't like holding

1 court personnel, you know, all of us have families and other
2 things like that. And, you know, I apologize and I hate
3 that it's ended up like this. We may need to just kind of
4 sit back and find -- think about the time frame that it's
5 actually going to take and if there's any other solutions
6 that we can come up with.

7 THE COURT: All right. Anything --

8 MS. RICHARDSON: In this regard, I don't even
9 think we can finish by Friday.

10 THE COURT: Well --

11 MS. RICHARDSON: Based on the length of just the
12 cross-examinations we've had and the posturing in
13 front of -- or the arguments in front of you as opposed to
14 in front of a jury. And then you're going to be talking to
15 about sending them out and in and that sort of thing, as
16 well.

17 THE COURT: All right. Anything further from the
18 Defense before we break for the evening?

19 MR. HAZZARD: Nothing from me, Your Honor.

20 MR. VOIGT: No objection.

21 THE COURT: All right. Great. See everybody at
22 8:15. Thank you.

23 (WHEREUPON, the proceedings adjourned for the day
24 at 8:33 p.m.)
25

1 OCTOBER 12, 2021

2 (WHEREUPON, the proceedings resumed at 8:14 a.m.)

3 THE BAILIFF: All rise.

4 THE COURT: Thank you please be seated.

5 All right. Great. Thank you all for being here.

6 The last thing that we addressed yesterday and
7 basically told you I was going to take some time to think
8 about it was some of Mr. Hazzard's concerns as it relates to
9 the statement. And what I did was this: I went back last
10 night and reviewed two cases. One case is State v. Brewer,
11 411 SC 401 (2015), and that's a Supreme Court case.

12 And what I will tell you is Brewer indicates that
13 during the interrogation investigators frequently reference
14 and quoted many purported eyewitnesses to Brewer shooting
15 both victims. The evidence was hearsay, it was offered for
16 the sole purpose of proving the truth of the matter
17 asserted, that is, establishing Brewer's guilt to all
18 charges.

19 The Court goes on and says, Indeed we find no
20 support in the law for the State's argument that the
21 interrogator's statements were admissible for the purposes
22 of context or for the effect the statements had on Brewer.
23 Allowing agents to narrate the course of their
24 investigations and thus spread forgeries, damning
25 information that is not subject to cross examination would

1 go far to abrogating the defendant's rights under the sixth
2 amendment and the hearsay law -- hearsay rule.

3 It went on to state that law enforcement's ad
4 nauseam assistance that Brewer proved his innocence has no
5 place before the jury. And it's chilling that we have to
6 remind the State that an accused is presumed innocent and
7 that the State has the burden to prove guilt beyond a
8 reasonable doubt.

9 In State v. Washington, which is a 431 SC 619
10 (2020) case, indicates before Washington -- before trial
11 Washington objected to the admissibility of the audio
12 recording of the interview on three grounds, one of which
13 was hearsay. And it actually went and stated that the
14 detectives interrogation methods may have been proper, a
15 proper investigative technique, but every word uttered
16 during the out of court interview was inadmissible hearsay.

17 Washington's statement during the interview are
18 not hearsay because they are admissions of a party offered
19 against that party ruling at 1D2a. At trial the Assistant
20 Solicitor contended the McCauley's statements were not
21 hearsay, because they were not offered for the truth, but to
22 give Washington's answers context. The Court went on and
23 said, There is no context exception to the hearsay rule.

24 I believe that is exactly what we have here. I
25 think we have, basically, statements that the officer is

1 making in the interview, and those statements are statements
2 that he would not be able to make in the courtroom, i.e. the
3 Solicitor brought up the issue of fingerprints.

4 I think, certainly, he could testify that they
5 dusted for prints, they took the prints, they sent the
6 prints to SLED, or to whatever agency for analysis. Talk
7 about the chain of custody. Talk about how he got them
8 back. Talk about the fact that he got the results from
9 SLED.

10 But for him to then go and say, It's so-and-so's
11 fingerprint, I don't believe that's -- someone from SLED
12 would have to come and testify as to whose fingerprints, or
13 how they were determined to be someone's fingerprints.

14 My point in all of that is this: I don't think
15 that any hearsay contained in these statements, a lot of
16 which we -- a lot of which I ruled was not going to be
17 admissible, but I want to say for the record: Hearsay in
18 these statements are not going to be allowed to come in and
19 basically circumvent the hearsay rules where the officer
20 would not be able to testify to that in court.

21 So that having been said, you know, the purpose of
22 the hearing is basically to decide whether or not there's
23 voluntariness as it relates to the statements. And
24 basically I think yesterday we determined that the
25 things that -- everything was voluntary but for maybe I

1 think after the Defendant Ms. Rhue asked for law enforcement
2 and we stopped it there.

3 But that's, I believe, what the law states and I'm
4 going to give the Solicitor an opportunity to respond. And
5 then what I would like to do, and I'm happy to hear from you
6 gentlemen if you need to respond, but I want to find out if
7 there are issues concerning the voluntariness of the
8 remaining statements that we've got, because I'm hopeful
9 that what I've just said and I think what my ruling will be,
10 I'm going to listen to the Solicitor, will help move things
11 along.

12 Solicitor, do you have anything in response or do
13 you want to put anything on the record as it relates to what
14 I've just said?

15 MS. RICHARDSON: Your Honor, I understand -- I
16 understand that. And you said "these statements." Are
17 you -- and I don't know that we addressed that on every
18 other statement, is the rulings about what's supposed to be
19 redacted from the first statements does that still stand?

20 THE COURT: No, ma'am. What happens is this: As
21 it relates to those -- if they are hear -- if there are
22 hear -- if there's hearsay, because given the benefit of the
23 doubt to the defendants in this case, which I think I've got
24 to, I think we tried to pare down a lot of the -- a lot of
25 the hearsay yesterday.

1 And so, as it relates to that, if there -- if the
2 hearsay is gone or been pared down or it doesn't -- and it's
3 not there, then that's fine. And so if there needs to be
4 something else done as it relates to the first statement,
5 Solicitor, then it needs to be. But we can't -- I...

6 MS. RICHARDSON: Let me just bring this to the
7 Court's attention.

8 THE COURT: Go ahead. Yes, ma'am.

9 MS. RICHARDSON: This is more of a scheduling
10 issue.

11 THE COURT: Yes.

12 MS. RICHARDSON: And I feel like maybe none of us,
13 at least I didn't anticipate the length that yesterday would
14 take. I did, you know, advise the Court that we -- I think
15 I said about nine statements. There was an email chain last
16 week between all of us talking about whether these need to
17 be joined or several trials and asking for these rulings
18 regarding Bruton and Crawford and I said hearsay, and my
19 thing, I'm worried about hearsay, Crawford and Bruton.

20 And that while one those rulings, didn't want to
21 be entrapped in a situation where we're trying everybody
22 together. And with Langford and State v. Page and with the
23 things that the Chief Justice did during the pandemic, it's
24 been a little difficult as far as scheduling and that sort
25 of thing.

1 But we were up to -- we were told last week in the
2 email chain, nobody seemed to have any big concern, there
3 were no motions regarding redacting these statements or
4 excluding these statements.

5 So we came in yesterday, and of course we spent a
6 lot of time and we picked apart these statements. That's
7 something that could not be done until Your Honor ruled. We
8 were up until 3:00 o'clock in the morning preparing these
9 exhibits. And now these exhibits are no good.

10 THE COURT: Well, I don't know that they're no
11 good, Solicitor.

12 MS. RICHARDSON: Well, I don't either, but I don't
13 know when I'm going to be able to look at it, because the
14 last thing I want to do is come in here and play something
15 for Your Honor and miss something that you've just ruled on.
16 And I -- you know, I want to make sure that we do what we're
17 supposed to do, but this does cause a scheduling issue.
18 Because I want to make sure that I review it again to make
19 sure I comply with what you just ordered. And, you know,
20 we're ready to go this morning to do these statements. To
21 finish with the voluntariness if that's an issue on the
22 other ones.

23 THE COURT: All right.

24 MS. RICHARDSON: Ready to do openings. Ready to
25 pick the jury. Ready to do what we need to do.

1 THE COURT: Yes, ma'am.

2 MS. RICHARDSON: But, realistically, I can't call
3 witnesses and throw -- or even -- probably even do openings
4 on things that maybe excluded. So, realistically, that's a
5 scheduling issue. And I fear that if we start and I throw a
6 CD in today that I'm going to violate what you've ordered.
7 And I've got to have time to prep and redact that.

8 Like I said --

9 THE COURT: Well.

10 MS. RICHARDSON: -- we were up all night working
11 on that.

12 THE COURT: Not that --

13 MS. RICHARDSON: With -- and, you know, in
14 fairness, we probably all haven't gotten together the way we
15 should. But I was not aware there was going to be this many
16 issues with the statements last week. And I don't know that
17 anybody was. And, you know, it's just like we always say,
18 when you kind of get and prepare things come to you, but --

19 THE COURT: Well, let's -- let's --

20 MS. RICHARDSON: -- a lot of issues were raised
21 yesterday.

22 THE COURT: All right. Let's do this, all right.
23 Concern -- let's address the voluntariness of the remaining
24 statements. I mean, because what I -- what I -- you know,
25 we could be here a week dilly dallying over these things,

1 and I'm not doing that. And whatever you've got going, I
2 mean, it's not like I'm going to go and scold you for
3 putting on that video. I'm not that type of person to begin
4 with. But, I mean, I don't think anybody is trying to pull
5 anything over on anybody. And so, to that extent, I mean,
6 I'm not going to sit there and -- and -- and -- and jump all
7 over something as it relates to that.

8 But what I want to know is this: Let's --
9 let's -- let's move forward. What's the next statement
10 you've got to get into to. And let me just ask: Are y'all
11 all ready on these statements? Do you know whether or not
12 there's an issue concerning -- what's the next statement,
13 Solicitor?

14 MR. HAZZARD: What I will say on behalf of my
15 client is I have no idea what statements that they intend to
16 or want to introduce. And I want the record to be very
17 clear when the Prosecutor says, We were up till 3:00 o'clock
18 in the morning doing this and that and we didn't get
19 together the way we should have. My recollection is: All
20 of us were sitting in this courtroom on July 12th and the
21 Defense was ready to go forward when the Prosecutor said
22 there was possible exculpatory evidence that came to them
23 the weekend before.

24 THE COURT: Yeah.

25 MR. HAZZARD: So this whole issue of -- I've been

1 available since July 12th.

2 THE COURT: Right. But I'm -- I'm not -- let's
3 not waste valuable time. I'm not passing judgment on
4 anybody being available or not being available. What I want
5 to know is you have a copy of all of the statements,
6 correct?

7 MR. HAZZARD: That is my understanding.

8 THE COURT: All right. So I want to know what's
9 the next statement that you need -- that we need to have a
10 Denno hearing on? That's what I want to know.

11 Because that's what we're doing, right?

12 MS. RICHARDSON: Okay. Yes, Your Honor.

13 THE COURT: Okay. So what's the next statement on
14 the Denno hearing?

15 MS. RICHARDSON: The next statements with
16 Investigator Powell would be statements made after Mr. Rhue
17 Sr.'s arrest, after he did invoke his right to an attorney,
18 his right to remain silent. It's the State's position he
19 reinitiated contact and made a few statements then.

20 There are statements captured on body camera to
21 Investigator Powell from Alex Rhue Sr. on April 2nd,
22 wherein, he admits to lying to investigators previously, and
23 he volunteers that information.

24 There is a recorded have interview with
25 Detective Walton and Anderson of Alexander Rhue Jr., on

1 March 13th.

2 MR. VOIGT: Can we just stop there for a second?

3 THE COURT: Uh-huh.

4 MR. VOIGT: Last night I watched my client's
5 statement. It's done by different officers and has
6 completely different problems because different
7 investigative techniques were used. I have no question
8 whatsoever that it was voluntarily made. I will not be
9 making an objection to the voluntariness of my client's
10 statement. It is exculpatory. I have no idea why the State
11 would allow him to testify and not be subject to their
12 cross-examination, but if that's what they want, so be it.

13 I have a number of very specific problems with it
14 and that's because my client volunteers on multiple
15 occasions. That he was arrested on February 26th. And, at
16 some point, when he came back to Georgetown County, he was
17 arrested on a warrant for a YOA offense, a strong armed
18 robbery that he had as a younger person.

19 And I would like those -- I have the times,
20 because Mr. Hazzard showed me the way, and I have the times
21 on the tape where those things -- I would like them to be
22 excluded, because I believe they're more prejudicial than
23 probative, and I think they get into prior bad acts and a
24 whole bunch of other things. I don't think that they're --

25 THE COURT: Well, let me ask y'all something: How

1 are we supposed to try this case this week? How -- how are
2 we supposed to do it? Because I mean, what you're telling
3 me, sir, Mr. Voigt, that's going to take 30 or 40 minutes to
4 do that.

5 MR. VOIGT: Oh, I have the times. I -- I will --
6 if the State agrees.

7 THE COURT: Well.

8 MR. VOIGT: Then we're done, right now. I don't
9 want to watch that video, I've already done it. I don't
10 need the Court to watch it. I'm not challenging its
11 voluntariness. I'm just saying that at 5:52 -- from 5:52 to
12 6:15 he said, Then they locked me up and I was in till 9:00
13 o'clock in the morning.

14 THE COURT: All right.

15 MR. VOIGT: And at 13:36 he says, I was in the
16 same clothes that they locked me up with. And at 19:26 to
17 20 minutes, I got locked up on a YOA strong arm.

18 THE COURT: All right.

19 MR. VOIGT: At 24:43 to 25:07 he talks about his
20 arrest and he talks about his bondsman. At 36:22 he
21 mentions being locked up. At 36:56 he mentions being
22 locked. At 37:14 he mentions being locked up. At 39:08,
23 again, he mentions being locked up. At 51:33, locked up to
24 51:50. That's it.

25 THE COURT: All right.

1 MR. VOIGT: Other than that he eats a bowl of
2 soup.

3 THE COURT: I mean, Solicitor, what's your
4 response to that?

5 MS. RICHARDSON: Okay. I think we still got to do
6 it. We've still got to prepare it.

7 THE COURT: Right. So what --

8 MS. RICHARDSON: And that's -- you know, that's my
9 only concern is just making sure. And I'm not -- I was
10 not -- I'm not worried about you scolding me or anything
11 like that.

12 THE COURT: No. No.

13 MS. RICHARDSON: What I'm worried about is putting
14 improper evidence against -- in front of a jury after you've
15 ruled on it. That's my concern.

16 THE COURT: All right. Well, Solicitor, if he
17 believes the statement is voluntary, why do we need to watch
18 it?

19 MS. RICHARDSON: I don't we don't have to watch
20 it. I just have to --

21 THE COURT: I'm asking. I mean, don't know. I
22 don't believe --

23 MS. RICHARDSON: I don't believe we need to watch
24 it this morning, but we would just need to prepare the
25 redactions. I'm just going to need some time before we

1 start to prepare the -- to make sure that what we did last
2 night is redone to reflect your ruling.

3 THE COURT: All right. So what else do we have?
4 What would be -- what would be the next Denno matter?

5 MS. RICHARDSON: Besides Mr. Rhue Jr.?

6 THE COURT: Yes, ma'am.

7 MS. RICHARDSON: Then the other statements are --
8 there are two statements by Mr. Rhue Sr. One was just some
9 reiteration -- some statements he made after his arrest but
10 he had invoked. There are also subsequent statements made
11 on body camera when officers were arresting Tiesh Rhue where
12 he told them he had lied about leaving -- admitted that he
13 had not told the truth about leaving the house the night of
14 the 25th, morning of the 26th.

15 THE COURT: All right. So the issue concerning
16 voluntariness of that statement?

17 MR. VOIGT: Yes, sir.

18 THE COURT: All right.

19 MS. RICHARDSON: And then the last thing is the --
20 you saw the second half or part of the interview of Alex
21 Rhue, Sr. that was at the house on March 15th. Ms. Tiesh
22 Rhue was also questioned and photographed prior to that on
23 the body cam.

24 THE COURT: All right. And so what other matters
25 other than those do we have to take up this morning or

1 before we start the trial?

2 MS. RICHARDSON: I think what will come up during
3 the trial is photographs.

4 THE COURT: Okay.

5 MS. RICHARDSON: We have photographs of the body
6 when it was recovered.

7 THE COURT: Right.

8 MS. RICHARDSON: Autopsy photos.

9 THE COURT: Okay.

10 MS. RICHARDSON: That would need to be discussed.

11 MR. VOIGT: I will just tell you if they would
12 like to parade violence porn before the jury, have at it,
13 I'm not going to object to any of it.

14 THE COURT: Well, I'm not -- I'm just asking what
15 else, would that be it?

16 MS. RICHARDSON: There are going to be statements
17 by or testimony by a few witnesses regarding statements of
18 Alexander Rhue Jr.

19 THE COURT: Okay. All right. Let's just go ahead
20 and we'll go through the Denno hearings that we need to
21 have. I know Mr. Hazzard has got one. I think Mr. Voigt's
22 got a stipulation --

23 MR. VOIGT: We do, Your Honor.

24 THE COURT: -- as it relates to his. I know you
25 need some time to do whatever you need to do as it relates

1 to the video, I think is what you're telling me.

2 MS. RICHARDSON: I do and I also need to do that
3 before opening.

4 MR. VOIGT: Why?

5 THE COURT: Well --

6 MS. RICHARDSON: Because it was going to be part
7 of my opening.

8 MR. VOIGT: It -- no.

9 MS. RICHARDSON: It came -- I mean --

10 THE COURT: Well, hold -- hold on --

11 MS. RICHARDSON: -- it's a trial strategy.

12 MR. VOIGT: Not a good one.

13 THE COURT: Well. We don't --

14 MS. RICHARDSON: Let's have some civility.

15 THE COURT: Sir, Mr. Voigt -- Mr. Voigt.

16 MR. VOIGT: Yes.

17 THE COURT: I'm not going to put up with comments
18 like that. You address the Court, not her, not the
19 Solicitor. Do you understand that, sir?

20 MR. VOIGT: Thank you, Your Honor. I do.

21 THE COURT: Thank you. Okay. You can be seated.

22 All right. Solicitor, let's go ahead with --

23 well, I mean, let's go ahead and have -- have the hearing on
24 the -- the Denno hearing on what we need to have on your
25 client.

1 MR. HAZZARD: Yes, sir. And also if I may --

2 THE COURT: Yes, sir.

3 MR. HAZZARD: -- for housekeeping purposes. I
4 wanted to remind the Court, I'm sure the Court remembers
5 this, before we actually get started, the Court does have to
6 question those two jurors.

7 THE COURT: Right. And Madam Clerk, when those
8 two jurors get here, I need you to just isolate them or put
9 them somewhere where we can then bring them in, okay.

10 MADAM CLERK: Yes, Your Honor.

11 THE COURT: All right. So let's go ahead and
12 have -- let's go ahead and have the hearing and let's just
13 move through this and we'll see where it gets us. Okay.

14 All right. Give me one minute.

15 (WHEREUPON, A brief pause held.)

16 THE COURT: All right. Lets' go ahead, thank you.

17 JACKSON V. DENNO HEARING FURTHER DIRECT EXAMINATION

18 BY MS. RICHARDSON:

19 Q. Investigation Powell, did you interview Alexander
20 Rhue Sr. after he was arrested March 30th, March 31st, 2017?

21 MS. RICHARDSON: Your Honor, to speed things up
22 I'm just going to show him this video. I think everything
23 will be self explanatory. This is State's Exhibit 8.

24 THE COURT: Does that meet with everyone's
25 approval?

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1 MR. HAZZARD: No objection.

2 MS. RICHARDSON: And that -- and that will bring
3 up the issue the Court needs to rule on.

4 BY MS. RICHARDSON:

5 Q. That's State's Exhibit Number 8, you've reviewed
6 that?

7 A. I did.

8 Q. And initialed it as an accurate copy of the
9 interview?

10 A. Yes, ma'am.

11 (WHEREUPON, State's Exhibit Number 8, was moved
12 into evidence for the Jackson v. Denno Hearing
13 only and played. Not transcribed herein.)

14 MS. RICHARDSON: I'm fast forwarding while no
15 one's in the room.

16 THE COURT: Thank you.

17 (WHEREUPON, State's Exhibit Number 8, continued
18 playing.)

19 MR. HAZZARD: Can you back up for me, please?

20 MS. RICHARDSON: I'm sorry. What did you say,
21 Mr. Hazzard?

22 MR. HAZZARD: I said can you back it up a little
23 bit please. I didn't catch what it --

24 MS. RICHARDSON: Okay. I'm sorry.

25 MR. HAZZARD: Detective Morris said when he walked

1 in the room.

2 (WHEREUPON, State's Exhibit Number 8, continued
3 playing. Proceedings resumed as follows.)

4 MS. RICHARDSON: Your Honor, I believe the video
5 is self evident. It's the State's position that, after
6 invoking, he did when the warrants were read to him began
7 questioning the officers about it and it reinitiated
8 contact.

9 THE COURT: All right. All right. Mr. Hazzard?

10 MR. HAZZARD: May it please the Court.

11 The concerns I have with regard to this recording,
12 it begins with -- and I guess the way I always look at these
13 things is: Basically would it be something that in any
14 other sense or fashion could be put in front of a jury?

15 My first concern is that he enters the room in
16 handcuffs, which would not normally be permissible in front
17 of a jury. He is searched by the detention officer, which
18 normally would not be put in front of a jury. I actually
19 fail also to see the relevance of the recording, because
20 they say, Hey we want to talk to you. He says I want a
21 lawyer.

22 So is it relevant that they want to show him
23 invoking his Fifth Amendment Right against self
24 incrimination. And the Sixth Amendment Right -- or the
25 Sixth Amendment Right to Counsel, actually, is that relevant

1 for the jury's consideration?

2 He then asks them about his cell phone and they
3 say, Yeah, we took your cell phone. He then asks them about
4 what time is bond court. And they then served the warrant
5 on him and the warrant is read into the recording. Is that
6 something that would normally be for a jury's consideration
7 what is written in a warrant or not an indictment. So I
8 have concerns there in that regard.

9 But as far as his statement at the end where they
10 claim that he reengages, all he says is, Yeah, that's what I
11 told you. He said, I went to bed around 9:00 or 9:30, he
12 was getting ready to go out and he left sometime thereafter.

13 THE COURT: Solicitor, what is the relevance here?

14 MS. RICHARDSON: Your Honor, because it's not the
15 complete truth. And the sequential nature of the statements
16 that are made will show that the stories change and don't
17 match the evidence. It's just...

18 THE COURT: What's not the truth? What he said at
19 the very end? I'm sorry, I'm not following. I saw -- I saw
20 a gentleman coming in handcuffs. I saw a gentleman
21 searched. I saw him invoke his rights as it relates to
22 wanting an attorney. And then I saw him ask a question
23 about bond hearing. What -- I'm -- I'm not following.

24 What's that got to do with anything?

25 MS. RICHARDSON: Your Honor, a big part of this

1 case is, is that each defendant claimed to be at home all
2 night. And he claimed to be asleep in the middle of the
3 night and that sort of thing. He went -- we had him on
4 video at Wal-Mart. And we have cell phone leaving the area.

5 So it shows that they were giving false
6 information of their whereabouts the night of the murder.

7 THE COURT: What I'm asking is --

8 MS. RICHARDSON: -- and of each others.

9 THE COURT: -- where did he say that in the video?
10 I'm not hearing it. I mean, obviously, that video -- I'm
11 sorry, I'm confused. What -- the fact that he came in
12 handcuffs there's no relevance there, correct?

13 MS. RICHARDSON: I agree.

14 THE COURT: The fact that he was searched.

15 MS. RICHARDSON: None of that is relevant. I
16 guess what we --

17 THE COURT: Okay. So what it is relevant? That's
18 what I'm trying to figure out. I'm sorry.

19 MS. RICHARDSON: His ending statements.

20 THE COURT: The ending statements?

21 MS. RICHARDSON: Yes, Your Honor.

22 THE COURT: After he -- after he invoked, once he,
23 as the State says, reengaged, what did he say? I
24 couldn't -- what is it that he said?

25 MS. RICHARDSON: He said, When did I give false

1 statements? You gave false statements on his whereabouts,
2 you said he was home, and then we found out that he wasn't.
3 I said, Yeah, he was there. I told you between 9:30 and
4 10:00 he was there ironing his clothes and then rolled out.
5 All right. I told you, because I was going to bed at that
6 time.

7 MR. HAZZARD: And I am confused, because I think
8 what the Prosecutor initially told the Court is that the --
9 what they believe is a lie that leads to the obstruction of
10 justice charge, is that supposedly he said he was there all
11 night. And what Mr. Rhue says in his statement is, Yes,
12 just like I told you before, I was at home, my son was
13 there, I went to bed. I basically -- I think he said, I
14 don't know what my son did, I believe he left. And then
15 here he says, Yes, that's what I told you. I went to bed
16 around 9:00 or 9:30. He was there ironing his clothes and
17 then he rolled out or left.

18 If they want to play that portion where he says
19 that, again, I don't see the particular relevance of it.

20 THE COURT: Well, what are you saying? I know you
21 don't see the relevance, are you saying you object or that
22 you're not? I'm -- I'm -- I'm not following you.

23 MR. HAZZARD: I have -- I have --

24 THE COURT: If you're saying you don't --

25 MR. HAZZARD: -- objected.

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1 THE COURT: -- then that makes it pretty easy.

2 MR. HAZZARD: I have objected to it and continue
3 to object to it --

4 THE COURT: All right.

5 MR. HAZZARD: -- for the grounds previously
6 stated.

7 THE COURT: Yes, sir. All right. I'm going to --
8 when I watched the video I did hear a little bit, and at one
9 point the officer actually told him, I think that we weren't
10 going to talk anymore because he had requested or asked for
11 a lawyer. And I think that when he first started engaging
12 again, I think that warning should have been given to him.

13 I'm going to exclude it.

14 MR. HAZZARD: Thank you, Your Honor.

15 MS. RICHARDSON: And then the -- and that was
16 State's 8.

17 BY MS. RICHARDSON:

18 Q. And I'm going to show you what's been marked as
19 State's Number 9, which is labeled Alexander Rhue Sr., Body
20 Cam Footage with Officer Powell. Have you reviewed that and
21 that's your initials?

22 A. Yes, ma'am.

23 Q. Okay. And that's an accurate copy of the body
24 camera that was provided?

25 A. Yes, ma'am.

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1 Q. All right. And that's State's Exhibit 9.

2 MS. RICHARDSON: Your Honor, if we could just go
3 ahead and play that and then get to any questions?

4 THE COURT: I think that's fine. Is that all
5 right with everybody?

6 MR. VOIGT: Yes, Your Honor.

7 MR. EDGEWORTH: Yes, Your Honor.

8 MR. HAZZARD: I was wondering, is that the one we
9 saw yesterday?

10 MS. RICHARDSON: No.

11 MR. HAZZARD: This is a different body cam?

12 MS. RICHARDSON: Yes.

13 MR. HAZZARD: Okay.

14 (WHEREUPON, State's Exhibit Number 9, was played.
15 Not transcribed herein. Proceedings resumed as
16 follows.)

17 MS. RICHARDSON: Your Honor, the State would just
18 be seeking to admit -- we would not seek to admit the
19 portion Ms. Rhue's arrest, but just the portion where
20 they're asking where -- if Mr. Rhue Jr. inside and where he
21 volunteers that he didn't tell the truth about the first
22 night they talked to him.

23 THE COURT: Okay. And that's all -- we've seen
24 all that?

25 MS. RICHARDSON: Yes, Your Honor.

1 THE COURT: All right. All right. Who wants to
2 go on that one?

3 MR. HAZZARD: They're referring to my client, I
4 have no objection to it.

5 THE COURT: I will accept that. Great. That's
6 being admitted without objection.

7 MR. EDGEWORTH: And no objection as they've
8 already said that they are going to exclude my client, Your
9 Honor.

10 THE COURT: Excellent.

11 MR. VOIGT: Nothing from me, Judge.

12 (WHEREUPON, State's Exhibit Number 9 was moved
13 into evidence for the Jackson v. Denno Hearing
14 only.)

15 MS. RICHARDSON: And, Your Honor, that is all for
16 Officer Powell.

17 THE COURT: Okay.

18 MS. RICHARDSON: And then the only one left is the
19 interview -- or the statements of Tiesh Rhue on March 15th.
20 We had already seen the second half of that with
21 Officer Powell. I can just play that if everybody is in
22 agreement or if they want testimony.

23 THE COURT: From the Defense?

24 MR. EDGEWORTH: It depends on which video we're
25 referring to, Your Honor.

1 MS. RICHARDSON: This will be March 15, Tiesh
2 Rhue, when she was photographed. It's the first half of the
3 video we saw yesterday of Alexander Rhue Sr.

4 MR. EDGEWORTH: I guess what --

5 MS. RICHARDSON: I guess the easiest thing would
6 be is to watch it so everybody knows which one we're talking
7 about. And then if everybody is good about stipulating to
8 watching it and then making any objections then we can have
9 any testimony if they need it.

10 THE COURT: All right. Any objection of let's
11 watch it and then go from there?

12 MR. HAZZARD: No, sir. They've already -- my
13 understanding is they laid the foundation with
14 Officer Powell's testimony yesterday. For the second half
15 of the video and I would assume it would be the same thing
16 based on the first half.

17 THE COURT: Mr. Voigt?

18 MR. VOIGT: I would agree with that, Your Honor.

19 THE COURT: Mr. Edgeworth?

20 MR. EDGEWORTH: That's fine, Your Honor.

21 THE COURT: All right. That would be great,
22 Solicitor. Thank you.

23 MS. RICHARDSON: All right. And this will be
24 State's 6.

25 (WHEREUPON, State's Exhibit Number 6, was played

1 for the Jackson v. Denno Hearing only. Not
2 transcribed herein. Proceedings resumed as
3 follows.)

4 THE COURT: All right. Solicitor, anything
5 further?

6 MS. RICHARDSON: Just that, Your Honor, if anybody
7 has any objection to the voluntariness of it.

8 THE COURT: All right. Mr. Edgeworth?

9 MR. EDGEWORTH: Your Honor, I don't really have an
10 objection to the voluntariness of this particular statement.

11 However, there's some references to -- in this
12 particular -- there's a reference to the news, which I know
13 the Court would admonish the jury to not go and do some
14 research and whatnot, but I think there was a lot of
15 coverage on this, and that may draw their attention to that
16 brief comment.

17 And then, of course, I just think it's -- in this
18 particular example it's cumulative in nature. I mean, we're
19 sitting here talking about redundant statements, now we're
20 getting into the like the sixth or seventh one, Your Honor,
21 that's really nothing more than the same thing over and over
22 again.

23 THE COURT: All right. Mr. Hazzard, Mr. Voigt,
24 anything?

25 MR. HAZZARD: No objection, Your Honor.

1 MR. VOIGT: No objection, Judge. I don't think it
2 shows what the State thinks it shows.

3 THE COURT: All right. I'm going to overrule. I
4 think it was voluntary. And, to that extent, can be used in
5 the trial of this matter. As it relates to the news, I'm
6 going to instruct the jury as it relates to that,
7 specifically. I don't think that's going to cue the jury to
8 go search anything, because I'm going to make very clear to
9 them not to look at the news, media, social media, or
10 anything else concerning this matter. All right?

11 MR. EDGEWORTH: Thank you, Judge.

12 THE COURT: Yes.

13 (WHEREUPON, State's Exhibit Number 6 was moved
14 into evidence for the Jackson v. Denno Hearing
15 only.)

16 MS. RICHARDSON: That's it, Your Honor.

17 THE COURT: Okay. Do we know whether those two
18 jurors are here yet? Let's be at ease for about
19 five minutes.

20 THE WITNESS: Judge, may I be excused?

21 THE COURT: I'm sorry?

22 THE WITNESS: Am I good?

23 THE COURT: Solicitor? You're fine, yes, sir.

24 MS. RICHARDSON: Oh, yes. I'm sorry. We'd ask
25 that he be excused.

1 (WHEREUPON, a break was held from 9:22 a.m. until
2 9:26 a.m.)

3 THE BAILIFF: All rise.

4 THE COURT: Thank you very much. Please be
5 seated. All right. Have we got everybody?

6 There she is, I didn't see Ms. Richardson.

7 All right. All right. Ms. Brown?

8 Ms. Brown, could you come on up for me? I need to
9 ask you a couple of questions, please.

10 THE BAILIFF: Okay. Judge.

11 THE COURT: I'd like her to come on up and let me
12 swear her in and just ask her a few questions. Okay? Thank
13 you. Come right around here and I'll swear you in. Thank
14 you.

15 (WHEREUPON, the juror complied.)

16 THE COURT: Hey, Ms. Brown, good morning.

17 THE JUROR: Good morning.

18 THE COURT: Can you raise your right hand for me?

19 Do you swear to tell the truth, the whole truth,
20 and nothing but the truth, so help you God?

21 THE JUROR: I do.

22 THE COURT: You can have a seat Ms. Brown and
23 could you move our mask for me so the Court Reporter can
24 pick up everything we say.

25 And I want you to know right now Ms. Brown, you

1 didn't do anything wrong, okay? I want you to know that.

2 THE JUROR: Okay.

3 THE COURT: And I want you to relax. And what I
4 would like to do is just to ask you a couple questions about
5 this case. And what I want to know is: Ms. Brown, has
6 anybody contacted either face to face, on the phone, or on
7 any type of social media to include Facebook, Snapchat,
8 Instagram, has anybody contacted you about your service as a
9 juror on this matter?

10 And let me just narrow in. Did you receive any
11 type of electronic communication from anyone yesterday
12 concerning this matter, concerning your service as a juror?

13 THE JUROR: Yes.

14 THE COURT: You did. Okay. Again, you didn't do
15 anything wrong, I'm just asking some questions. And you
16 know what I said earlier in the week, it's just important
17 that we have accurate information. And so what I would like
18 to do is, I would like to ask you: Who did you receive that
19 information from?

20 THE JUROR: It was just two females just informing
21 me that they blocked me from social media just in case that,
22 you know, they didn't want any conflict.

23 THE COURT: Okay. And so were there two different
24 people that indicated they were blocking you or was it one
25 person?

1 THE JUROR: It was two.

2 THE COURT: Two. Okay. And do you know the names
3 of those individuals?

4 THE JUROR: Yes.

5 THE COURT: Who were they?

6 THE JUROR: Kristina Davis.

7 THE COURT: Yes, ma'am.

8 THE JUROR: And Brittani Green.

9 THE COURT: And to you know Ms. Davis?

10 THE JUROR: I know of her.

11 THE COURT: Okay. Tell me briefly how you know
12 her or know of her?

13 THE JUROR: Georgetown is small.

14 THE COURT: Yes, ma'am.

15 THE JUROR: She's a braider.

16 THE COURT: Braids hair?

17 THE JUROR: Yeah.

18 THE COURT: All right. Has she ever braided your
19 hair?

20 THE JUROR: No.

21 THE COURT: Okay. And what did she -- do you have
22 your phone -- or do -- did they take that from you when you
23 came in?

24 THE JUROR: No, I got it.

25 THE COURT: Okay. Could you pull up for me and

1 read exactly what she -- what Ms. Davis said to you, ma'am?

2 THE JUROR: She just said that, I deleted you
3 because of the trial.

4 THE COURT: Okay. Is that exactly what it said?
5 Oh, no I believe you, I was just --

6 THE JUROR: Oh, yes.

7 THE COURT: -- and when I ask that question,
8 sometimes people will paraphrase what something says, and I
9 just wanted to make sure that's exactly what it said; is
10 that correct?

11 THE JUROR: Uh-huh.

12 THE COURT: Is that a Yes?

13 THE JUROR: Yes.

14 THE COURT: Doing great. And so my next question
15 is: You got another text from Brittani?

16 THE JUROR: Yes.

17 THE COURT: And Brittani's last name, I'm sorry.

18 THE JUROR: Green.

19 THE COURT: Green. And could you pull that up and
20 tell me what it says?

21 THE JUROR: There's nothing there. I could have
22 sworn it said the same thing.

23 THE COURT: You don't see anything under Brittani
24 Green?

25 Okay. When was the last time that you would have

1 had any type of contact with Brittani Green? Not
2 necessarily concerning this matter, or any matter.

3 THE JUROR: What kind of contact, sir?

4 THE COURT: Oh, well, I mean, like, maybe you saw
5 her on the street and said, Hello, or maybe you were out her
6 house eating a meal, or maybe she contacted you --

7 THE JUROR: Oh, yes. We -- we were celebrating a
8 death of two family members, their death anniversary.

9 THE COURT: Oh, I see. Celebrating the passing of
10 some family members?

11 THE JUROR: Uh-huh.

12 THE COURT: Okay. Yes?

13 THE JUROR: Yes.

14 MR. VOIGT: Your Honor?

15 THE COURT: Yeah.

16 MR. VOIGT: If I might. I have something I need
17 to bring to the attention of the Court and I would like to
18 do it out of the presence of this witness. It might be
19 important.

20 THE COURT: All right. I have no idea what it is,
21 but what I'm going to do is I'm going to ask you if you
22 would step right outside, ma'am.

23 THE JUROR: Okay.

24 THE COURT: And I'll be with you in one second,
25 okay?

1 THE JUROR: Okay.

2 THE COURT: Thanks. I appreciate it so much.

3 (WHEREUPON, the juror stepped outside of the
4 courtroom. The proceedings resumed.)

5 MR. VOIGT: If I might approach with Counsel, Your
6 Honor.

7 THE COURT: Hold on.

8 MADAM CLERK: Judge?

9 THE COURT: Yeah.

10 MADAM CLERK: I'll take her back here, because I
11 think the attorney conference rooms are being occupied and
12 they're people --

13 THE COURT: That's fine wherever -- wherever you
14 want to take her is perfect, Madam Clerk, thank you.

15 MR. VOIGT: And this won't take a second, Judge.

16 THE COURT: All right. Thank you so much, ma'am.
17 Yes, sir.

18 MR. VOIGT: Thank you, Your Honor.

19 If I might approach?

20 THE COURT: Yeah. Counsel.

21 MR. VOIGT: I'm sorry, Judge. My client informs
22 me that the two women sitting in the back of the courtroom
23 are relatives of Brittani Green. And he believes that this
24 witness, that juror, is being intimidated by his presence.
25 And that's why I wanted to bring it to the Court's attention

1 immediately because it concerned me.

2 THE COURT: Well, I mean, how are they -- I mean,
3 I haven't observed anything from these folks as it relates
4 to intimidating this -- this witness. Is there anything
5 more specific than just a general thought that they're
6 intimidating her?

7 MR. VOIGT: Judge, we have -- we are talking about
8 a witness, Brittani Green, and her relatives appear at the
9 very time a juror is testifying about improper contacts with
10 Brittani Green.

11 THE COURT: Well...

12 MR. VOIGT: I think that's -- I bring it to your
13 attention because I felt like I had to. What we do with
14 that information, I frankly don't really have -- I've never
15 encountered that situation.

16 THE COURT: All right. Well, I'm going to
17 continue with the questioning. I appreciate you bringing
18 that to my attention.

19 MR. VOIGT: Thank you so much.

20 THE COURT: All right.

21 Madam Clerk, you can bring her right back in?
22 Thank you.

23 (WHEREUPON, the juror entered the courtroom.)

24 THE COURT: Hey, Ms. Moultrie (sic) thanks. Go
25 ahead and have a seat and you can take your mask off. And

1 let me ask you a couple of more things.

2 Hey, Ms. Moultrie, do you know what this case is
3 about this week? Do you know anything about this case?
4 What the allegations are?

5 THE JUROR: Yesterday, like I told you, I didn't
6 know what we were being selected for. I told you that I
7 might cannot serve.

8 THE COURT: Right. And why was that?

9 THE JUROR: Because I was a relative of the
10 deceased victim.

11 THE COURT: Okay.

12 THE JUROR: Whose case was this week.

13 THE COURT: All right. And so how did you know
14 that case was this week?

15 THE JUROR: Because of family members. And I
16 didn't know until I got --

17 THE COURT: That's okay. You're perfect. You're
18 great.

19 THE JUROR: Yeah.

20 THE COURT: You're fine. Again, I just need to
21 know. And so how did you become aware that that was the
22 case for this week?

23 THE JUROR: Family members.

24 THE COURT: Okay. And what family members would
25 have told you that?

1 THE JUROR: It was on social media.

2 THE COURT: Okay. Let me ask you this: Have you
3 communicated with any other jurors about this case?

4 THE JUROR: No.

5 THE COURT: Have you spoken with any other jurors
6 about any texts or any type of communications that you've
7 received from family members or anyone else?

8 THE JUROR: Oh, no.

9 THE COURT: In terms of serving this week, the
10 fact that you received that text, does that -- does that
11 weigh on you one way or the other? Does that make you feel
12 uncomfortable? Or tell me about that.

13 THE JUROR: Which test?

14 THE COURT: Well, the text that says something
15 about the -- the text from Ms. Davis. You received a text
16 from Ms. Davis, right?

17 THE JUROR: Yeah.

18 THE COURT: Okay. And so.

19 THE JUROR: I looked at it, but I didn't reply.

20 THE COURT: All right. I understand that. But
21 what I'm asking is: Do you have any reservations about
22 serving this week having received that text?

23 THE JUROR: No, sir.

24 THE COURT: No. You feel -- all right.

25 Other than the fact that you have -- the decedent

1 is a relative of yours, other than that, any reservations
2 about serving this week? Any concerns about serving this
3 week on this jury?

4 THE JUROR: No, sir.

5 THE COURT: Okay. And so the -- refresh my
6 memory, the relationship is what?

7 THE JUROR: Cousins.

8 THE COURT: Cousins. All right. And as cousins
9 would y'all go to reunions together?

10 THE JUROR: Yes.

11 THE COURT: Did y'all visit during the holidays?

12 THE JUROR: Yes.

13 THE COURT: How close would you describe your
14 relationship?

15 THE JUROR: We're close. His -- my deceased
16 cousin, his father and my grandmother, they're first
17 cousins.

18 THE COURT: All right. You think the fact that
19 you were close, you were cousins and that relationship to
20 the decedent in this case, do you think that that could
21 effect your ability to be fair in this case?

22 I mean, what I want is -- what I want is the
23 truth. And I don't think any more or any less of an
24 individual for truthfully answering a question. And so, you
25 know, no one's -- no one's here to pass judgment on you.

1 All I want to know, and what I told you yesterday, to know
2 truthfully how people feel. What I want to know is: Do you
3 think the fact that you are close cousins with the decedent,
4 do you think that would weigh heavily if you were to serve
5 on this case?

6 THE JUROR: Yes.

7 THE COURT: It would?

8 THE JUROR: Uh-huh.

9 THE COURT: And that's a Yes, again, correct?

10 THE JUROR: Yes.

11 THE COURT: All right. Does anyone have any other
12 questions for this witness?

13 MR. VOIGT: No, Your Honor.

14 MR. HAZZARD: No, sir.

15 MR. EDGEWORTH: No, sir.

16 THE COURT: From the State?

17 MS. RICHARDSON: No, sir. But, Your Honor, I
18 would advise the Court that Brittani Green is on the State's
19 witness list.

20 THE COURT: Okay.

21 MS. RICHARDSON: And is what we believe the
22 statutory victim in this case.

23 THE COURT: Okay. All right. What I'm going to
24 do is this, ma'am, I'm going to ask you to go with the Clerk
25 for one more minute, let me talk to these lawyers, and we'll

1 be back with you. Okay?

2 THE JUROR: Okay.

3 THE COURT: Thank you so much.

4 (WHEREUPON, the juror exited the courtroom.)

5 THE COURT: All right. Any objections, concerns
6 from the State, concerning the questions that I asked of the
7 juror?

8 MS. RICHARDSON: No, Your Honor.

9 THE COURT: Anything from -- any of the Defense,
10 Mr. Hazzard?

11 MR. HAZZARD: No, sir.

12 THE COURT: Mr. Voigt?

13 MR. VOIGT: No, sir.

14 THE COURT: Mr. Edgeworth?

15 MR. EDGEWORTH: No, sir.

16 THE COURT: All right. I mean, I think the
17 juror -- I think the juror has indicated has a close
18 relationship with the cousin. They're not -- they're not
19 just distant cousins, they're cousins that go to reunions
20 together, spend holidays together, and she indicates that
21 she doesn't know that it would -- in her opinion, it would
22 weigh heavily and/or effect her if she was chosen to serve
23 on the jury.

24 As a result of that, any objection to excusing her
25 from service on this jury from the State?

1 MS. RICHARDSON: None from the State. And I just
2 note for the record that she did come up during
3 qualifications yesterday and brought that to the Court's
4 attention.

5 THE COURT: She did bring that to my attention and
6 I told her that's something that we would address today. I
7 didn't expect in this form, but certainly was something that
8 she did bring up to me.

9 All right. Anything from Mr. Hazzard concerning
10 discharging this juror?

11 MR. HAZZARD: No, sir.

12 THE COURT: All right. Anything from Mr. Voigt?

13 MR. VOIGT: No, sir.

14 THE COURT: Mr. Edgeworth?

15 MR. EDGEWORTH: No, sir.

16 THE COURT: All right. Let's get this juror back
17 in here and I'm going to excuse her from service this week.
18 without objection.

19 (WHEREUPON, the juror returned to the courtroom.)

20 THE COURT: Ms. Moultrie, you can just come on
21 right here.

22 Ms. Moultrie, thank you so much for honoring your
23 subpoena and your commitment to this Court and to the County.
24 I also want to thank you for your honesty and answering the
25 questions that I presented to you. And also, ma'am, I want

1 to let you know that as a result of the relationship that
2 you have -- and I appreciate you bringing that up
3 yesterday -- but the resulted relationship that you have
4 with the descendent, the fact that you were cousins, the
5 fact that you were close, and acknowledging that it could,
6 in fact, effect your ability to be fair and impartial in
7 this matter and I certainly understand that.

8 I'm going to excuse you from service for the
9 balance of this week. Okay?

10 THE JUROR: Okay.

11 THE COURT: And I would ask that you not
12 communicate with any other jurors concerning this matter,
13 but I'm discharging you for the week. And I hope you have a
14 good week. Okay?

15 THE JUROR: Thank you, you too.

16 THE COURT: Thank you, ma'am.

17 (WHEREUPON, the juror was excused and left the
18 courtroom.)

19 THE COURT: All right. We have the other juror?

20 MADAM CLERK: Uh-huh.

21 THE COURT: Great. Thank you.

22 MADAM CLERK: Are you ready for her?

23 THE COURT: Yes, ma'am.

24 (WHEREUPON, the juror entered the courtroom.)

25 THE COURT: Hey there, you snuck up on me. I'm

1 sorry, I was looking down. Ms. Anderson?

2 THE JUROR: Yes, sir.

3 THE COURT: Come on right around here and let me
4 put you under oath and you are absolutely fine, and you've
5 done nothing wrong, don't worry. Okay? Come on in.

6 Ms. Anderson, let have you raise your right hand
7 for me. Do you swear to tell the truth, the whole truth,
8 and nothing but the truth, so help you God?

9 THE JUROR: Yes, sir.

10 THE COURT: Thank you. You can have a seat. And
11 could you please pull your mask down for me for the purposes
12 of the questions that I'm going to ask you?

13 Ms. Anderson, what I wanted to do is ask you: Has
14 anybody reached out to you face-to-face, on the phone,
15 through email, through texts, through Facebook, Snapchat,
16 has anybody reached out to you about the case this week
17 and/or your service on the jury?

18 THE JUROR: Yes.

19 THE COURT: You need to speak up for me.

20 THE JUROR: Yes.

21 THE COURT: Okay. And so were you contacted by
22 one or more than one person?

23 THE JUROR: Just one.

24 THE COURT: Just one person. Are you getting that
25 Madam Court Reporter?

1 COURT REPORTER: She needs to speak up, please.

2 THE COURT: Please speak up a little bit louder.

3 THE JUROR: Just one person.

4 THE COURT: You're doing great and I appreciate
5 your honesty. And so who was what person?

6 You've done nothing wrong. Okay? But I need you
7 to tell me the truth and you're under oath.

8 THE JUROR: I'm very uncomfortable.

9 THE COURT: Well, I understand that, but you've
10 done nothing wrong. And so, I mean, you've done nothing
11 wrong. And so to that extent, you need to answer that
12 question for me.

13 THE JUROR: It was Kristina.

14 THE COURT: Kristina Davis?

15 THE JUROR: Yes.

16 THE COURT: Okay. Fine.

17 And so let me ask you this: How did she
18 communicate with you?

19 THE JUROR: She just -- just told me that she
20 deleted me off Facebook.

21 THE COURT: All right. And when you say, She told
22 you deleted off Facebook, did she delete you off Facebook,
23 did she tell you that via Facebook, or how did she tell you
24 that?

25 THE JUROR: It was in a message.

1 THE COURT: In a message. And how was that
2 message sent to you?

3 THE JUROR: Through messenger.

4 THE COURT: Through Instant Messenger?

5 THE JUROR: Yes.

6 THE COURT: Okay. And let me ask you this: Do
7 you have your phone?

8 THE JUROR: Yes.

9 THE COURT: Okay. And can you actually pull that
10 up and read that for me what she sent you?

11 THE JUROR: Yes.

12 THE COURT: Okay. I appreciate that. Yes, ma'am,
13 you're doing great.

14 THE JUROR: She said, I just deleted you because
15 of the trial.

16 THE COURT: Okay. That was -- is that -- and
17 that's exactly what she said, correct?

18 THE JUROR: Yes.

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

20 Now, before Monday, yesterday, did you know what
21 trial or what was going to be tried this week?

22 THE JUROR: No. I kind of had like a -- not like
23 a premonition, but I had a feeling.

24 THE COURT: Okay. And you had a feeling that what
25 was going to be tried this week?

1 THE JUROR: The case with the young man, JR. being
2 murdered.

3 THE COURT: Okay. And how is it -- do you know
4 JR? Did you know JR?

5 THE JUROR: No.

6 THE COURT: Okay. How did you know his name was
7 JR or that he went by JR?

8 THE JUROR: I know people in the family and people
9 that come from the community.

10 THE COURT: Okay.

11 THE JUROR: On both sides.

12 THE COURT: Yes, ma'am. Has anybody else reached
13 out to you about the case or about your service this week?

14 THE JUROR: No.

15 THE COURT: Have you spoken with any jurors about
16 this matter?

17 THE JUROR: No, sir.

18 THE COURT: Let me just ask you, ma'am: How
19 did -- I mean, does it make you feel -- when you received
20 that message, how did it make you feel?

21 THE JUROR: Uncomfortable. I'm uncomfortable with
22 the entire thing. I cried yesterday.

23 THE COURT: Okay. Hold on you need to speak up a
24 little bit more.

25 THE JUROR: Uncomfortable.

1 THE COURT: Yes, ma'am.

2 THE JUROR: I cried yesterday just because I don't
3 want to be in the middle. I don't want to be in the mix of
4 it. I don't want to have anything to do with it, at all.

5 THE COURT: Okay.

6 THE JUROR: I even almost was like going to
7 Doctor's Care this morning to get a Covid test, because I
8 don't want to be here.

9 THE COURT: All right. All right. And by the
10 way, again, I promise you, you're doing great. Okay? And
11 you've done nothing wrong, all right. I want you to know
12 that. I want you to know that.

13 So are you related to anybody that's involved in
14 this or is it just friends?

15 THE JUROR: I'm just friends. I bartend out in
16 the community.

17 THE COURT: Right.

18 THE JUROR: So I know people.

19 THE COURT: Sure.

20 THE JUROR: It's not like this is a quiet thing or
21 anything, like it's been talked about. Like I said, I know
22 people on both sides of the situation, so...

23 THE COURT: All right. And how do you know
24 Ms. Davis? Remind me of that.

25 THE JUROR: I've known her since childhood.

1 THE COURT: Okay.

2 THE JUROR: But a lot of people saw me walk in
3 yesterday, so...

4 THE COURT: Right.

5 THE JUROR: And they were in the stairway. So it
6 just kind of like -- everything just like lined up --

7 THE COURT: Okay.

8 THE JUROR: -- perfectly.

9 THE COURT: Sure. All right. Any additional
10 questions from the State?

11 MS. RICHARDSON: No, Your Honor.

12 THE COURT: All right. Anything from the Defense,
13 Mr. Hazzard?

14 MR. HAZZARD: No, sir.

15 THE COURT: Mr. Voigt?

16 MR. VOIGT: No, sir.

17 THE COURT: Mr. Edgeworth?

18 MR. EDGEWORTH: No, sir.

19 THE COURT: I'll tell you what, how about if you
20 go with the Clerk for one second and let me ask them a
21 couple of questions and I'll get you right back in here,
22 okay?

23 THE JUROR: Okay.

24 THE COURT: Thank you so much, ma'am.

25 (WHEREUPON, the juror exited the courtroom.)

1 THE COURT: All right. Any objection or
2 exceptions to the questions that I asked the juror from the
3 State?

4 MS. RICHARDSON: No, Your Honor.

5 THE COURT: All right. What about it,
6 Mr. Hazzard?

7 MR. HAZZARD: No, sir.

8 THE COURT: Mr. Voigt?

9 MR. VOIGT: No, sir.

10 THE COURT: Mr. Edgeworth?

11 MR. EDGEWORTH: No, sir.

12 THE COURT: All right. You know, she indicates
13 that she didn't talk to anybody else about it. She was
14 contacted by Ms. Davis. I think that's consistent with what
15 Ms. Davis testified to yesterday. She read to us what the
16 message was. She certainly seemed believable. She
17 certainly indicated that she feels uncomfortable in this
18 matter. And I did not -- I did not ask her -- and I don't
19 mind bringing her back in and asking her does she think she
20 can be fair and impartial, given how she feels. I have a
21 feeling I know the answer to that question. I'm inclined to
22 discharge her from service this week.

23 Does the State want me to bring her back in and
24 ask her specifically if I think she can be fair and
25 impartial?

1 MS. RICHARDSON: Yes, Your Honor.

2 THE COURT: You do?

3 MS. RICHARDSON: Yes.

4 THE COURT: All right. Let's get the witness back
5 in here.

6 (WHEREUPON, the juror entered the courtroom.)

7 THE COURT: Come on right back around. I've got
8 one other thing I want to ask you. Again, you're -- you've
9 done nothing wrong and I appreciate your honesty and if
10 you'll just pull your mask down.

11 Let me ask you this: You told me that it would
12 make you -- that you're uncomfortable I think is what you
13 told me; is that right?

14 THE JUROR: Yes, sir.

15 THE COURT: Okay. Do you believe that if you were
16 selected to serve on this jury that you could be fair and
17 impartial and give a fair trial to both the State and the
18 Defense? Given -- given how you feel, that's what I want to
19 know. And I'm not -- I'm not -- yesterday you heard me say
20 that we want truthful answers. And so that's what I'm
21 asking. Do you understand my question?

22 THE JUROR: Yes, sir.

23 THE COURT: All right. And so what would your
24 answer be to that question, ma'am?

25 THE JUROR: I'm not biased on either side, because

1 I don't know any one of them, anybody, including personally.
2 But I would just have to listen to the evidence. I would do
3 a fair trial, but I would just be uncomfortable of, like,
4 afterwards.

5 THE COURT: Okay. Let me ask you this: Do you
6 think the uncomfortable feeling that you -- that you think
7 you might have afterwards, do you think that that would
8 effect your ability to render a fair and just verdict,
9 giving a fair hearing to the State and fair hearing to the
10 Defense?

11 THE JUROR: No, sir.

12 THE COURT: Okay. All right. Thank you. If you
13 could step right out and the Clerk will be with you in one
14 second. Okay?

15 (WHEREUPON, the juror exited the courtroom.)

16 THE COURT: All right. What say you, Solicitor
17 Richardson?

18 MS. RICHARDSON: Your Honor, she said she can be
19 fair.

20 THE COURT: All right. Mr. Hazzard?

21 MR. HAZZARD: By her statement, she felt that
22 she -- well, we have a juror who initially shows hesitancy
23 in telling the truth when asked by the Court, Were you --
24 well, who contacted you? That gives me concern, because she
25 initially did not want to say until repeated prompting.

1 She then indicates repeatedly she doesn't want to
2 be here. And then she says that if she participates as a
3 juror in this trial, she feels that she will be
4 uncomfortable afterwards. And I would like to know what
5 that basis of un-comfortability would be. Is it the fact
6 that she feels she would be subject to questioning from
7 members in the community afterwards. And, if that is the
8 case, how can you truly base any verdict on the evidence and
9 other testimony that come -- that's placed before the jury?

10 So I would move that she be struck for cause, Your
11 Honor.

12 THE COURT: Mr. Voigt?

13 MR. VOIGT: Thank you, Your Honor.

14 I would echo Mr. Hazzard's concerns. I would also
15 note that she has cried. And that she actively sought to
16 avoid jury service by getting a Covid 19 case -- or a
17 Covid 19 test with just the chance that perhaps it would
18 register as positive. This is not someday who's merely
19 uncomfortable. This is -- I think she has given the Court
20 enough reason to be struck for cause. And I think that
21 erring on the safe side, she should be excused from service
22 in this particular matter.

23 THE COURT: Mr. Edgeworth?

24 MS. RICHARDSON: The State doesn't object if
25 that's what they -- if that's what the Defense requests.

1 THE COURT: Mr. Edgeworth. Thank you.

2 MR. EDGEWORTH: Your Honor, I don't really have
3 anything to add other than I would join in the request to
4 strike.

5 THE COURT: All right. I'm going to discharge
6 this juror. I mean, the fact that she was so upset that she
7 considered going to Doctor's Care today to have a Covid test
8 or I think you could read into that to try to find a reason
9 as to why she was not going to serve. And her hesitancy on
10 naming Ms. Davis. And I think part of that is just, she
11 didn't want to get anybody in trouble. But I think she was
12 truthful in her testimony to the Court and I think she's
13 going to have a level of concern in the community once, if
14 she serves on the jury.

15 And so, to that extent, I think there's enough
16 there to disqualify her. So I'm going to disqualify her and
17 my understanding is no one is objecting to my
18 disqualification. Is that correct from the State?

19 MS. RICHARDSON: That's correct, Your Honor.

20 THE COURT: All right. That's fine.

21 MS. RICHARDSON: I was just not going to move for
22 it.

23 THE COURT: I understand. Thank you very much.

24 All right. You can bring her back in Madam Clerk.

25 (WHEREUPON, the juror entered the courtroom.)

1 THE COURT: All right. Ms. Anderson, come on
2 right here. Great.

3 Ms. Anderson, number one, thank you for your
4 service this week. Thank you for coming in. Thank you for
5 being truthful. Thank you for honoring your subpoena and
6 the service to this Court and to this County. I appreciate
7 that. The County appreciates that. The lawyers appreciate
8 your honesty in answering the questions.

9 What I'm going to tell you is that I'm going to
10 discharge you from your service this week. You are going to
11 be free to leave. You're not going to have to worry about
12 this. You're not going to have fret about this. It is
13 clear, ma'am, that this has caused you a great deal of
14 concern and I don't want to put you, nor these lawyers, want
15 to put you through anymore. Okay?

16 THE JUROR: Thank you.

17 THE COURT: Thank you. Yes, ma'am.

18 I'd ask that you please not contact any of your
19 fellow jurors, at least while this trial is pending, if you
20 would just not discuss this matter. Okay?

21 THE JUROR: Thank you.

22 THE COURT: Thank you so much, ma'am. I hope you
23 have a great rest of your week. Okay?

24 THE JUROR: Thank you.

25 (WHEREUPON, the juror was excused and left the

1 courtroom.)

2 THE COURT: Solicitor, any reason we can't go pick
3 a jury?

4 MS. RICHARDSON: No, Your Honor.

5 THE COURT: All right. Anything from the Defense
6 as to why we can't go ahead and pick the jury?

7 MR. HAZZARD: I believe the Court was going to
8 question the jury venire whether anybody has contacted them
9 --

10 THE COURT: That --

11 MR. HAZZARD: -- as one of the questions. And
12 that I would ask as a point of personal grace, if the Court
13 would give us about a ten-minute break before we do that.

14 THE COURT: We'll give you three minute -- nah,
15 I'm joking. I'm going to give you ten minutes.

16 She's going to have take a break herself and get
17 set up downstairs. I think we've got -- the Clerk was
18 working late last night to find us a way so that we can have
19 the jurors and do everything downstairs. And the reason we
20 want to do that is, because we just want to avoid all the
21 talking and passing and this will minimize the passing and
22 so forth and so on.

23 So she is -- I appreciate the work that she did.
24 Thank you so much, Madam Clerk. So we'll be at ease for
25 about ten minutes. If I okay -- oh, yeah, what about 109,

1 the Criminal Charge in Michigan?

2 Did we find out anything on that?

3 MS. RICHARDSON: No, Your Honor, we did not.

4 THE COURT: Um...

5 MS. RICHARDSON: Wisconsin. I'll --

6 THE COURT: Wisconsin. Excuse me, I'm sorry.

7 MS. RICHARDSON: We should be able to do it pretty
8 quick. I'll do it before we get back.

9 THE COURT: It's one of those Big 10 or 12, or
10 whatever it is. All right.

11 So we'll be at ease. I think I've got the voir
12 dire. If I don't ask concerning any of these things,
13 Mr. Hazzard, remind me, my clerk will remind me.

14 One other thing I'd ask y'all to do as quickly as
15 possible, will you please look at the witness list and see
16 if y'all can coordinate the witness list so I don't
17 basically have to go through and read one witness list, read
18 a second witness list where I have to repeat the same names.
19 It will just make it easier for me. Okay?

20 MR. HAZZARD: Well, Your Honor, for Mr. Rhue Sr.,
21 we do not have a witness list.

22 THE COURT: That's why you didn't send me one.

23 MR. HAZZARD: Yes, sir.

24 MR. EDGEWORTH: Likewise, Your Honor.

25 THE COURT: Yes, sir.

1 MR. VOIGT: I don't think I do either, Judge.

2 THE COURT: Then I'll use the State's. Have y'all
3 seen the State's?

4 MR. HAZZARD: No, sir. I do not believe so.

5 THE COURT: So my clerk says --

6 MS. RICHARDSON: We emailed --

7 THE COURT: My clerk says she emailed it to y'all.

8 MR. VOIGT: Okay. I have seen it, Judge.

9 THE COURT: All right.

10 MS. RICHARDSON: I can print you another one if
11 you need that.

12 THE COURT: There's only about six names on it.

13 All right. We'll be at ease. We'll reconvene
14 downstairs. So how about at 10:15.

15 (WHEREUPON, there was a break held from 10:03 a.m.
16 until 10:45 a.m.)

17 THE BAILIFF: All rise.

18 THE COURT: All right. Thank you. You can be
19 seated. Thank you, ladies and gentlemen.

20 MS. RICHARDSON: Your Honor, may I approach?

21 THE COURT: You can. Yes, ma'am. Yes, Solicitor.

22 All right. Ladies and gentlemen, the State's got
23 to go grab something real quick, but I want to let you know,
24 we worked till 8:15 last night. And we're here at 8:15 this
25 morning. Basically, working to try to minimize and

1 streamline this matter. And it's a very important case and
2 I'm not going to say anymore until the State gets back. But
3 I appreciate your patience. I really do so. She'll be back
4 in just one second and we'll be ready to begin.

5 (WHEREUPON, a brief pause in the proceedings.)

6 THE COURT: Solicitor, are you going to go ahead
7 and call the case?

8 MS. RICHARDSON: Yes, Your Honor.

9 THE COURT: Thank you.

10 MS. RICHARDSON: Your Honor, this is the State of
11 South Carolina versus Alexander Rhue Sr., 2017-GS-22-875,
12 obstruction of justice; 2017-GS-22-876, criminal conspiracy;
13 2017-GS-22-877, desecration, destruction, or removal of
14 human remains; 2017-GS-22-878, murder; 2017-GS-22-879,
15 criminal conspiracy.

16 Also the State of South Carolina versus Alexander
17 Rhue Jr., 2017-GS-22-870, obstruction of justice;
18 2017-GS-22-871, criminal conspiracy; 2017-GS-22-872, murder;
19 2017-GS-22-873, desecration, destruction, or removal of
20 human remains; 2017-GS-22-874, criminal conspiracy.

21 Also the State of South Carolina versus Tiesh
22 Annette Rhue, 2017-GS-22-880, criminal conspiracy;
23 2017-GS-22-881, destruction, desecration, or removal of
24 human remains; 2017-GS-22-882, murder; 2017-GS-22-883,
25 obstruction of justice; 2017-GS-22-884, criminal conspiracy.

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

2 Could you provide/me with a copy of the
3 indictments, please?

4 MS. RICHARDSON: Yes, Your Honor.

5 THE COURT: Is the State ready to move forward
6 with jury selection?

7 MS. RICHARDSON: Yes, Your Honor.

8 THE COURT: Any matters we need to take up from
9 the State before we proceed?

10 MS. RICHARDSON: No, Your Honor.

11 THE COURT: All right. Defense -- is the Defense
12 ready to move forward with jury selection, Mr. Hazzard?

13 MR. HAZZARD: Defendant Alexander Rhue Sr. is
14 ready to go, Your Honor.

15 THE COURT: All right. And Mr. Voigt?

16 MR. VOIGT: Alexander Rhue Jr. is ready, Your
17 Honor.

18 THE COURT: All right. And Mr. Edgeworth?

19 MR. EDGEWORTH: Tiesh Rhue is ready, Your Honor.

20 THE COURT: All right. Thank you.

21 All right. Ladies and gentlemen, we're about to
22 begin the trial of the case, the State of South Carolina
23 versus Alexander Rhue Sr., Alexander Rhue Jr., and Tiesh
24 Rhue. But before we begin and select a jury there are
25 several questions that I'm going to have to ask you. And

1 so, ladies and gentlemen, I'm just going to ask that you pay
2 close attention. Can everyone hear me?

3 Yes. Okay. I see everybody nodding and thumbs
4 up. Great. If there's a problem hearing me, please raise
5 your hand, let me know, because I want to make sure that
6 everybody hears me. I'm going to ask that you please pay
7 careful attention to these questions.

8 As I mentioned yesterday, accurate information is
9 extremely important in any case, but particularly in this
10 case. And so I appreciate that.

11 The panel has already been sworn in and so we
12 don't need -- correct Madam Clerk?

13 MADAM CLERK: Yes. They were sworn in yesterday.

14 THE COURT: All right. Y'all were sworn in
15 yesterday morning. So I'd also like to remind you that you
16 are still under oath as it relates to your responses that
17 you're going to provide the Court this morning. All right?

18 Ladies and gentlemen, the indictments in this case
19 charge the defendants with the following crimes: Criminal
20 conspiracy, that Alexander Rhue Jr., that Alexander Rhue
21 Sr., and that Tiesh Rhue did in Georgetown County on or
22 about February 25th/26th 2017, combined with each other did
23 do so for the purpose of accomplishing a criminal or
24 unlawful object -- or and object that is neither criminal
25 nor unlawful, through criminal or unlawful means, to wit,

1 destruction, desecration, or removal of human remains in
2 violation of Section 16-17-410 of the South Carolina Code of
3 Laws.

4 Alexander Rhue Sr., Alexander Rhue Jr., and Tiesh
5 Rhue, also, ladies and gentlemen, the indictment indicates
6 that they did, while acting in concert, did destroy, damage,
7 and or desecrate the remains of a deceased human being, Leon
8 Harrison Jr., by disposing of the body of Mr. Harrison in
9 the Black River in violation of Section 16-17-600A of the
10 South Carolina Code of Laws.

11 The indictment is that each, Mr. Rhue Sr.,
12 Alexander Rhue Jr., and Tiesh Rhue, did in Georgetown County
13 on or about February 25th/26th 2017 while acting in concert
14 did willful, feloniously, and intentionally kill the -- kill
15 the victim, Leon Harrison Jr., with malice aforethought,
16 either expressed or implied, and the victim did die as a
17 proximate result thereof on or about February 25th, 2017, in
18 Georgetown County, South Carolina, in violation of the
19 South Carolina Code of Laws, Section 1603-0010 of the
20 South Carolina Code Of Laws. And, ladies and gentlemen, the
21 means of death was homicidal violence.

22 And, finally, ladies and gentlemen, each are
23 charged with the indictment, Alexander Rhue Sr., Alexander
24 Rhue Jr., and Tiesh Rhue, with criminal conspiracy in that
25 they did conspire for the purposes, again, of accomplishing

1 a criminal or unlawful object or an object that is neither
2 criminal nor unlawful, through criminal or unlawful means,
3 to wit, murder, in violation of Section 16-17-410 of the
4 South Carolina Code of Laws.

5 Finally, ladies and gentlemen, Alexander Rhue Sr.,
6 Alexander Rhue Jr., and Tiesh Rhue, indicted, that in
7 Georgetown County on or about February 25th, 2017 and
8 March 13th, 2017, intentionally -- did intentionally do an
9 act which prevented, obstructed, impeded, or hindered the
10 administration of justice, to wit, provide false statements
11 to law enforcement and conceal evidence in the investigation
12 of the murder of Leon Harrison Jr., in violation of the
13 common law offense of obstruction of justice.

14 All right. I need Counsel to approach for one
15 second, please.

16 (WHEREUPON, a bench conference was had.)

17 THE COURT: Thank you.

18 I just wanted to confirm that. Thank you so much.

19 Ladies and gentlemen, what I want you to know
20 right now, is that the indictments that I just read to you,
21 those indictments are not proof. They are not evidence.
22 They are merely the charging documents. They basically --
23 that's how the court gets -- that's how a case gets into
24 court is through the indictment.

25 So I want you to know that when I read these

1 indictments to you and prepare it -- and Solicitor called
2 the case -- these indictments are not evidence and they are
3 not proof. Ladies and gentlemen, the defendants each have
4 pled not guilty and requested a jury trial.

5 Now, what I've got to do now, ladies and
6 gentlemen, I'm going to ask you some specific questions, and
7 I would ask that if these questions apply to you that you
8 please stand and once everyone who the question applies to
9 stands, then I will instruct you further, okay?

10 The defendant -- and also, ladies and gentlemen,
11 by way of background -- well, let me -- let me go ahead.

12 Ladies and gentlemen, the defendants in this case,
13 there are three defendants. Alexander Rhue Sr. Could
14 Mr. Rhue Sr. stand for me, please? And if he could remove
15 his mask and face the jury.

16 THE DEFENDANT: Complies.

17 THE COURT: All right. That's Alexander Rhue Sr.
18 Thank you, Mr. Rhue.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. And we have Defendant,
21 Alexander Rhue Jr. Mr. Rhue Jr., I appreciate your
22 standing.

23 THE DEFENDANT: Thank you.

24 THE COURT: Thank you very much.

25 And Ms. Tiesh Rhue, if you could stand, remove

1 your mask, and face the jury, ma'am.

2 THE DEFENDANT: Complies.

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

4 Is any member of the jury panel related by blood,
5 connected by marriage, or have a close personal
6 relationship, a business relationship with any of these
7 defendants? If so, please stand.

8 All right. I've got two folks. All right.

9 In the gray sweatshirt, ma'am, let me ask you:
10 Could you give me your Juror Number?

11 THE JUROR: 210.

12 THE COURT: All right. I'll tell you what, come
13 on up it's just hard, because I'm about yelling. Come on
14 up, ma'am. I'll tell you what I'm going to do, if you could
15 wait right there for me, ma'am. I'm just going to have
16 Counsel approach, it's just going to make it easier.

17 And your number?

18 THE JUROR: 210.

19 THE COURT: 210. Yes, ma'am, and who are you
20 related to or all of them? I don't know.

21 THE JUROR: All three.

22 THE COURT: All three of them?

23 THE JUROR: By marriage. My husband's family.

24 THE COURT: Your husband's family? Okay. Let me
25 ask you this ma'am: The fact that you are related to these

1 folks, tell me about your relationship that you have with
2 them. Do you see them on a frequent basis or socialize with
3 them or have Christmas with them? Tell me about that.

4 THE JUROR: I have, yes. My grandfather and my
5 husband's grandmother's funeral, I don't see them often, I
6 work a lot.

7 THE COURT: Okay. Sure. Where do you work?

8 THE JUROR: At Lami (ph) Customs.

9 THE COURT: Okay. Let me ask you this: The fact
10 that you are related to the defendants through marriage.

11 THE JUROR: Uh-huh.

12 THE COURT: That's a yes.

13 THE JUROR: Yes.

14 THE COURT: Okay. I'm sorry, I didn't mean to be
15 standing behind the Court Reporter here, I want her to be
16 able to see you also.

17 The fact that you are related to the defendants by
18 marriage, do you think that you could listen to the evidence
19 that is going to be presented, the law that I'm going to
20 instruct you on, and render a fair verdict to both the
21 plaintiff and the defendant? Do you think you can be fair
22 despite having this relationship. That's all I want to
23 know.

24 THE JUROR: Yes.

25 THE COURT: You do? All right. That's great.

1 Thank you very much you can be seated.

2 MS. RICHARDSON: Your Honor, can you inquire
3 further about the actual relationship?

4 THE COURT: Come right back up here for one
5 second. Solicitor, what?

6 MS. RICHARDSON: How exactly are you related?

7 THE JUROR: My father-in-law is a Rhue. And that
8 Alexander Rhue, is my father-in-law's nephew, I believe.

9 MS. RICHARDSON: Alexander Rhue Sr?

10 THE JUROR: Yes.

11 THE COURT: All right. Thank you so much. Okay.
12 Yes, sir. Come on up, sir. Hello.

13 THE JUROR: How are you?

14 THE COURT: I'm doing great. What's your number?

15 THE JUROR: I'm 188.

16 THE COURT: 188. Yes, sir. How do you know these
17 defendants?

18 THE JUROR: We know each other, we were just
19 childhood friends and went to school together.

20 THE COURT: Okay. So you're not related by blood
21 or marriage, but it's somebody you think you've known
22 throughout your life?

23 THE JUROR: Yeah.

24 THE COURT: Okay. Do y'all socialize together?

25 THE JUROR: Every now and then, just all the

1 brothers and the friends get together.

2 THE COURT: Let me ask you this, sir. The fact
3 that y'all have been friends for an extended period of time,
4 or acquaintances, would that effect your ability to listen
5 to the evidence in this case and the law as I instruct you
6 and to then give a fair trial for both the State and the
7 Defense?

8 THE JUROR: You know, I've known them for a long
9 time, it will have an effect on me.

10 THE COURT: It would have an effect on you?

11 THE JUROR: Yeah, it would.

12 THE COURT: Sir, I understand that and what I
13 would say that we appreciate your service here. What I want
14 to do is if you could go and stand right back there.

15 THE JUROR: Okay.

16 THE COURT: Right by this table would be fine.

17 He couldn't be fair. I think that's a juror
18 that's going to have to be removed. From the State, what's
19 your position?

20 MS. RICHARDSON: The State moves for him to be
21 removed.

22 THE COURT: Mr. Hazzard?

23 MR. HAZZARD: No objection.

24 THE COURT: Mr. Voigt?

25 MR. VOIGT: No objection.

1 MR. EDGEWORTH: No objection.

2 THE COURT: All right. Good.

3 Sir, come on back up.

4 What we're going to do is, I certainly understand
5 the situation that you find yourself in. So what I'm going
6 to do is I'm going to excuse you from the trial of this
7 case. And I'm going to, in fact, I'm going to excuse you
8 for the balance of the week, okay?

9 THE JUROR: I appreciate it.

10 THE COURT: All right. Thanks a lot and thanks
11 for your service and honoring your subpoena. That's
12 important to the Court and important to your County. Okay,
13 sir?

14 THE JUROR: Thank you.

15 THE COURT: Oh, what number was that again, sir?

16 THE JUROR: 188.

17 THE COURT: 188.

18 (WHEREUPON, the juror was excused.)

19 MS. RICHARDSON: Your Honor, while everybody is up
20 here, did you already address while I was out of the room,
21 but I'm having issues.

22 THE COURT: I had not, I just basically said we'll
23 get ready to start as soon you get back.

24 MS. RICHARDSON: It is not a disqualification.

25 THE COURT: Again, ladies and gentlemen, thank you

1 for listening and receiving and having accurate information,
2 it's extremely important.

3 All right. At this time, ladies and gentlemen, I
4 would like the attorneys in the case to introduce
5 themselves. And I would like to know if they would do so
6 beginning with the State.

7 MS. RICHARDSON: My name is Alicia Richardson.
8 I'm the Deputy Solicitor here in Georgetown County. I'm
9 actually from Horry County originally. I work for our
10 elected Solicitor for Horry and Georgetown County, who is
11 Jimmy Richardson. And we're not related.

12 I will be joined, my co-counsel is not in here
13 right now, Kate Elizabeth Smith, she typically goes by, Liz
14 Smith.

15 THE COURT: All right. And Mr. Hazzard.

16 MR. HAZZARD: Thank you, Your Honor. May it
17 please the Court.

18 Good morning, ladies and gentlemen. My name is
19 Ronald Hazzard. I have the privilege of being the Circuit
20 Public Defender for the 15th Judicial Circuit, that's Horry
21 County and Georgetown County. I also have the privilege of
22 serving as the Senior Public Defender down here in
23 Georgetown for eight-and-a-half, nine years, before I took
24 this current post. I work with a gentleman by the name of
25 Madison Harte, who lives here in the City of Georgetown.

1 And a gentleman by the name of Ricky Todd who works here,
2 but lives on Pawleys Island. We also have our executive
3 administrator is a young lady by the name Chala Carter and
4 she also is a Georgetown resident.

5 THE COURT: All right. Thank you. Mr. Voigt.

6 MR. VOIGT: Hi there. My name is Gregory Voigt.
7 I'm an attorney. I work -- my office is in Charleston,
8 South Carolina and I have no connection whatsoever to
9 Georgetown County.

10 THE COURT: All right. Thank you. Mr. Edgeworth?

11 MR. EDGEWORTH: Thank you, Your Honor.

12 My name is Josh Edgeworth. My formal name is
13 William Edgeworth, but I go by Josh. I currently have an
14 office in Quinby, South Carolina, which is in Florence
15 County. But I formally had an office in Pawleys Island,
16 South Carolina.

17 THE COURT: Thank you very much.

18 Ladies and gentlemen, is there any member of the
19 jury panel that is related by blood or marriage, has a close
20 business or personal relationship with any of the attorneys
21 involved in this matter? And also, I would say, has anybody
22 been represented by any of the attorneys in this matter? If
23 so, please stand.

24 All right. Let me get you to come up, ma'am. Hi.

25 THE JUROR: Hey.

1 THE COURT: Yes, ma'am. Your Juror Number?

2 THE JUROR: 157. Josh represented me in a car
3 accident.

4 THE COURT: Okay. He represented you in a car
5 accident.

6 THE JUROR: Uh-huh.

7 THE COURT: And has he -- has that ended?

8 THE JUROR: That's it.

9 THE COURT: Okay.

10 THE JUROR: It's done. It's been several years
11 ago.

12 THE COURT: All right. Let me ask you this: The
13 fact that he represented you in a car accident in the past,
14 would that effect your ability to be fair and impartial in
15 this case and to listen to the evidence that's presented and
16 that laws I instruct you and to give a fair -- fair -- be
17 fair to the State and fair to the Defense and render a fair
18 and just verdict?

19 THE JUROR: I don't see why not. I just didn't
20 want to not tell you this because it happened.

21 THE COURT: Well, no. No. No. No. I
22 appreciate -- I appreciate you telling us that. But what I
23 need -- what I need to know is this: Yes, it would effect
24 --

25 THE JUROR: No.

1 THE COURT: -- or, No, it would not?

2 THE JUROR: No. No. No.

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

4 THE JUROR: You're welcome.

5 THE COURT: All right. Ladies and gentlemen, has
6 any member of the jury panel been contacted in person, that
7 is face-to-face, via the telephone, through Facebook,
8 Snapchat, text, email, any other type of electronic
9 communication, social communication, social networking, has
10 anybody been contacted about this case or about their
11 service on the jury panel this week? If so, please stand.

12 (WHEREUPON, there was no response.)

13 All right. Ladies and gentlemen, has any member
14 of the jury panel read anything on the news -- read anything
15 via a newspaper or any other type of print media, read
16 anything electronically through any type of news website or
17 any other type of website or have watched any type of TV
18 broadcast concerning this matter, and this matter concerns
19 the death of Mr. Harrison Jr., or is alleged to -- alleged,
20 because that's all that is at this point -- allegations
21 concerning the death of Mr. Harrison Jr. who was found in
22 the Black River, I believe, in -- is it March -- March?

23 MS. RICHARDSON: Yes, Your Honor.

24 THE COURT: In March of 2017. Has anybody read
25 anything about this, heard anything about it, again, through

1 any type of media outlets? If so, please stand.

2 Yes, ma'am. Let me get you to come on up again.

3 Welcome back. Hold on one second, I'm going to
4 give everybody a chance to come up here.

5 Yes, ma'am.

6 THE JUROR: Do you mean like recently or do I know
7 anything about it?

8 THE COURT: Well, I'm asking both. I want to know
9 if you have read anything, heard anything, in terms of this
10 matter.

11 THE JUROR: Yes, I am very familiar with this
12 trial.

13 THE COURT: Okay. And so let me ask you this,
14 ma'am: How is it you are aware of this?

15 THE JUROR: I actually know -- I knew the victim,
16 also.

17 THE COURT: Okay.

18 THE JUROR: You know, I live in Georgetown and
19 like I said, these are my husband's family members.

20 THE COURT: Yes, ma'am.

21 THE JUROR: So I do know of them.

22 THE COURT: Okay. But as far as any type of
23 communication via news media, print media, social media,
24 have you received anything or read anything about this case
25 in that connection? Do you understand? That was kind of

1 more my question and I want to nail that down first.

2 THE JUROR: When it was on the news.

3 THE COURT: Right.

4 THE JUROR: Yes, I know -- yes, I have. I've read
5 it I've seen it.

6 THE COURT: Okay. Okay. And so what I want to
7 know is, ma'am, the fact that you read about this in the
8 news or heard about it on the video, well, on the news
9 stations, is that, again, do you think that's going to
10 effect your ability to put that information -- take that
11 information out of your mind and listen only to the facts
12 that are presented in this courtroom, through witnesses, or
13 exhibits, and then, basically the law that I instruct you,
14 and give fair consideration to the State and fair
15 consideration to the defendants? That's all I want to know,
16 ma'am.

17 THE JUROR: Yes, I will be fair, yes.

18 THE COURT: You will be?

19 THE JUROR: Yes.

20 THE COURT: That sounds great.

21 MS. RICHARDSON: Will you inquire about if she
22 received any information from the family members?

23 THE COURT: Okay.

24 THE JUROR: No, I have not.

25 THE COURT: Well, let me ask you this: Have you

1 been contacted by any family members or anyone on behalf of
2 any of the family members concerning this matter or
3 concerning your service?

4 THE JUROR: No.

5 THE COURT: Thank you very much. You can be
6 seated. And, ma'am, thank you so much for disclosing this
7 information. Okay?

8 All right. Ladies and gentlemen, I have a list of
9 potential witnesses. It is rather long. But, again, they
10 are potential witnesses and so I preface it. I don't want
11 to get anybody overwhelmed as I go through the list, but
12 these are potential witnesses. And as a result, we've got
13 to go and list anybody and everybody who might be a
14 potential witness in this case.

15 What I'm going to do is I'm going to break these
16 names down in groups of ten. And what I'd like to do is, if
17 you recognize any of those names of potential witnesses, I'd
18 ask you to stand. And then what I would do is I will then
19 address, or address that matter once I complete that list of
20 ten. All right?

21 So, ladies and gentlemen, potential witness:

22 Ian Anderson, formally with the Georgetown County
23 Police Department.

24 Bill Pierce, Georgetown Police Department.

25 Johnell Sparkman, Georgetown Police Department.

1 Scott Scoggins, Georgetown Police Department.

2 Barry Powers, Georgetown Police Department.

3 Bryan Byrd, Georgetown Police Department.

4 Asia Grimmage, formally with the Georgetown Police
5 Department.

6 Kyle Watson -- or Walton, excuse me, with the
7 Georgetown Police Department.

8 Joanne Clarey, Georgetown County Detention Center.

9 Robert Sarvis, Georgetown County Sheriff's Office.

10 All right. Anybody recognize any of those names?

11 If so, I'd appreciate you standing. All right.

12 What I'm going to do is, I'm just going to --
13 because of the mask and because of not having a microphone,
14 I'm just going to ask if you could just come up front and
15 we'll address each one of these.

16 And, ladies and gentlemen, I want you to know that
17 the Covid protocols that are in place, we are following what
18 the Chief Justice of the South Carolina Supreme Court, with
19 guidance and input from the Clerks of Court, have come up
20 with. And so, while this takes a little longer, again,
21 we're trying to comply in that fashion. Thank you.

22 Come on up, ma'am.

23 Yes, ma'am. What's your Juror Number?

24 THE JUROR: 123.

25 THE COURT: 123. Yes, ma'am.

1 THE JUROR: Officer Sparkman, his wife is my third
2 cousin.

3 THE COURT: Okay. Let me just ask you this,
4 ma'am: The fact that Officer Sparkmen's wife is your third
5 cousin, do you believe that you could -- it's not going to
6 effect you in this matter?

7 THE JUROR: Oh, no.

8 THE COURT: No? You need to answer out loud.

9 THE JUROR: No.

10 THE COURT: Okay. So you could be fair and listen
11 to the evidence that's presented here in court and then the
12 law, as I instruct you, and give and render a fair and
13 impartial decision?

14 THE JUROR: Yes.

15 THE COURT: Thank you very much. You can be
16 seated.

17 Yes, sir.

18 THE JUROR: Good morning.

19 THE COURT: Hey, good morning, sir.
20 Your number is 11?

21 THE JUROR: Number 11. Yes, sir.

22 THE COURT: Yes, sir.

23 THE JUROR: I'm friends with Scott Scoggins.

24 THE COURT: Okay. Let me just ask you, sir: When
25 you say friends, could you tell me a little -- touch more

1 about the relationship.

2 THE JUROR: We -- when their kids were playing
3 ball, I umpired, been friends with him and his wife for
4 years, ever since then.

5 THE COURT: Okay. All right.

6 THE JUROR: They live -- their parents live out at
7 Black River, actually where my mother and father-in-law
8 live.

9 THE COURT: All right. Let me ask you this, sir:
10 The fact that you've known Mr. Scoggins for some period of
11 time, your kids played ball or you umpired when his kids
12 played ball, could you put that aside, listen to the
13 evidence that comes from the witness stand and exhibits in
14 this case, and then listen to the law that I instruct you,
15 and render a fair and impartial decision that is fair to the
16 state and fair to the Defense, sir?

17 THE JUROR: Yes, I will.

18 THE COURT: That's what I want to know.

19 THE JUROR: Yes, sir.

20 THE COURT: Okay. Thank you very much.

21 THE JUROR: Okay.

22 THE COURT: Hey ma'am, come on up.

23 THE JUROR: Hey, how are you. 201?

24 THE COURT: I'm doing great. 201, yes, ma'am.

25 THE JUROR: I know all of them. I work in the

1 emergency room.

2 THE COURT: Okay.

3 THE JUROR: And then my husband is a deputy with
4 the county.

5 THE COURT: Okay. Let me ask you this: So you
6 are -- what do you do in the emergency room?

7 THE JUROR: I'm a nurse practitioner.

8 THE COURT: Okay. Great. And so just as a result
9 of being a nurse practitioner over the years, I guess you've
10 just come into contact with these officers when they're in
11 the hospital?

12 THE JUROR: When I clear people go to jail.

13 THE COURT: Okay. Clear people to go to jail.

14 THE JUROR: Like medically clear them.

15 THE COURT: Medically clear then. All right.
16 And then what was the other relation?

17 THE JUROR: My husband is a deputy with the
18 Georgetown County Sheriff's Office.

19 THE COURT: Okay. Let me ask you this, ma'am:
20 The fact that you know these witnesses, I guess it sounds
21 like in a professional capacity? Is that fair?

22 THE JUROR: Uh-huh.

23 THE COURT: I don't know. I'm asking.

24 THE JUROR: Yeah, not personally, just...

25 THE COURT: Okay. The fact that you know them in

1 a professional capacity as it relates to the witnesses, the
2 names that were called out, do you think that would effect
3 your ability to listen to the evidence as presented and then
4 the law as I instruct you and render a fair and impartial
5 decision in this matter?

6 THE JUROR: I mean, I think it would be fine.

7 THE COURT: You'd be able to render that?

8 THE JUROR: Uh-huh.

9 THE COURT: Yes?

10 THE JUROR: Yes.

11 THE COURT: Okay. Now, in regard to your husband
12 is a member of then Georgetown --

13 THE JUROR: Georgetown County Sheriff's Office.

14 THE COURT: All right.

15 Shawn Seebode. Is he on the witness list?

16 MS. RICHARDSON: He is not.

17 THE COURT: All right. The fact that the -- the
18 fact that your husband is presently employed -- what does he
19 do at the Sheriff's Office?

20 THE JUROR: He's a road deputy.

21 THE COURT: Okay. The fact that he is a road
22 deputy with the Georgetown County Sheriff's office, ma'am,
23 let me just as you: Do you think that you might get some
24 pressure or that this would -- this would be difficult for
25 you to be fair to both the State and the Defense in this

1 matter?

2 THE JUROR: Uh-uh.

3 THE COURT: No? Do you know anything about this
4 case? No?

5 THE JUROR: No.

6 THE COURT: You just have to answer out loud.

7 THE JUROR: I'm sorry, no.

8 THE COURT: No you're doing great. You're doing
9 great. All right. You can be seated. Thank you.

10 THE JUROR: Okay.

11 THE COURT: All right. Ladies and gentlemen,
12 continuing with the potential witnesses:

13 Allen Morris, Georgetown Police Department.

14 Alroy Bert Powell, Georgetown County Sheriff's
15 Office.

16 A.J. Kohut, Georgetown County Sheriff's Office.

17 Michael Thacker, Georgetown County Sheriff's
18 Office.

19 Hank Carrison, Georgetown County Sheriff's Office.

20 Dustin Morris, formally with the Georgetown County
21 Sheriff's Office.

22 Dawud Aswad, formally of the Georgetown County
23 Sheriff's Office, and he's currently with the FBI.

24 Jackie Davis, with SLED.

25 Jessica Stowe, with SLED.

1 Sara Goodman, with SLED.

2 Anybody recognize any of those names? If so,
3 please stand. All right. Y'all come on up.

4 Hey, ma'am, come on up. What was your Juror
5 Number?

6 THE JUROR: 243. Michael Thacker, he lives in my
7 community.

8 THE COURT: Okay. Let me ask you this --

9 THE JUROR: His wife is my doctor.

10 THE COURT: His wife is?

11 THE JUROR: My doctor. Primary care --

12 THE COURT: Is your doctor?

13 THE JUROR: Uh-huh.

14 THE COURT: Let me ask you, ma'am: The fact that
15 he lives in your community and his wife is your doctor, you
16 think that's going to effect your ability to listen to the
17 evidence in this case, the law as I instruct you, and render
18 a fair and impartial decision?

19 THE JUROR: Not at all.

20 THE COURT: That is being fair to the State and
21 fair to the Defense?

22 THE JUROR: Yes.

23 THE COURT: You'd be able to do that?

24 THE JUROR: Yes, sir.

25 THE COURT: Thank you very much.

1 THE JUROR: Absolutely. Thank you.

2 THE COURT: Come on up. Hello again.

3 Let me ask you, is it just the same type of
4 professional relationship?

5 THE JUROR: Yes.

6 THE COURT: Or is there any additional names or
7 any additional relationships.

8 THE JUROR: Same.

9 THE COURT: Okay. And your Juror Number again?

10 THE JUROR: 201.

11 THE COURT: 201. All right. Thank you, ma'am.

12 Hey, good morning, ma'am.

13 THE JUROR: How are you?

14 THE COURT: I'm doing great.

15 THE JUROR: I'm Sheri Mcallister, and I'm coming
16 out of an abundance of caution.

17 THE COURT: Okay. And you're 145.

18 THE JUROR: I am.

19 THE COURT: Yes, ma'am.

20 THE JUROR: I recognize some of those names, but
21 my husband and I were very close to the late Sheriff Cribb,
22 and the current sheriff.

23 THE COURT: Uh-huh.

24 THE JUROR: So I believe I've come across some of
25 those names in social settings.

1 THE COURT: All right. So you're friends with the
2 late sheriff and the present sheriff?

3 THE JUROR: Very close with the late sheriff.

4 THE COURT: All right. Let me ask you this,
5 ma'am: The fact that are close friends or were close
6 friends with the late sheriff, and the fact that you are
7 acquaintances or friends with the sheriff now -- let me just
8 ask you: Is that going to effect your ability to listen to
9 the evidence and to then the law as I instruct you on this
10 case, that's my job, and render a fair and impartial
11 verdict, being fair to the State and fair to the Defense?

12 Do you think you can do that, Yes or No?

13 THE JUROR: I do.

14 THE COURT: You do? You can be fair?

15 THE JUROR: Uh-huh.

16 THE COURT: All right. One other question, ma'am:
17 Can you tell us briefly when you say your close to the
18 present sheriff, can you elaborate ever so slightly on that
19 relationship for me?

20 THE JUROR: Right now, we were closer to the late
21 sheriff.

22 THE COURT: Yes, ma'am.

23 THE JUROR: But we would always interact with
24 Carter Weaver when we saw the late sheriff. We would see
25 Carter socially. My husband has contributed to his

1 campaign.

2 THE COURT: Okay.

3 THE JUROR: That type of thing.

4 THE COURT: Okay. All right. Great. Thank you
5 very much. All right.

6 Ladies and gentlemen, continuing with the
7 potential witnesses:

8 Donna Money, with SLED.

9 Amy Stephens Black, formally with SLED.

10 Cynthia Schandl with MUSC.

11 Grayson Amick, formally Richland County Sheriff's
12 Office.

13 Patricia Harte, Richland County Sheriff's Office.

14 Melody Galinski, Richland County Sheriff's Office.

15 Ashleigh Dixon, Richland County Sheriff's Office.

16 Stephen Brown, the Solicitor's Office.

17 Angela Gardner, ROCIC. What is?

18 MS. SMITH: Your Honor, it is a criminal
19 investigation agency that is a private company that is used
20 by multiple law enforcement agencies throughout the country.

21 THE COURT: All right. So, does anybody -- the
22 name -- do you know what -- well, I'm just going to call it,
23 Angela Gardner, R-O-C-I-C. That's the acronym for whatever
24 agency or business she's with.

25 And Susan Stafford, J. Reuben Long Detention

1 Center.

2 Anybody recognize any of those names?

3 (WHEREUPON, there was no response.)

4 All right. Joey Johnson, J. Rueben Long Detention

5 Center.

6 Ben Wells, Horry County Sheriff's Department.

7 Allen Huggins, Conway Police Department.

8 Blake Anderson, PCL Construction.

9 Tom Owens, PCL Construction.

10 Traci Williams, PCL Construction.

11 Ron Walker, Walmart.

12 A T-Mobile Records Custodian.

13 An At&T Records Custodian.

14 A Verizon Records Custodian.

15 Leon Harrison Sr.

16 Brittani Green.

17 Anybody recognize any of those names?

18 (WHEREUPON, there was no response.)

19 All right. Rosaria Grate.

20 Meyan Thomas.

21 Catessa Tucker.

22 Carolyn Beach.

23 Gerard Abram Green.

24 Mitchell Harrison.

25 Antwan Simmons.

1 Shawn Lamont Simmons.

2 Kyeisha Cooper.

3 Any of those names, ladies and gentlemen?

4 (WHEREUPON, there was no response.)

5 All right. Thank y'all. All right.

6 Austin Kenneth Kight.

7 Donavon Lamar Chestnut.

8 Justin Wallace.

9 Woody Scott.

10 Khryshard Harrison.

11 Khrystopher Harrison.

12 Sandra Johnson.

13 Shaheem Scott.

14 Jermayne Rhue.

15 Marva Jones.

16 Antoinette Smalls.

17 Anybody recognize any of those names? If so,
18 great. Let me get y'all -- you ladies come on right back
19 real quick. Thank you.

20 Yes, ma'am, come on up.

21 Hi, yes, ma'am.

22 THE JUROR: Number 123, again. I know a Sandra
23 Johnson, I don't know if that's the same one.

24 THE COURT: Okay. Let me ask you this: The
25 Sandra Johnson that you know, tell me a little bit, how you

1 know her.

2 THE JUROR: She is the mother of my cousin's kids.
3 The ex-wife of my cousin's kids.

4 THE COURT: All right. Let me ask you this: The
5 fact that she may be a witness in this matter, do you think
6 that would effect you --

7 THE JUROR: Oh, no.

8 THE COURT: -- as it relates to you being fair and
9 impartial?

10 THE JUROR: No.

11 THE COURT: All right. Thank you, ma'am.
12 Come on up. We've got to stop meeting like this.

13 THE JUROR: Yeah. I think you might need to go
14 ahead and send me home.

15 THE COURT: No. No. No. I appreciate your
16 honesty in listening and answering these questions. It's
17 extremely important for both the State and to these
18 gentlemen right here. Okay? All right.

19 So who is it that you recognize?

20 THE JUROR: There's about five names that you
21 called.

22 THE COURT: How do you know these names? Are they
23 acquaintances are they related?

24 THE JUROR: They are coworkers and they are
25 brothers of the victim.

1 THE COURT: Okay. Again, going back to the
2 fundamental question that I want to ask you: Knowing these
3 folks, knowing these potential witnesses, do you believe
4 that you can set aside --

5 THE JUROR: Uh-uh, I don't.

6 THE COURT: Hold on let me finish, and then I will
7 let you answer. Fair enough?

8 THE JUROR: Okay.

9 THE COURT: Do you believe that you can set aside
10 those relationships, listen to the law that I give you, to
11 the facts that come in and then render a fair verdict to
12 both the State and the Defense? That's all I want to know.

13 THE JUROR: I say that, yes, I can be fair, I
14 would be fair.

15 THE COURT: Yes, ma'am.

16 THE JUROR: But I know so many of them, with
17 different -- yes, I would be fair.

18 THE COURT: Well, hold on. Hold on.

19 THE JUROR: Okay. I don't --

20 THE COURT: I'm not trying to talk you out or in
21 to anything. You've just been nothing but straight forward
22 and honest in answering your questions. And every person
23 standing up here appreciates that. Okay? Every person.

24 All I want to know and you're the only one that
25 can actually answer the question: Can you be fair? Can you

1 set those things aside or do you think it's going to be
2 difficult or you're not going to be able to do that? That's
3 all I want to know.

4 THE JUROR: I think it's going to be difficult,
5 because I know so many of them. And I, you know, read about
6 it on the news. And it's part family. I don't want to
7 be -- I'm not a judge, I don't want to be judging, you know
8 what I mean? I will be fair. I will listen.

9 THE COURT: All right. Well, let me tell you the
10 way this goes. Your job is to listen to the evidence,
11 listen for the law that I give, and then render a fair
12 verdict, fair to the State and fair to the Defense. Either,
13 Yes, you can be fair, or, No, you can't. And I want you to
14 know --

15 THE JUROR: Yes, I can be fair.

16 THE COURT: All right. Please have a seat. Thank
17 you.

18 MS. RICHARDSON: Your Honor, the State would move
19 to excuse her.

20 THE COURT: All right. Well, I'm going to give
21 y'all an opportunity to do that in just a minute.

22 All right. Just a few more folks.

23 Shaniqua Kennedy.

24 Barbara Huell.

25 Melvin Huell Sr.

1 Cathy Cameron.

2 Perry Collins.

3 Joseph Brown.

4 Sandra Johnson.

5 Nyaisha Brown.

6 Anybody recognize any of those names?

7 (WHEREUPON, there was no response.)

8 I've asked you if you recognize those names, but
9 let me also just go back and make certain, anybody connected
10 by blood or marriage, have any type of business relationship
11 with any of those potential witnesses that I asked?

12 We addressed most of that, but that's why I wanted
13 to -- I see this gentleman standing, that's why I wanted to
14 go back and ask that one more question.

15 So I think, if you recognize and had any type of
16 friendship, any other connection with any of these potential
17 witnesses at all, I see one gentleman standing, if he'd come
18 up anybody else, before we then move on to a few more
19 questions. Okay. Ladies and gentlemen, thank you so much.

20 Yes, sir.

21 MS. RICHARDSON: Your Honor, the correct
22 pronunciation is Heull on Barbara and Melvin Heull.

23 THE COURT: Okay. All right. I'm told it's
24 Barbara or Melvin Heull. I mispronounced the name, it's
25 Heull?

1 MS. RICHARDSON: Heull.

2 THE COURT: Heull. Okay. Yes, sir, come on up.

3 Hey, sir, you're 104? Yes, sir.

4 THE JUROR: Carter Weaver who is the sheriff for
5 Georgetown County is my next door neighbor.

6 THE COURT: Okay.

7 THE JUROR: And I didn't know if that, I kept
8 waiting, because I didn't know if he was going to be a
9 witness, and his son just like Officer Carter Weaver,
10 they're close friends of ours.

11 THE COURT: All right. Let me ask you this sir:
12 I understand they're next door neighbors, or the sheriff is
13 and that you know the sheriff and you know his son?

14 THE JUROR: Yes.

15 THE COURT: Okay. So let me just ask you this,
16 sir: That fact that you are next door neighbors with the
17 sheriff, and that you know his son, you think that's going
18 to have an impact in your ability to listen to the facts in
19 this case, the law that I give you, and be fair and
20 impartial to both the State and the Defense? There's not a
21 right or wrong answer. I appreciate you, you know, you just
22 sat back there and nobody would ever know, but you cam
23 forward, you are disclosing, that's important. Everyone up
24 here appreciates that. There's not a right answer or a
25 wrong answer. Only you can make that call.

1 THE JUROR: Well, I think Carter's a pretty
2 stand-up guy, we're friends, and I don't know, I would
3 struggle with this.

4 THE COURT: All right. So you think the fact that
5 your neighbor is a stand-up guy, I'm using your words, you
6 think that would make it very difficult for you to be fair
7 and impartial in this case?

8 THE JUROR: I think so, to be honest.

9 THE COURT: All right. Why don't you go stand
10 right back between those two tables and I'll be with you in
11 one second, sir.

12 All right. I mean, I believe the gentleman has
13 acknowledged that he doesn't think he can be fair and
14 impartial. I think I'm going to strike him. But let me
15 hear, any objection from the state?

16 MS. RICHARDSON: No, Your Honor. I feel like he's
17 in the same boat as 210 is, in that her initial reaction
18 was, I can't be fair.

19 THE COURT: Well, her initial reaction -- I don't
20 know that I necessarily agree with that characterization,
21 but she ultimately said she could be fair. This gentleman
22 indicated to me, that is, I thought he could not be fair,
23 and I think that's the difference.

24 Now, my question is what do you guys say?

25 MR. HAZZARD: Well, my understanding is that he

1 is -- the fact that, based on his relationship and the
2 characteristics that he sees in Sheriff Weaver and
3 Sheriff Weaver's family, he will have a very hard time being
4 fair and impartial.

5 THE COURT: All right, what do you think?

6 MR. VOIGT: I agree with Mr. Hazzard.

7 MR. EDGEWORTH: The same.

8 THE COURT: All right. Come on up, sir. I'm
9 going to excuse this witness -- this juror.

10 Sir, what I'm going to do is, I'm going to have to
11 excuse you from the trial of this case and I appreciate your
12 honesty. And to that extent, you will also will be finished
13 with your jury service for the week. Don't smile too much.

14 Thank you so much for coming in. Thanks for
15 honoring your subpoena. It means a lot to the Court, it
16 means even more to your County, sir. Thank you.

17 (WHEREUPON, the juror was excused.)

18 All right, ladies and gentlemen, I've got a few
19 more questions that I need to ask you. And some of these
20 questions are personal in nature, and to that extent, I'm
21 probably going to ask you to come up if any of these
22 questions apply to you. But, again, it's very important
23 that we receive and have accurate information as we move
24 forward.

25 All right. Is any member of the jury panel or

1 their family member or a close friend ever been the victim
2 of a violent crime? If so, please stand.

3 All right. Hold on one second.

4 All right. I'm also going to read a second
5 question. Is there any member of the jury panel or their
6 family member or a close friend ever been charged with the
7 commission of a violent crime? If so, please stand.

8 All right. And I'm going to go and ask one more
9 question and then I'm going to ask these individuals come
10 up.

11 Has any member of the jury panel or their family
12 member or a close friend ever participated in any programs
13 sponsored or administered by any law enforcement agency
14 including, but not limited to, a Citizen's Police Academy or
15 a Police Ride Along Program? If so, please stand.

16 All right. I'm going to continue while we've got
17 just, I think, 1, 2, 3, 4 standing.

18 Has any member of the jury panel, their family
19 member or a close friend ever been employed in law
20 enforcement by any state, local, national agency, or been
21 employed as a security guard? If so, please stand.

22 All right. Sir, come on up.

23 THE JUROR: I'm Juror 132.

24 THE COURT: Yes, sir, Mr. 132.

25 THE JUROR: Several for them. My wife's

1 stepfather is a retired police officer.

2 THE COURT: Okay.

3 THE JUROR: City of Andrews. My stepson had went
4 to one of the summer academies here in Georgetown. And the
5 first one, I had a cousin -- a first cousin that was
6 murdered, and his has not gone to trial yet.

7 THE COURT: Okay. So a first cousin was a victim
8 of a homicide?

9 THE JUROR: Yes.

10 THE COURT: And that case is still pending?

11 THE JUROR: Yes.

12 THE COURT: All right. Let me ask you this, sir:
13 The fact that you had a cousin, a first cousin who was a
14 victim of a homicide, the fact that I think you talked about
15 family members who work in law enforcement, and did you say
16 a son a stepson?

17 THE JUROR: Stepson. He went to academy here in
18 Georgetown, but he never pursued it after that.

19 THE COURT: Let me ask you this: Can you put
20 those things aside, be fair and impartial in this case?

21 THE JUROR: Yes, sir.

22 THE COURT: Okay. You can listen to the evidence
23 that's presented, you can listen to the law that I charge
24 you, and be fair to both the State and Defense?

25 THE JUROR: Yes, sir.

1 THE COURT: Great. You can have a seat, thank
2 you.

3 Yes, sir.

4 THE JUROR: Good morning, again.

5 THE COURT: Hey, good to see you again.

6 Yes, sir, Juror 40?

7 THE JUROR: 11.

8 THE COURT: 11, yes, sir.

9 THE JUROR: Ten years ago, my son was kidnapped
10 here in Georgetown County at gun point, him and my mother
11 coming out of church. We attended bond hearings here and
12 Horry County.

13 THE COURT: Yes, sir.

14 THE JUROR: About a year later, a Solicitor here
15 called me and said, Please come down to my office. I
16 thought we were getting ready to go to trial. He said we've
17 got good new and bad news. I said, Okay. He said the news
18 is they pleaded guilty and they got ten years. He said, and
19 they had that trial in Horry County, he said the bad news is
20 nobody contacted you to let you know the trial was going to
21 happen.

22 THE COURT: Right. I'm sorry to hear that.

23 THE JUROR: Yes.

24 THE COURT: Sir, let me ask you this: The fact
25 that you had that experience, and I'm sorry for your loss,

1 but the fact that you had that experience, is that something
2 that you could put aside and be fair in this case to both
3 the State and the Defense? That is, listen to the law that
4 I will give you and listen to the facts that will come from
5 the witness stand and then render a fair decision in this
6 case? Can you do that?

7 THE JUROR: I don't know that I can or not on
8 either side.

9 THE COURT: Okay.

10 THE JUROR: Because of the way it was handled by
11 the State, not informing me or my family to even tell us
12 where they went to prison, when they were up for parole, or
13 anything.

14 THE COURT: So let me just ask you this: Are you
15 saying, sir, that as a result of that experience that you
16 are -- you don't believe that you could be fair and
17 impartial.

18 THE JUROR: I don't really think I can.

19 THE COURT: All right. Sir, if you could step
20 back to the table right there. I'll be with you in one
21 second.

22 All right. The gentleman has had a negative
23 experience with the State and indicates that he doesn't
24 think he can be fair and impartial, at least that's what I
25 got from the conversation. What say the State?

1 MS. RICHARDSON: Your Honor, I believe he also
2 said he couldn't be fair for either side. Since there's
3 involved this case, that I do believe he said he had other
4 charges in Horry County. I don't think he can fair for
5 either side.

6 THE COURT: If my inclination is to discharge this
7 individual, and, of course, you know, we're doing all we can
8 to try this case. I don't know how many jurors we're going
9 to have left, but this guy says he can't be fair. I try my
10 best to try to be fair.

11 MS. RICHARDSON: We have to have a full jury.

12 THE COURT: He said that, but I guess my point is,
13 if I'm leaning towards releasing this juror as a result of
14 what he said. Do you have any objection?

15 MS. RICHARDSON: No.

16 THE COURT: What about you gentlemen?

17 MR. HAZZARD: No objection.

18 MR. VOIGT: No objection.

19 MR. EDGEWORTH: No objection.

20 THE COURT: That's fine. That's fine.

21 Sir, come on up.

22 THE JUROR: Yes, sir.

23 THE COURT: I appreciate you being honest. I'm
24 sorry for your loss. You indicated that you couldn't be
25 fair and impartial in this case, and as a result, sir, I'm

1 going to release you from this case and I'll release you for
2 the week. I don't think we're going to have anything else.
3 All right?

4 THE JUROR: Okay. Thank you.

5 THE COURT: Thank so much, sir. Thank you for
6 your service. Yes, sir.

7 (WHEREUPON, the juror was excused.)

8 Hey, ma'am, come on up.

9 THE JUROR: Thank you.

10 THE COURT: Yes, ma'am. Number 145.

11 THE JUROR: My father is the former Chief
12 Deputy Sheriff of Florence County.

13 THE COURT: Okay.

14 THE JUROR: And my brother is a commissioned law
15 enforcement officer, he's in the private sector now, but he
16 was active.

17 THE COURT: All right. The fact that you have
18 folks who have served in law enforcement in the past in your
19 family, is that going to effect your ability to be fair and
20 impartial in this case, ma'am?

21 THE JUROR: It will not.

22 THE COURT: It will not. Thank you very much.

23 Hey, ma'am.

24 THE JUROR: Good morning.

25 THE COURT: What's your Juror Number, please?

1 THE JUROR: 165.

2 THE COURT: Yes, ma'am, 165. Great. Yes, ma'am.

3 THE JUROR: My sister's boyfriend and my aunt by
4 marriage, her nephew was murdered in Pawleys Island.

5 THE COURT: Okay. Let me ask you this ma'am: The
6 fact that you have this relative that was murdered in
7 Pawleys Island, is there a case that's pending on that or
8 has that been resolved or do you know?

9 THE JUROR: I think it has been resolved.

10 THE COURT: It has been resolved. Okay.

11 Ma'am, the fact that you have a family member who
12 has been the victim of a violent crime, do you believe
13 that's going to effect your ability to be fair, listen to
14 the case, that is the evidence that comes in, listen to the
15 law that I will instruct, and be fair to both sides? Do you
16 think you can do that?

17 THE JUROR: Yes, I can.

18 THE COURT: You do?

19 THE JUROR: Uh-huh.

20 THE COURT: Okay. Thank you very much. You can
21 be seated. Thank you, ma'am.

22 Hi. Yes, ma'am.

23 THE JUROR: Juror 169.

24 THE COURT: Yes, ma'am.

25 THE JUROR: The last question, my husband was a

1 correction officer in Nassau County, New York.

2 THE COURT: Okay.

3 THE JUROR: In a county facility for 25 years, he
4 just retired.

5 THE COURT: All right. Ma'am, that fact that your
6 husband is a retired corrections officer, is that going to
7 effect your ability to be fair and impartial in this case?
8 That is, listen to the law that I give you, listen to the
9 facts, and then render a fair decision to the State and to
10 the Defense?

11 THE JUROR: Oh, I think that it would not.

12 THE COURT: Okay. Well, let me just tell you
13 this: Unfortunately, this is sort is a Yes or a No, because
14 I would like to think that it's not, is sort of a ledge,
15 sort of riding a line. And I'd hate to put you in that
16 position, except for right now, that's my job. It's very
17 important for these individuals and to the defendants in
18 this case.

19 THE JUROR: Yes.

20 THE COURT: So I need to hear a Yes or a No from
21 you. And so my question, again: Could you put aside that,
22 listen to the evidence that will come from the witness
23 stand, and listen to the law that I give you and render a
24 fair verdict, fair to the State and fair to the Defense?

25 THE JUROR: Yes.

1 THE COURT: Okay. Thank you.

2 Hey, sir. What's your Juror Number?

3 THE JUROR: 109.

4 THE COURT: Yeah, what's up.

5 THE JUROR: So two things. One, yesterday when we
6 talked about the -- when I pled no contest to the attempted
7 battery, which carried a maximum of nine months. So I just
8 wanted to bring that up.

9 THE COURT: I appreciate you bringing that up. I
10 think we got to the bottom of that, and it would not effect
11 your eligibility to serve. That's my understanding.

12 Is there something else?

13 THE JUROR: Yes. I have an uncle and two cousins
14 that are on the local police force back in my home state in
15 Wisconsin.

16 THE COURT: Okay. Let me ask you this, sir: The
17 fact that you have some relatives that are law enforcement
18 officers back in Wisconsin, would that effect your ability
19 to listen to the evidence in this case, the law that I
20 instruct you, and be fair to both the State and to the
21 Defense?

22 THE JUROR: No, sir.

23 THE COURT: Thank you very much. You can be
24 seated.

25 THE JUROR: Thank you.

1 THE COURT: Come on up. Hello, again.

2 THE JUROR: Hello again, 201.

3 THE COURT: Yes, ma'am.

4 THE JUROR: My husband is a deputy sheriff.

5 THE COURT: Your husband is a deputy sheriff.

6 And I think I've already asked you this, but let
7 me ask you this again: The fact that your husband is a
8 deputy sheriff, would you be able to put that aside and give
9 a fair trial by listening to the evidence that is presented,
10 the law that I instruct you, and render a fair and impartial
11 decision, that is, being fair to the State and fair to the
12 Defense?

13 THE JUROR: Yes.

14 THE COURT: All right. Thank you.

15 Yes, ma'am, you're Juror Number?

16 THE JUROR: 157.

17 THE COURT: Yes, ma'am.

18 THE JUROR: I am a Federal contractor and
19 currently I'm contracted with CISA.

20 THE COURT: Uh-huh.

21 THE WITNESS: And you said any law enforcement
22 agency, it's a division of Homeland Security.

23 THE COURT: Okay. And let me just ask you, ma'am:
24 The fact that you're a Federal contractor with them, is that
25 going to effect your ability to be fair and impartial in

1 this case, to listen to the evidence that comes in?

2 THE JUROR: No.

3 THE COURT: And listen -- and also listen to the
4 law and then be fair to both the State and the Defense?

5 THE JUROR: No.

6 THE COURT: Thank you very much.

7 THE JUROR: There's something else.

8 THE COURT: Yes, ma'am.

9 THE JUROR: I was raped.

10 THE COURT: Okay. All right, ma'am, the fact that
11 you were a victim of a violent crime, that was one of the
12 questions --

13 THE JUROR: Uh-huh.

14 THE COURT: -- that I asked you. The fact that
15 you were a victim of a violent crime, would that effect your
16 ability, again, I ask you to be fair and impartial in this
17 case, to listen to the evidence in this case, the law that I
18 instruct you in this case, and then be able to be fair to
19 both the State and the Defense, that's what I need to know.
20 And I appreciate you disclosing that and it's very
21 sensitive.

22 THE JUROR: Yes. Yes, it would.

23 THE COURT: It would effect your --

24 THE JUROR: Yes.

25 THE COURT: It would impact your ability to be

1 fair and impartial?

2 THE JUROR: Yes.

3 THE COURT: All right. If you would just go right
4 back to the table right there and wait for one minute.
5 Okay?

6 THE JUROR: Okay.

7 THE COURT: Thank you, ma'am.

8 All right. The victim whispered in my ear that
9 she was raped, and so that's why I then asked her whether or
10 not she could be fair and impartial. She indicated that she
11 didn't think she could be. As a result, I'm inclined to
12 discharge her from this jury. What say the State?

13 MS. RICHARDSON: No objection.

14 THE COURT: Defense?

15 MR. HAZZARD: No objection.

16 MR. EDGEWORTH: No objection.

17 MR. VOIGT: No objection.

18 THE COURT: All right. Thank you.

19 Ma'am.

20 THE JUROR: Uh-huh.

21 THE COURT: Come on right back for one second.

22 Thank you so much. I understand and the fact
23 that's a very difficult situation, so what I'm going to do
24 is I'm going to discharge you from your service this week.
25 Thank you for honoring your subpoena and being here. Thank

1 you for your service to Georgetown County. Okay?

2 THE JUROR: Thank you.

3 THE COURT: Have a great week, yes, ma'am.

4 Hey, come on up, ma'am. Hi. Yes, ma'am, you're
5 Juror Number 177? Yes, ma'am.

6 THE JUROR: Well, I basically stand for two
7 reasons. The first one is I've worked for the TSA for
8 nine-and-a-half years.

9 THE COURT: TSA.

10 THE JUROR: Uh-huh.

11 THE COURT: Yes, ma'am.

12 THE JUROR: And the other thing is I was a victim
13 of a violent crime when I was 25, I was raped.

14 THE COURT: Okay. Well, let me ask you this: In
15 regard to the fact that you've worked for the TSA for
16 several years, in the past; is that right?

17 THE JUROR: Yeah, I retired in 2017.

18 THE COURT: Congratulations.

19 THE JUROR: Certainly.

20 THE COURT: So the fact that you have retired from
21 the TSA, do you think that that would effect your ability to
22 listen to the facts of this case, and then, in turn, listen
23 to the law that I instruct you and render a fair decision as
24 it relates to your past employment with the TSA?

25 THE JUROR: I would be fine with that, that's not

1 a problem.

2 THE COURT: All right. You'd be fair with that?

3 THE JUROR: Yes.

4 THE COURT: Okay. Now, with regard to your status
5 as having been a victim of a violent crime, what I want to
6 know is this: I want to know, again, do you believe that you
7 could render a fair decision in this case, listen again to
8 the evidence and the law that I instruct you, and give fair
9 shake to both the State and the Defense? Do you think that
10 you can do that, ma'am? And when I say think, I hate to do
11 this, it's kind of got to be a Yes or No, because I can't
12 have you walking the line on that. Either you can or you
13 can't.

14 THE JUROR: I think I can.

15 THE COURT: Well, again, believe you can -- I need
16 to know, Can you or can't you? And I hate to put in that
17 pinch, but it's important and I've got to know. You
18 understand why I'm asking you --

19 THE JUROR: Yes.

20 THE COURT: -- and why I'm trying to put my finger
21 on you to speak?

22 THE JUROR: Yeah.

23 THE COURT: It's not because I'm trying to be
24 mean, it's because in fairness to these folks and these
25 folks, we need to know.

1 THE JUROR: Yes.

2 THE COURT: You can be fair?

3 THE JUROR: Yes.

4 THE COURT: Thank you. You can be seated. Thank
5 you so much.

6 Yes, sir. Hey, sir.

7 THE JUROR: Number 90, Your Honor.

8 THE COURT: 90. Here come a little closer so she
9 can hear. Yes, sir.

10 THE JUROR: My grandfather was a police chief of a
11 small town in Pennsylvania.

12 THE COURT: All right. And the fact that your
13 grandfather was a police chief, let me just ask you: Is
14 that going to effect your ability to be fair and impartial
15 in this case?

16 THE JUROR: No.

17 THE COURT: You're going to listen to the evidence
18 that comes from the witness stand or exhibits, listen to the
19 law as I instruct you and render a fair verdict?

20 THE JUROR: I will.

21 THE COURT: Okay. Thank you very much.

22 Hey, ma'am, come on up.

23 THE JUROR: 117.

24 THE COURT: 117. Yes, ma'am, come on just a
25 little closer. Yes, ma'am.

1 THE JUROR: My cousin was a police officer in
2 Horry County.

3 THE COURT: Okay. The fact that your cousin was?

4 THE JUROR: She moved to Rock Hill.

5 THE COURT: Okay. The fact that your cousin -- is
6 she still in law enforcement?

7 THE JUROR: Uh-huh.

8 THE COURT: The fact that your cousin was a police
9 officer in Horry County and still is a police officer in the
10 Rock Hill area, let me just ask you: Is that going to
11 effect your ability to be fair and impartial in this case?

12 THE JUROR: No.

13 THE COURT: You're going to be able to listen to
14 the law that I instruct you, the facts that come from the
15 witness stand, and be fair to both the State and the
16 Defense?

17 THE JUROR: Uh-huh.

18 THE COURT: Yes?

19 THE JUROR: Yes.

20 THE COURT: Thank you very much.

21 Come on up.

22 THE JUROR: Good morning.

23 THE COURT: Good morning. Number?

24 THE JUROR: Nine.

25 THE COURT: Number 9.

1 THE JUROR: Wendy Anders.

2 THE COURT: Yes, ma'am.

3 THE JUROR: My soon to be ex-husband, he started
4 out as sergeant, lieutenant, and ended up being a chief of
5 police.

6 THE COURT: Uh-huh.

7 THE JUROR: This was in Virginia. I believe he's
8 retired now.

9 THE COURT: Okay.

10 THE JUROR: And I also went on a ride along.

11 THE COURT: You also went on a ride along?

12 THE JUROR: A ride along, yes, sir.

13 THE COURT: The fact that your soon to be ex was
14 involved or is involved in law enforcement, that fact that
15 you went on a ride along, is that going to effect your
16 ability to be impartial in this case? Can you be fair in
17 this case?

18 THE JUROR: I believe so.

19 THE COURT: Well, let me just ask you: And I hate
20 to kind of do that, but I've got to know, either, Yeah, you
21 can be fair, or, No, you can't. So what I would say is
22 this: The fact that you have this relationship or had a
23 relationship with your soon to be ex, and the fact that you
24 went on a ride along, would you be able to put that aside,
25 listen to the law that I instruct you, listen to the facts

1 that are going to come in via the witness stand and exhibits
2 and so forth, could you listen to those two things and then
3 render a fair decision, fair to both the State and to the
4 Defense? That's what I need to know.

5 THE JUROR: I could try, it's just when he would
6 come home from work, I would hear stories and details of
7 different things.

8 THE COURT: All right.

9 THE JUROR: So, now, that's up to you and
10 different cases that he had to answer.

11 THE COURT: Well, again.

12 THE JUROR: Okay.

13 THE COURT: Hold on. There is no right and there
14 is not wrong. So the only answer is the answer that you can
15 give. So nobody is going hold anything against you. What I
16 need to know is: Can you be fair or can you not be fair?
17 That really ends up being the question. And if the answer
18 is, I can't be, then I understand. But if you can be, then
19 I just need to know one way or the other. And nobody is
20 sitting here, that's all we need to know.

21 THE JUROR: I apologize.

22 THE COURT: No.

23 THE JUROR: But I don't believe so.

24 THE COURT: That's fine. That's fine.

25 THE JUROR: Yeah, to be fair.

1 THE COURT: No, ma'am. If you'll just go stand
2 back between those two tables right there, I'll be with you
3 in one second. Okay?

4 All right. She indicated, she waffled, waffled
5 again, and then indicated that she couldn't be fair. I
6 think she's indicated that she can't be fair, and as a
7 result, I would be inclined to discharge her from this
8 panel.

9 What say the State?

10 MS. RICHARDSON: No objection.

11 THE COURT: Defense.

12 MR. HAZZARD: No objection.

13 MR. VOIGT: No objection.

14 MR. EDGEWORTH: No objection.

15 THE COURT: All right. Come on up, ma'am.

16 I appreciate you being honest with us. It is
17 really important. This is a very serious case, so I
18 certainly understand the situation that you find yourself
19 in. I'm going to discharge you from service in this case.
20 You're free to go, you're free for the week. Okay?

21 THE JUROR: Okay. Thank you very much.

22 THE COURT: Yes, ma'am.

23 THE JUROR: I appreciate it.

24 THE COURT: Good luck with your divorce. Okay?

25 THE JUROR: With Covid everything is slowing down.

1 THE COURT: Yes, ma'am.

2 (WHEREUPON, the juror was excused.)

3 THE JUROR: Thank you.

4 THE COURT: All right. Is there any member of the
5 jury panel, their family member or a close friend ever been
6 employed or worked with the State Prosecution Commission?
7 If so, please stand.

8 Is any member of the jury panel -- okay, and what
9 we'll do is, I'll ask a few more questions and then get
10 folks to come up.

11 Any member of the jury panel, their family member,
12 or close friend ever been an active participant in any
13 neighborhood watch program?

14 Has any member of the jury panel been a member or
15 contributor to or received assistance from any community law
16 enforcement or victim's advocacy group? These groups would
17 include, but not limited to, for instance: Mothers Against
18 Drunk Driving, Students Against Drunk Driving, Citizens
19 Against Domestic Violence, South Carolina Law Enforcement
20 Officer's Association, Sister Care, The State Office of
21 Victim's Assistance, The South Carolina Victim's Assistant
22 Network, or any similar organizations? If so, please stand.

23 Any member of the jury panel served on any grand
24 jury in any state at any time prior this term of court?

25 All right. Hold on one second, I'm going to ask a

1 couple more.

2 Has any member of the jury panel had formal or
3 informal legal training, this would include, but not be
4 limited to, law school, college business law classes,
5 paralegal training, law enforcement training, or legal
6 training in the course of your employment? If so, please
7 stand.

8 All right. Ladies and gentlemen, this case
9 involves allegations that the defendant -- ladies and
10 gentlemen, is there any member of the jury panel who
11 believes that a defendant must be guilty just because he is
12 charged with a crime or crimes?

13 And I'll repeat that again: Does anybody feel
14 that you must be guilty just because you're charged with a
15 crime? If so, please stand.

16 All right. Does any member of the jury panel have
17 any personal, political, or religious belief that would
18 prevent him or her from sitting in judgment of another human
19 being? If so, please stand.

20 Any juror formed an opinion about this case? If
21 so, please stand.

22 And I think we've already covered this -- I'd
23 already asked about that.

24 All right. Let me get these folks to come up.

25 Hey, ma'am. Yes, ma'am, 145.

1 THE JUROR: 145. I have volunteered for Sister
2 Care before.

3 THE COURT: Okay.

4 THE JUROR: My mother has been in her Neighborhood
5 Crime Watch.

6 THE COURT: All right.

7 THE JUROR: And I went to law school.

8 THE COURT: Okay. Let me ask you this, ma'am:
9 The fact that you went to law school and the fact that
10 you've done some volunteer work with Sister Care, and that
11 your mother -- what did you tell me?

12 THE JUROR: Crime Watch.

13 THE COURT: Your mother has been involved in Crime
14 Watch, would you be able to set those things aside, listen
15 to the law, listen to the facts of this case, and render a
16 fair and impartial verdict, that is fair to the State, fair
17 to the defendants?

18 THE JUROR: Yes.

19 THE COURT: Okay. Thank you. You can be seated.
20 Come on up, sir. Welcome back.

21 THE JUROR: Your Honor.

22 THE COURT: Yes, sir. Number 90.

23 THE JUROR: I'm sorry. Number 90.

24 One of the assistant district attorneys for this
25 area is a close person friend of over 35 years.

1 THE COURT: Okay.

2 THE JUROR: I introduced him to his fiance, who is
3 also my fiance's close friend.

4 THE COURT: All right. And who is that?

5 THE JUROR: Keith Powell.

6 MS. RICHARDSON: He's employed in this office.

7 THE COURT: I'm sorry?

8 MS. RICHARDSON: He's employed in our office here.

9 THE COURT: All right. Sir, the fact that you
10 have a relationship, friendship with -- who is it? Keith?

11 MS. RICHARDSON: Keith Powell. He's one of the --

12 THE COURT: Powell?

13 MS. RICHARDSON: -- Assistant Solicitors in the
14 Georgetown Office.

15 THE COURT: Let me just ask you: The fact that
16 you have that relationship, would that effect your ability
17 to listen to the evidence in this case, that is, listen to
18 the evidence that comes in via the witness stand or
19 exhibits, testimony, listen to the law that I instruct you,
20 and render a fair decision, sir?

21 THE JUROR: No.

22 THE COURT: All right. Thank you. You can have a
23 seat. Counsel, approach.

24 All right. My first question is: Is there any
25 additional voir dire from the State? Have I covered

1 everything that needs to be covered from the State?

2 MS. RICHARDSON: The only thing I would ask is
3 just, in general, Does anybody know of any reason whatsoever
4 that they could not give a fair and impartial trial?

5 THE COURT: All right. Anything from the
6 Defendant, Mr. Hazzard? Anything further?

7 MR. HAZZARD: I noticed that you skipped my second
8 to last voir dire question. I did not know whether you
9 wanted counter in terms of all three defendants or whether
10 you had an issue with the question itself.

11 THE COURT: You know, a little of both. To be
12 perfectly honest, I think it gets wrapped up, number one,
13 they've already heard what the charges are, ad nauseam, they
14 know what this is about.

15 Number two, I'm going to ask them if they've got
16 any reason they can't be fair and impartial in this case. I
17 think that's what the Solicitor wants me to ask, I'm going
18 to ask that.

19 I think that -- I think that covers it. That
20 also, I started reading -- because it only addressed your
21 client and it didn't address the others. And so what's
22 y'all's position? Do you know what the question is?

23 MS. RICHARDSON: I don't know what the question
24 is.

25 MR. HAZZARD: Number 9, I believe you. Or number

1 10.

2 THE COURT: Thank you.

3 MR. VOIGT: I think that the catch all would cover
4 it.

5 THE COURT: You got anything on that? I just
6 think that -- you want me to ask them what, Solicitor?

7 MS. RICHARDSON: Just that there's any other
8 reason or anything else that gives them concern that they
9 would be a fair and impartial juror?

10 THE COURT: Okay. I'll do that right now.

11 Yes, sir.

12 MR. HAZZARD: My purposes is to ask that my
13 requested voir dire be marked as a Court's Exhibit.

14 THE COURT: That's fine. We'll mark -- he wants
15 to mark that requested voir dire and have it put into the
16 record. My ruling on that would be that I think that it's
17 covered in the charges that that I addressed already. I'm
18 going to also get the Solicitor's catch all, that is, for
19 everybody: Is there anybody who believes that they can't be
20 fair and impartial for any reason in this matter? And also
21 they know what this case is about. We've talked about
22 murder, desecration, criminal conspiracy, and obstruction of
23 justice, they're aware of that. Okay?

24 MR. HAZZARD: Yes, sir.

25 (WHEREUPON, Court's Exhibit Number 1 was marked.)

1 THE COURT: All right. Ladies and gentlemen, is
2 there any member of the jury panel that knows for any
3 reason -- is there any reason that you don't feel that you
4 can serve on this jury and be fair and be impartial and give
5 a fair hearing to the State and to the Defense?

6 That is, listen to the evidence that's going to be
7 presented in this case, via testimony or via exhibits or
8 other documents, the law that I will instruct you at the
9 close of the case, ladies and gentlemen. And then basically
10 go and deliberate and render a fair and just verdict.

11 Is there anyone who would not be able to do that?
12 If so, please stand.

13 All right. Okay, ma'am, come on up.

14 Hi. Yes, ma'am, come a little closer, you're
15 Number 195?

16 THE JUROR: 195.

17 THE COURT: Yes, ma'am?

18 THE JUROR: I just don't -- I cannot -- weighed
19 the pros and cons and I'm just not going to do it.

20 THE COURT: Well, tell me a little more about
21 that. What do you do for a living, ma'am?

22 THE JUROR: I'm retired.

23 THE COURT: You're retired? What did you retire
24 from?

25 THE JUROR: Yes, sir. I worked for three major

1 awning companies out of state for 35 years.

2 THE COURT: What did you do for them?

3 THE JUROR: Manufacturing, graphics, logos,
4 sewing.

5 THE COURT: So you sort of did it all?

6 THE JUROR: Well, it was in a company.

7 THE COURT: Well, but, I mean, you were involved
8 in the actual manufacturing of the awning and products?

9 THE JUROR: Yes.

10 THE COURT: And then you were also involved in
11 graphic design?

12 THE JUROR: Uh-huh.

13 THE COURT: Okay. How long did you do that?

14 THE JUROR: 35 years.

15 THE COURT: Now, are you married?

16 THE JUROR: Yes.

17 THE COURT: Did you tell me your husband was also
18 in graphic work?

19 THE JUROR: No. I'm retired he worked for Eli
20 Lilly Pharmaceuticals.

21 THE COURT: That's right. That's right. That's
22 right. Why is it that you don't think that you could make a
23 decision? I'm just asking, because it seems to me that
24 somebody with your life experience, to be quite frank,
25 that's the very type of person who I'd think you'd want on a

1 jury. I'm asking. I don't know. And I'm not trying to put
2 any pressure on you. I'm just asking, because what happens
3 here, these fellas here and these ladies here, everybody
4 wants to have a fair and impartial juror who can listen to
5 the evidence and the law that I instruct and render a fair
6 decision.

7 And the reason why I'm asking this, is there a
8 reason that you think you can? That's all, I'm not trying
9 to be...

10 THE JUROR: I just can't be fair. I have to -- I
11 just can't do it.

12 THE COURT: Do you have a medical reason as to why
13 you can't serve?

14 THE JUROR: No.

15 THE COURT: All right. Go right back there to
16 those tables and I'll be with you in just one second. Okay?
17 Thank you.

18 Well, Solicitor, what's your thoughts?

19 MS. RICHARDSON: She was pretty clear about it,
20 and I don't know if there's something she didn't want to
21 disclose, but it's kind of my take on it, there was maybe
22 there was something that she didn't want to share with us,
23 but she seemed pretty adamant.

24 THE COURT: I'm sorry?

25 MR. EDGEWORTH: She appeared to be ashamed of

1 something that she did not want to disclose.

2 THE COURT: Yeah. The time I questioned her was,
3 quite frankly, to try to put her at ease. I try to do that.
4 I think that's part of my job. I want to put jurors at ease
5 and let them understand that life experiences are something
6 that we generally run toward as attorneys, we want people
7 like that. But there's something that she's not comfortable
8 with. I don't want to get into her personal life. And so I
9 think that I'm going to be inclined to excuse her.

10 Would that be the State's position?

11 MS. RICHARDSON: Yes, Your Honor.

12 THE COURT: Defense.

13 MR. HAZZARD: No objection.

14 MR. VOIGT: No objection.

15 MR. EDGEWORTH: No objection.

16 THE COURT: All right. Great. Ma'am, come on up.

17 I know you can't be fair, I'm not going to make
18 you sit here and serve on this case. And, of course, all
19 I'm asking you it's not to be personal. And it's fine to
20 let you know that this for you to be fair. I appreciate
21 that fact that, and thank you for honoring your summons to
22 be here and your service to the Court and your service to
23 your County. Okay?

24 THE WITNESS: Uh-huh.

25 THE COURT: So with that, ma'am, I'm going to

1 discharge you from this panel and for the week, okay? Thank
2 you, ma'am.

3 THE JUROR: Okay.

4 (WHEREUPON, the juror was excused.)

5 THE COURT: All right. Counsel approach.

6 We got the voir dire completed. Mr. Hazzard,
7 you've got your question that you can add and put into the
8 court record, I understand that.

9 Is that anything further concerning jury selection
10 before we now go and actually pull a jury?

11 MS. RICHARDSON: Your Honor, the juror that I was
12 concerned about earlier who came up initially, knew both
13 sides, but came up initially when the witnesses were named
14 and was pretty adamant initially that she could not be fair.
15 The State is concerned that she would judge the credibility
16 of the witnesses based evidence that's outside of the
17 record. That's the State's position.

18 That's Juror 210, just because she was so adamant,
19 once it was the witnesses. She said she could be fair to
20 the parties, but when it was the witnesses, she was
21 immediately concerned. And that's my concern she has a
22 relationship with the witnesses outside, and we didn't get
23 into that, that's when her concern was raised.

24 THE COURT: Let me hear from you guys, briefly.
25 Do y'all have anything to add?

1 MR. HAZZARD: The Court questioned her if she
2 could be fair and impartial, that's the standard as far I
3 know.

4 THE COURT: I will just say that that I
5 acknowledge that there was some hesitancy, but with just one
6 or two follow-up questions, the same follow-up questions
7 that I've asked everybody, and quite frankly when I ask if
8 there's any objections to the qualification, nobody's
9 objected to the questions that I've asked these folks.

10 And so to that extent she did go and ultimately
11 indicate that she could be fair, could be impartial, could
12 listen to the evidence that was presented, that she could
13 listen to the law, and that she could render a fair
14 decision. She ultimately decided fair. So as a result, I
15 understand we can preserve that to the record and I'm going
16 to deny that.

17 So at this point, I'm going to go ahead and have
18 the Clerk pull the -- find this panel qualified and I'm
19 going to go ahead and have her pull us a jury.

20 Anything further?

21 MS. RICHARDSON: Nothing from the State, Your
22 Honor.

23 THE COURT: Anything from the Defense?

24 MR. HAZZARD: No.

25 MR. EDGEWORTH: No.

1 MR. VOIGT: No.

2 MS. RICHARDSON: Do we want to go ahead and talk
3 about what time -- what time they would report?

4 THE COURT: Well, let's just go ahead -- let's
5 pick a jury and let the rest of them go and then address
6 that. Okay? Is that all right?

7 MS. RICHARDSON: Yes, Your Honor.

8 THE COURT: All right. Madam Clerk, we are ready.

9 I find the panel qualified. I thank everybody. I
10 know it's a time-consuming process. But, again, this is an
11 extremely important matter. It's important to the State.
12 Important to the Defense. I'll ask that the Clerk pull us a
13 jury, please.

14 Now, ladies and gentlemen, what's going to happen
15 is -- in the olden days they used to actually have a blind
16 person or a child come and pull capsules out of one of these
17 big wheels that you rotate around. I will tell you the
18 reason that I know that is because my children loved to do
19 that. Not in cases that I was involved in, but they would
20 go up, they would go, they would pull it out, and the
21 greatest thing about it is they got a check for \$10 from the
22 Colleton County Clerk of Court and they thought that was the
23 greatest thing in the world.

24 Now, we have a computer that takes care of that
25 and automatically randomly selects these names. And so what

1 happens is the State and the Defense has the ability to
2 exercise strikes so that we narrow this down to a jury of
3 12. I would ask for two alternates. Yes, sir?

4 MR. HAZZARD: Your Honor, may we approach?

5 THE COURT: You can. Yes, sir.

6 MR. HAZZARD: I am trying to figure out the
7 logistics of how we will exercise our strikes. If you're
8 going to, for instance, recognize one of us first, and then
9 go down the line, because obviously we're going to ask the
10 State how they feel. Then it would come to us. If you go
11 down the line that way, I would ask if you guys want to
12 switch it up and sit at the same table together so at least
13 we can look at each other.

14 MR. VOIGT: Or we can go like a wheel, which is
15 you go first, then I go first, then he goes first, and then
16 you go first again.

17 THE COURT: Can y'all work that out amongst
18 yourselves?

19 MR. VOIGT: Sure.

20 THE COURT: Mr. Hazzard?

21 MR. HAZZARD: Yes.

22 THE COURT: All right. If y'all go and work out
23 that out, however y'all want to do that. It doesn't matter
24 to me. Is that okay?

25 MS. RICHARDSON: How many jurors do we have left?

1 THE COURT: All right. Anything else?

2 MR. HAZZARD: No, sir.

3 THE COURT: And there are two and one on the
4 alternates?

5 MR. HAZZARD: Yes, sir.

6 THE COURT: Okay. Two and one?

7 MS. RICHARDSON: Okay.

8 THE COURT: All right. Sounds great. Anything
9 further?

10 MR. HAZZARD: No, sir.

11 THE COURT: Thank you.

12 (WHEREUPON, a pause was held briefly.)

13 THE COURT: Madam Clerk, I'm just going to let you
14 take over from here. Okay?

15 MADAM CLERK: Okay.

16 THE COURT: Thank you very much.

17 MADAM CLERK: Yes, sir.

18 THE COURT: Mr. Hazzard, you gentlemen ready?

19 MR. VOIGT: We are, Judge.

20 THE COURT: Mr. Edgeworth, are you ready?

21 MR. EDGEWORTH: Yes, sir.

22 THE COURT: All right.

23 MADAM CLERK: When I call your name, I need you to
24 come and stand right here where I am in a catty-corner
25 position so that everybody can see you and you can see them,

1 okay? Stand right here. And then I will tell you whether
2 to return to your seat or rather you should take a seat in
3 the jury box. Okay? Thank you.

4 Juror Number 231, Pamela Vereen.

5 What says the State?

6 MS. RICHARDSON: Please present the juror.

7 MADAM CLERK: What says the Defense?

8 MR. VOIGT: Your Honor, Alex Rhue Jr. would
9 thankfully excuse this juror.

10 MADAM CLERK: You may return to your seat.

11 Juror Number 21, Lance Blocker.

12 What says the State?

13 MS. RICHARDSON: Please present the juror.

14 MADAM CLERK: What says the Defense?

15 MR. VOIGT: Please present the juror.

16 MADAM CLERK: Please take a seat in the jury box.

17 Juror Number 69, Chase Fulton.

18 What says the State?

19 MS. RICHARDSON: Please present the juror.

20 MADAM CLERK: What says the Defense?

21 MR. VOIGT: Please seat the juror.

22 MADAM CLERK: Please take a seat in the jury box.

23 Juror Number 243, Melissa Wilson.

24 What says the State?

25 MS. RICHARDSON: Please present the juror.

1 MADAM CLERK: What says the Defense?

2 MR. EDGEWORTH: Please excuse the juror from the
3 trial in this matter.

4 MADAM CLERK: You may return to your seat.

5 Juror Number 22, Susan Blomdahl.

6 What says the State?

7 MS. RICHARDSON: Please present the juror.

8 MADAM CLERK: What says the Defense?

9 MR. VOIGT: Please seat the juror.

10 MADAM CLERK: Please take a seat in the jury box.

11 Juror Number 106, Brandon Hockenberry.

12 What says the State?

13 MS. RICHARDSON: Please present the juror.

14 MADAM CLERK: What says the Defense?

15 MR. VOIGT: Please seat the juror.

16 MADAM CLERK: Please take a seat in the jury box.

17 Juror Number 174, Lorenzo Perez.

18 What says the State?

19 MS. RICHARDSON: Please excuse this juror.

20 MADAM CLERK: You may return to your seat.

21 Juror Number 100, Joan Heazel.

22 What says the State?

23 MS. RICHARDSON: Please present the juror.

24 MADAM CLERK: What says the Defense?

25 MR. VOIGT: Please seat the juror.

1 MADAM CLERK: Please take a seat in the jury box.

2 Juror Number 123, Valorie Johnson-Fulton.

3 What says the State?

4 MS. RICHARDSON: Please present the juror.

5 MADAM CLERK: What says the Defense?

6 MR. HAZZARD: Please excuse the juror from the
7 trial in this particular case.

8 MADAM CLERK: You may return to your seat.

9 Juror Number 206, Alvin Sheppard.

10 What says the State?

11 MS. RICHARDSON: Please excuse this juror.

12 MADAM CLERK: You may return to your seat.

13 Juror Number 63, William Felton.

14 What says the State?

15 MS. RICHARDSON: Please present the juror.

16 MADAM CLERK: What says the Defense?

17 MR. VOIGT: The Defense would thankfully excuse
18 this juror.

19 MADAM CLERK: You may return to your seat.

20 Juror Number 132, Michael Knight, II.

21 What says the State?

22 MS. RICHARDSON: Please present the juror.

23 MADAM CLERK: What says that Defense?

24 MR. HAZZARD: Madam Clerk, please excuse the juror
25 from the trial of this particular case.

1 MADAM CLERK: You may return to your seat.
2 Juror Number 180, Dedra Plummer.
3 What says the State?
4 MS. RICHARDSON: Please present the juror.
5 MADAM CLERK: What says the Defense?
6 MR. VOIGT: Please seat the juror.
7 MADAM CLERK: Please take a seat in the jury box.
8 Juror Number 90, Andrew Grazioli.
9 What says the State?
10 MS. RICHARDSON: Please present the juror.
11 MADAM CLERK: What says the Defense?
12 MR. VOIGT: The Defense would thankfully excuse
13 this juror.
14 MADAM CLERK: You may return to your seat.
15 Juror Number 57, Noelle Duvall.
16 What says the State?
17 MS. RICHARDSON: Please present the juror.
18 MADAM CLERK: What says the Defense?
19 MR. VOIGT: Please seat the juror.
20 MADAM CLERK: Please take a seat in the jury box.
21 Juror Number 139, Anthony Love Jr.
22 What says the State?
23 MS. RICHARDSON: Please present the juror.
24 MADAM CLERK: What says the Defense?
25 MR. EDGEWORTH: Please excuse the juror from the

1 trial of this matter.

2 MADAM CLERK: You may return to your seat.

3 Juror Number 151, Shawn Michau.

4 What says the State?

5 MS. RICHARDSON: Please present the juror.

6 MADAM CLERK: What says the Defense?

7 MR. VOIGT: Please seat the juror.

8 MADAM CLERK: Please take a seat in the jury box.

9 Juror Number 115, Juanita Heull.

10 What says the State?

11 MS. RICHARDSON: Please present the juror.

12 MADAM CLERK: What says that Defense?

13 MR. EDGEWORTH: Please excuse the juror from the

14 trial in this matter.

15 MADAM CLERK: You may return to your seat.

16 Juror Number 56, Anthony Duncan.

17 What says the State?

18 MS. RICHARDSON: Please excuse this juror.

19 MADAM CLERK: You may return to your seat.

20 Juror Number 210, Linda Skinner.

21 What says the State?

22 MS. RICHARDSON: Please excuse this juror.

23 MADAM CLERK: You may return to your seat.

24 Jury Number 136, Mary Lee.

25 What says the State?

1 MS. RICHARDSON: Please excuse this juror.

2 MADAM CLERK: You may return to your seat.

3 Juror Number 249, Fredricka Wright.

4 What says the State?

5 MS. RICHARDSON: Please present the juror.

6 MADAM CLERK: What says the Defense?

7 MR. VOIGT: Please seat the juror.

8 MADAM CLERK: Please take a seat in the jury box.

9 Juror Number 182, Charles Powell Jr.

10 What says the State?

11 MS. RICHARDSON: Please present the juror.

12 MADAM CLERK: What says the Defense?

13 MR. VOIGT: Please seat the juror.

14 MADAM CLERK: Please take a seat in the jury box.

15 Juror Number 102, Julie Hentz.

16 What says the State?

17 MS. RICHARDSON: Please present the juror.

18 MADAM CLERK: What says the Defense?

19 MR. EDGEWORTH: Please seat the juror.

20 MADAM CLERK: Please take a seat in the jury box.

21 Juror Number 117, Malorie Hughey.

22 What says the State?

23 MS. RICHARDSON: Please excuse this juror.

24 MADAM CLERK: You may return to your seat.

25 Juror Number 110, Gary Horne.

1 What says the State?

2 MS. RICHARDSON: Please present this juror.

3 MADAM CLERK: What says the Defense?

4 MR. VOIGT: Please seat the juror.

5 MADAM CLERK: Please take a seat in the jury box.

6 THE COURT: Madam Clerk, you got 12?

7 MADAM CLERK: Yes.

8 THE COURT: All right. So we're going to do the
9 alternates?

10 MADAM CLERK: Yes.

11 THE COURT: All right. The two alternates, one
12 and two on the strikes, Solicitor?

13 MS. RICHARDSON: Yes, Your Honor.

14 THE COURT: One of two on the strikes? Does that
15 meet with your approval from the Defense?

16 MR. HAZZARD: Yes, sir.

17 THE COURT: Thank you.

18 MADAM CLERK: Juror Number 145, Sheri Mcallister.
19 What says the State?

20 MS. RICHARDSON: Please excuse this juror.

21 MADAM CLERK: You may return to your seat.

22 Juror Number 201, Pauline Seebode.

23 What says the State?

24 MS. RICHARDSON: Please present the juror.

25 MADAM CLERK: What says the Defense?

1 MR. VOIGT: The Defense would thankfully excuse
2 this juror.

3 MADAM CLERK: You may return to your seat.

4 Juror Number 37, Christopher Childers.

5 What says the State?

6 MS. RICHARDSON: Please present the juror.

7 MADAM CLERK: What says the Defense?

8 MR. VOIGT: Please seat the juror.

9 MADAM CLERK: Please take a seat in the jury box.

10 Juror Number 177, Linda Pierce.

11 What says the State?

12 MS. RICHARDSON: Please present the juror.

13 MADAM CLERK: What says the Defense?

14 MR. EDGEWORTH: Please excuse the juror from the
15 trial in this matter.

16 MADAM CLERK: You may return to your seat.

17 Juror Number 108, Christopher Holmes.

18 What say the State?

19 MS. RICHARDSON: Please present the juror.

20 MADAM CLERK: What says the Defense?

21 MR. VOIGT: Please seat the juror.

22 MADAM CLERK: Please take a seat in the jury box.

23 THE COURT: All right. Thank you Madam Clerk.

24 Is there anything from the State concerning
25 selection of the jury?

1 MS. RICHARDSON: Nothing from the State, Your
2 Honor.

3 THE COURT: Is there anything from the Defendant,
4 Mr. Hazzard on behalf of Mr. Rhue Sr. concerning jury
5 selection?

6 MR. HAZZARD: No, sir, Your Honor.

7 THE COURT: Anything on behalf of Mr. Rhue Jr,
8 Mr. Voigt?

9 MR. VOIGT: No, Your Honor.

10 THE COURT: All right. And anything on behalf of
11 Tiesh Rhue, Mr. Edgeworth?

12 MR. EDGEWORTH: No, Your Honor.

13 THE COURT: All right. Ladies and gentlemen of
14 the jury, thank you for your service. And what we're going
15 to do now is I am going to ask that the Bailiff take you to
16 the jury room, okay?

17 Now, once you go to the jury room, I am going to
18 release you for lunch and would ask that you be back at 2:00
19 o'clock. There are one or two other matters that we will be
20 taking up. And I expect that we will begin with opening
21 statements when you return at 2:00 o'clock.

22 Now, One other thing that I would like you to do,
23 is I would like you, if you could maybe get back just a few
24 moments before 2:00, and I would like for you to elect a
25 Foreperson.

1 Now, the alternates, my two alternates, and that's
2 Number 108 and Number 37, y'all are not eligible to serve as
3 the Foreperson. The Foreperson has got to be one of the 12.
4 The Foreperson basically is the communicator on behalf of
5 the jury. The Foreperson is just going to make sure
6 everybody gets to speak, get's one vote like everybody else,
7 and if y'all have a question or need something, the
8 Foreperson would write that note on behalf of the jury and
9 would then present it to the Bailiff, who would in turn give
10 it to me. Okay?

11 So I just ask if y'all go and just elect someone
12 to serve as the Foreperson. And in the meantime, I want you
13 to know that you are not to talk about this case. And I
14 will constantly remind you of that. You don't talk about
15 this case at all until I tell you to do so. Which is going
16 to be at the end of the trial. Okay? But you do not talk
17 about this case.

18 So when you come back from lunch, or if two of you
19 went to lunch, you don't talk about this case. Talk about
20 the football game last night. Talk about whatever you want
21 to talk about, but not this case.

22 Number Two, don't do any research. I don't want
23 anybody researching, going on Wikipedia, going and Googling
24 this or Googling that. You took an oath, ladies and
25 gentlemen, and you're going to actually take another oath

1 when you get back.

2 Now, I've instructed you not to look to outside
3 sources to search out or seek any information concerning
4 this matter. All the information that you're going to need
5 is going to come from the witness stand, exhibits,
6 testimony, the law that I instruct you.

7 Do you understand that? All right.

8 So, finally, you're not to speak to anybody else
9 about this manner. So if anybody approaches you, you just
10 tell them, Hey, I can't talk about this, you've got to leave
11 me alone. If for some reason somebody doesn't, you just see
12 if you get their name, you bring that, let the Bailiff know,
13 I'll fix that situation, so they won't bother you again.
14 And I don't expect that, but again.

15 I don't know if there's going to be any media
16 coverage of this matter. Again, I will instruct you not to
17 seek out, not to look at, not to examine newspapers, the
18 news, or any other articles that may arise concerning the
19 trial of this matter. All right.

20 Before I discharge the jury, would the Bailiff
21 then take them and show them the jury room, where they'll
22 then be discharged for lunch and come at 2:00 and select a
23 Foreman.

24 Is there any other information, any objections,
25 any exceptions or additions, concerning my instructions to

1 the jury from the State?

2 MS. RICHARDSON: No, Your Honor.

3 THE COURT: All right. Anything from the Defense,
4 Mr. Hazzard?

5 MR. HAZZARD: No, sir.

6 THE COURT: Mr. Voigt?

7 MR. VOIGT: No, sir.

8 THE COURT: Mr. Edgeworth?

9 MR. EDGEWORTH: No, sir.

10 THE COURT: All right. Great.

11 Ladies and gentlemen, I hope you have a good
12 lunch. Ms. Bailiff, is you could go and show them the jury
13 room, and I'll see y'all back at 2:00 o'clock.

14 Thank y'all.

15 (WHEREUPON, the jury exited the courtroom at 12:23
16 p.m.)

17 THE COURT: All right. To the remaining members
18 of the panel, on behalf of Georgetown County, I want to
19 thank you. Thank you for honoring your subpoena. Thank you
20 for the honesty in the responses that you gave yesterday and
21 today. As you can see this is a very important case. It's
22 important to the State of South Carolina. It's important to
23 these Defendants, ladies and gentlemen. So I thank you.

24 And to that I'm going to discharge you for the
25 balance of the week. You're finished. You have served your

1 jury service for the next three years in State Court in
2 Common Pleas or General Sessions Court you have completed
3 your service, you're free for the next three years. Of
4 course, that doesn't apply to Magistrates Court, City Court,
5 or Federal Court, sorry.

6 But I thank you and at this time, anything before
7 I -- anything further before I discharge the remainder of
8 the panel for the week, Solicitor?

9 MS. RICHARDSON: No, Your Honor.

10 THE COURT: All right. Anything from the
11 Defendant before I discharge the panel for the balance of
12 the week?

13 MR. VOIGT: No, sir.

14 MR. EDGEWORTH: No, Your Honor.

15 MR. HAZZARD: No, sir.

16 THE COURT: All right. Thank y'all very much.

17 (WHEREUPON, the remaining jury panel exited the
18 courtroom at 12:25 p.m.)

19 THE COURT: All right. A couple of things.

20 Number one, the case has been called and, to that
21 extent, I'm assuming they're off bond now. Any objection to
22 them remaining out during the breaks of this trial?
23 Anything from the State as it relates to this case having
24 now been called?

25 MS. RICHARDSON: Yes, Your Honor. The State would

1 object unless the bonding company agrees and I don't think
2 they're going to.

3 THE COURT: All right. Mr. Hazzard?

4 MR. HAZZARD: Your Honor, we would move that
5 Alexander Rhue Sr. be allowed to remain out on bond. To
6 give the Court a very little bit of background, Mr. Rhue Sr.
7 is a tile and flooring specialist. To the extent, when I
8 say specialist, to the extent for the past several months he
9 has actually been working in Florida laying marble, granite,
10 that kind of stuff. He has appeared when requested. He was
11 here in July. He is here now.

12 If the Court will give me the balance of the day
13 to get hold of his bondsman and see if they will appear
14 before the Court and certify that they would remain on his
15 bond through the balance of the trial, I would appreciate,
16 if the Court would consider it.

17 THE COURT: All right. Mr. Voigt?

18 MR. VOIGT: Your Honor, I would join in
19 Mr. Hazzard's request to be able to get the bondsman here.
20 Mr. Rhue Jr. has been here every time he's been asked to be
21 here. During this trial, all three of these Defendants lay
22 their head approximately a block away on Highmarket Street,
23 and they're very easy to get. They're not flight risks. I
24 think it would be just additional punishment to confine them
25 during their trial.

1 THE COURT: Mr. Edgeworth?

2 MR. EDGEWORTH: Your Honor, I would ask the same
3 on behalf of Ms. Rhue. As you've seen, she's been here
4 every day, she was here before, she's cooperated completely.
5 She's been present. And I would ask the Court to consider
6 allowing her to stay out --

7 THE COURT: Are they all through the same bonding
8 agency?

9 MR. EDGEWORTH: Yes.

10 THE COURT: Yes. All right. Let's see if we get
11 something from them, that would be great. All right.

12 And I'm going to allow them to move about as it
13 relates to this matter while it's pending. I hope to hear
14 from the bonding people by the end of the day.

15 They understand that if they don't appear I'm
16 going to sign a bench warrant, and we're going to try this
17 case in their absence. And then, of course, we would follow
18 with the case, it's not going to stop. They understand
19 that.

20 The other thing is I want to make sure that the
21 State and the Defense understands that I don't want any
22 communication or attempted communication, I'm not singling
23 anybody out, I'm just saying I don't want any communication
24 or attempted communication with these jurors.

25 So they need to talk to -- or their lawyers need

1 to talk to friends, or whatever, but I don't want to hear
2 about any communication with these jurors.

3 Is that understood from the State?

4 MS. SMITH: Yes, Your Honor.

5 THE COURT: All right. Is that understood from
6 the Defense?

7 MR. EDGEWORTH: Yes, sir.

8 MR. HAZZARD: Yes, sir.

9 MR. VOIGT: Yes, Your Honor.

10 THE COURT: All right. I was thinking that we go
11 ahead and let's meet back upstairs, maybe, if we did that
12 at, say -- it's 12:30 now, 20 till 2:00. Would that give us
13 enough time to address whatever few issues, hopefully, that
14 would remain before we proceed with opening statements from
15 the State? Does that -- does that give you enough time to
16 do what you've got to do?

17 MS. RICHARDSON: Yes, Your Honor, we'll make that
18 work.

19 THE COURT: Okay.

20 MS. RICHARDSON: We've got to get up there a
21 little early and test everything out.

22 THE COURT: Right.

23 MS. RICHARDSON: We need to see about moving the
24 larger TV.

25 THE COURT: Okay.

1 MS. RICHARDSON: And we're going to have to have
2 evidence brought over from the Police Department as well.

3 THE COURT: All right. So I hope y'all can grab a
4 bite to eat. I'll see you over there at 20 till, a quarter
5 till, and hopefully we can take up any additional matters
6 that we might need to take up briefly before we have the
7 jury come back in and begin with the opening statements.

8 Does that meet with the Defense's approval?

9 MR. HAZZARD: Yes, sir.

10 THE COURT: Anything from the State before we
11 adjourn for lunch?

12 MS. RICHARDSON: I just need to get back in the
13 courtroom to get some stuff.

14 THE COURT: I'm sure the Clerk will work with you.
15 Anything from the Defense?

16 MR. HAZZARD: No, sir.

17 MR. EDGEWORTH: No, sir.

18 MR. VOIGT: No.

19 THE COURT: All right. We'll see everybody back
20 at twenty, a quarter till 2:00. Okay? Upstairs.

21 (WHEREUPON, there was a break held from 12:32 p.m.
22 until 1:50 p.m.)

23 THE BAILIFF: All rise.

24 THE COURT: Thank you. Please can be seated.

25 Solicitor, is there anything that we need to take

1 up before we bring the jury in?

2 MS. RICHARDSON: Your Honor, the only thing I
3 think we probably do need -- to just address the
4 sequestration issues and make sure that there's no concern
5 there.

6 Your Honor, from the State's position, and I think
7 we discussed this earlier, Allen Morris will be in the
8 courtroom as the Chief Investigating Officer.

9 THE COURT: Right.

10 MS. RICHARDSON: The statutory victims will be
11 Mr. Leon Harrison Sr., who is the father of the decedent.

12 THE COURT: Okay.

13 MS. RICHARDSON: Your Honor, and Brittani Green,
14 and she's not here, she's not in the courtroom right now,
15 but Brittani Green is the mother of the decedent's minor
16 children.

17 THE COURT: Right.

18 MS. RICHARDSON: And so she would be a
19 representative of the children and would be a victim under
20 the statute.

21 THE COURT: Yes, ma'am.

22 MS. RICHARDSON: And the minor children may want
23 to come in as well and they would be statutory victims.

24 THE COURT: Any objection from the Defendants as
25 it relates to the statutory victims? And, of course, I

1 think the officer who is, basically, I guess, your case
2 manager? Is that -- I'm sorry what do you?

3 MS. RICHARDSON: He's the lead investigator.

4 THE COURT: The lead investigator.

5 Any objection, Mr. Hazzard?

6 MR. HAZZARD: Your Honor, no objection to the case
7 agent. Obviously, with regard to the statutory victims,
8 that being Mr. Leon Harrison Sr. and Ms. Brittani Green as
9 the representative of the minor children, my only question
10 is are they also witnesses? If they are witnesses, then I
11 would ask that they not be allowed to sit in the courtroom
12 until such time as after they have testified.

13 Normally, the way the Court handles it when those
14 two things butt heads, that being the Victim's Bill of
15 Rights, Rights to the Victim versus the Defendant's right to
16 a fair trial. Normally, the way the court's have handled it
17 is to say that the State can call the witness victim out of
18 order and go ahead and once they've testified, then they're
19 free to be in the courtroom for the duration.

20 THE COURT: Solicitor, what's your position on
21 that. I -- I'm listening.

22 MS. RICHARDSON: Your Honor, this is his son that
23 is deceased. I believe that under the Victim's Bill of
24 Rights he has the right to be in here for every part of the
25 case.

1 Now, as far as Ms. Green, we can have her wait
2 outside until after she testifies.

3 THE COURT: I'm sorry.

4 MS. RICHARDSON: I'm sorry, Your Honor. I just
5 grabbed --

6 THE COURT: And was looking and I just heard you
7 stop talking.

8 MS. RICHARDSON: I thought you were talking.

9 THE COURT: No. No. No. No. I'm listening to
10 you, I'm sorry. I was just looking.

11 MS. RICHARDSON: I was trying to grab this paper.

12 Your Honor, that would be our position as far as
13 the father is concerned that he should be able to stay in
14 for opening statements.

15 THE COURT: Mr. Hazzard, you got any law on that?

16 MR. HAZZARD: No, sir. Other than the Defendant's
17 right to a fair trial under the U.S. and South Carolina
18 Constitutions, because, otherwise, that kind of flies into
19 the face of witnesses being sequestered.

20 THE COURT: And I understand.

21 MS. RICHARDSON: The South Carolina Code, Section
22 16-3-1550, says, A person must not be sequestered from a
23 proceeding, adjudicating an offense for which he was a
24 victim. And then he is defined as a victim as being a
25 parent -- a parent of the victim.

1 THE COURT: All right. Is there anything else we
2 need to take up before we bring the jury in from the State?

3 MS. RICHARDSON: I don't know of anything, Your
4 Honor. We would ask -- we will get to a point -- we have a
5 very large TV that, because of the Covid protocols and the
6 jury moving out, we're going to have to -- there's no
7 monitors outside of the jury box, so we're going to have to
8 set up that very large TV.

9 I didn't want to do it during openings, we have a
10 few witnesses --

11 THE COURT: Okay.

12 MS. RICHARDSON: -- we can handle before that.

13 THE COURT: All right.

14 MS. RICHARDSON: And I would let, Your Honor, know
15 so that we could put it in the -- we would just need to
16 break to set it up.

17 THE COURT: That's -- that's fine.

18 MS. RICHARDSON: By then the jury may be ready for
19 a break anyway, but I just wanted to let Your Honor know
20 that just for sort of scheduling that would be the best time
21 to take a break when we need to set that up.

22 THE COURT: All right. Anything from the Defense
23 before we bring the jury in? I'm looking something up right
24 as it relates to what you brought up, Mr. Hazzard, before I
25 make a ruling on that.

1 Anything else from the Defense, Mr. Hazzard,
2 before we bring the jury in?

3 MR. HAZZARD: Yes, sir. When we did the virtual
4 motion hearing, one of the matters I brought up -- well,
5 first of all, Defendant's Pretrial Motion Number 1, with
6 regard to the Defendant, respectfully requests that this
7 Honorable Court review its preliminary instructions and jury
8 charges and remove any language that would intimate to
9 jurors or potential jurors that they have a duty to be just
10 or fair to all parties or language that intimates that the
11 State and the Defendant have the same right and entitlement
12 to a fair trial.

13 The Defense is informed and believes that such
14 language can, quote, Effectively alter the jury's perception
15 of the burden of proof, substituting justice and fairness
16 for the presumption of innocence, and the State's burden to
17 prove the Defendant's guilt beyond a reasonable doubt.

18 And we cited State v. Daniels, a 2012 case, and
19 State v. Beatty, a 2016 case, both from the South Carolina
20 Supreme Court.

21 That is one issue that was raised and I believe
22 the Court said during the virtual hearing that you were
23 going to review your preliminary instructions or may have
24 already done so and believe that they were in compliance.

25 THE COURT: I believe that my clerk has reviewed

1 them. I believe that they are, in fact, in compliance. And
2 I know for a fact that all the truth and finders and all
3 that stuff has been removed and I don't believe there's
4 anything regarding fairness and things of that nature. So I
5 think we're good on that.

6 MR. HAZZARD: Thank you, Your Honor.

7 THE COURT: And in the event that something is
8 there, if you just bring that to my attention when I give
9 you an opportunity, after I finish my opening remarks, and
10 we'll make sure that's corrected, but I believe it is, I
11 believe it is. Okay, sir?

12 MR. HAZZARD: Yes, sir. Thank you, Your Honor.

13 Second matter that was brought up during the
14 virtual hearing I had requested a determination on whether
15 the State -- if the State were to seek to use any prior
16 adjudication or conviction of Alexander Rhue Sr. for
17 impeachment purposes. And determination of which, if any,
18 prior adjudications or convictions would be deemed
19 admissible for impeachment purposes.

20 As I recall, at that time, there was some question
21 and a little bit of confusion based on where his prior
22 record come from -- comes from the way the NCIC was written
23 out. It was unclear to me. I don't believe the Prosecutor
24 had a chance to go back and take a look.

25 So I'm asking the Court to inquire what, if any,

1 prior convictions or adjudications they deemed to be
2 impeachment worthy and for the Court to make a ruling on
3 that at this time.

4 THE COURT: Is that something that's got to be
5 taken up now, if she's not going to make mention this in the
6 opening, as we get started? Is there going to be any --
7 have you made a determination as to that, Solicitor?

8 MS. RICHARDSON: Your Honor, and I don't have the
9 certified convictions, but what it appears to me is all of
10 the convictions would be outside of the ten-year rule and
11 the State wouldn't seek to introduce them unless he somehow
12 opened the door and say, like, I've never been in trouble,
13 or I've never been, or something like that.

14 So the State would not seek to admit it unless
15 there was some action that would open the door past what the
16 statute or what the rules of evidence allowed.

17 THE COURT: All right.

18 MR. HAZZARD: Thank you, Your Honor.

19 THE COURT: Yes, sir.

20 MR. HAZZARD: Number 3, to address possibly the
21 issue with the large television, I remember yesterday the
22 Clerk of Court had a suggestion that the jury could be -- an
23 inquiry could be made of the jury as to whether they all
24 felt comfortable being in the traditional jury box or
25 whether they wanted to spread out. If they were all

1 comfortable being in the traditional jury box then,
2 obviously, each of them would have their own monitor and me
3 and Mr. Rhue would be the only ones who would have to
4 scramble around and find somewhere to watch the monitors.

5 But we're fine with that.

6 THE COURT: For right now, we've got it set up so
7 we can spread them out; is that correct, Madam Clerk?

8 THE CLERK: Yes, sir.

9 THE COURT: Let's just spread them out. I don't
10 want to -- we'll -- we'll let you guys scramble -- I'm not
11 picking on you, I'm just saying, I don't want to get into
12 that at this point. We will -- we will make arrangements so
13 that y'all can be comfortable.

14 Are you using that in your opening?

15 MS. RICHARDSON: No, Your Honor.

16 THE COURT: All right.

17 MS. RICHARDSON: We don't intend to use it --

18 THE COURT: All right.

19 MR. HAZZARD: -- the first law enforcement
20 witness.

21 THE COURT: I would just prefer not to bring them
22 out, tell them a question, then send them -- I just don't
23 want to get into that. But we will accommodate and make
24 certain that y'all can see and hear what needs to be seen
25 and heard. Okay, sir?

1 MR. HAZZARD: Yes, sir.

2 THE COURT: Yes, sir.

3 MR. HAZZARD: And last, in discussion with other
4 Defense Counsel, it is my understanding that Mr. Voigt
5 chooses to go first, or prefers to go first, and I have no
6 problem with that, if the Court would allow that.

7 THE COURT: Mr. Voigt, you want to go first, sir?

8 MR. VOIGT: Mr. Hazzard suggested that it was a
9 good idea if I did and I think I agree with him.

10 THE COURT: All right. So we're going to let you
11 start as it relates to the Defense making an opening
12 statement; is that correct?

13 MR. VOIGT: That's fine, Judge.

14 THE COURT: All right. Thank you.

15 MR. VOIGT: Judge, I have a couple of matters that
16 I don't think need to be brought up before the jury comes
17 out, but I just needed clarification from the State. I
18 filed a 404B Lyle Motion concerning a specific incident that
19 occurred months -- involving my client months before the
20 alleged homicide. If there's no mention of opening -- of it
21 in the opening and we get to it when we get to the witness,
22 then I don't think it needs to be addressed now. I just
23 don't want it to be in opening and then --

24 THE COURT: Right. Right.

25 MR. VOIGT: -- have a fight about it.

1 THE COURT: Solicitor, don't be any mention about
2 the, I guess a prior bad act?

3 MR. VOIGT: It's a simple assault, Judge. It's
4 allegedly my client chased Mr. Leon Harrison Jr. with a
5 machete at his father's house several months earlier. You
6 know, the State, I guess, intends to, you know...

7 THE COURT: Are we going to bring that up in the
8 opening, Solicitor? Do we need to have a hearing on that
9 now?

10 MS. RICHARDSON: Not in the opening, Your Honor,
11 but in the opening I would, because this is something that
12 came in through the other statements is that there was some
13 sort of bad blood between the two.

14 THE COURT: All right. Mr. Hazzard, in regard to
15 your motion or request, in looking at State v. Huckabee, 694
16 S.E. 2d 781, indicates that a party is not entitled to have
17 witnesses sequestered as a matter of right. Instead the
18 decision to sequester a witness is within a sound discretion
19 of the Circuit Court and left the decision to sequester a
20 witness is left to the discretion of the trial judge.

21 I understand the concern that you outline.
22 However, I do believe that the individuals that the State
23 has indicated they want to remain in the courtroom are, in
24 fact, I do believe that under the Victim Bill of Rights they
25 are statutory -- statutory victims, Solicitor; is that

1 correct?

2 MS. RICHARDSON: Yes. Under the statute.

3 THE COURT: All right. I believe that --

4 MS. RICHARDSON: And I just put it -- the vict --
5 a parent of a victim.

6 THE COURT: All right. I believe that they are
7 considered statutory victims. And, as a result, I'm going
8 to allow them to remain in the courtroom. And I note your
9 objection for the record, sir.

10 MR. HAZZARD: Thank you, Your Honor.

11 THE COURT: Yes, sir. Okay.

12 Folks, I just received a notice or a note from the
13 Bailiff, right here, on this yellow sticky. My
14 understanding is that Charles Powell, Juror 182, is the
15 Foreperson. And I am going to make this a Court's
16 Exhibit 2. Does that meet with your approval, Solicitor?

17 MS. RICHARDSON: Yes, Your Honor.

18 THE COURT: All right. And from the Defendant,
19 Rhue Sr.?

20 MR. HAZZARD: No objection, Your Honor.

21 THE COURT: Rhue Jr.?

22 MR. VOIGT: No objection, Your Honor. I move that
23 we get better stationary for the jury.

24 THE COURT: This is -- all right. Ms. Rhue?

25 MR. EDGEWORTH: No objection, Your Honor.

1 THE COURT: All right. Great I'm going to hand
2 this to the Clerk of Court.

3 (WHEREUPON, Court's Exhibit Number 2, was marked.)

4 THE COURT: All right. Mr. Bailiff, you can bring
5 us a jury.

6 MS. RICHARDSON: Oh, Your Honor, one more thing.

7 THE COURT: Okay. Hold on.

8 MS. RICHARDSON: I'm sorry. Are we, as far as
9 masks and the Covid protocol, if we stay six feet away from
10 the jury -- while addressing the jury, is it okay to remove
11 the mask?

12 THE COURT: I think that's sufficient, yes, ma'am.

13 THE BAILIFF: Can we bring in the jury?

14 THE COURT: Yes, ma'am. Yes, ma'am. I'm sorry.
15 Yes, we are ready. We're good.

16 (WHEREUPON, the jury entered the courtroom at 2:12
17 p.m.)

18 THE COURT: All right. Mr. Powell.

19 MR. FOREPERSON: Yes, sir.

20 THE COURT: Congratulations.

21 MR. FOREPERSON: Thank you.

22 THE COURT: All right. We appreciate your
23 willingness to serve as Foreperson. And what I would ask
24 you to do is that throughout the trial of this case, if you
25 would please keep that seat for me. As it relates to