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S.C. SUPREME COURT

IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM MARION COUNTY
Court of Common Pleas

Appellate Case No. 2022-001735

The Honorable George M. McFaddin Jr., Circuit Court Judge

Tyrell Woods……..……Petitioner,

v.

The State of South Carolina ……..…Respondent.

APPENDIX
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STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED
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SC Court of Appeals

APPEAL FROM MARION COUNTY

D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYRELL WOODS,

APPELLANT

APPELLATE CASE NO. 2014-001130

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF MARION	)	CASE NO. 2013-GS-33-256
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	TRANSCRIPT OF RECORD
	)	
	)	
MARCO SANDERS AND TYRELL WOODS,	)	
	)	
Defendants.	)	
	)	

May 19-22, 2014
Marion, South Carolina

B E F O R E:

THE HONORABLE D. CRAIG BROWN, Judge; and a jury

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Court Reporter

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MAY 19, 2014

(WHEREAS this matter was scheduled for a trial, the defendants appeared along with their counsel of record. The proceedings began at 12:13 p.m.)

THE COURT: All right. Is the State ready to proceed?

MR. CLEMENTS: We are ready, Your Honor.

THE COURT: Is defense counsel for Mr. Sanders ready to proceed?

MR. WILSON: We're ready, Your Honor.

THE COURT: Is defense counsel for Mr. Woods ready to proceed?

MR. FLOYD: Yes, Your Honor.

THE COURT: All right. Mr. Clements, call your case, please.

MR. CLEMENTS: Your Honor, we'd call the case of the State of South Carolina versus Marco Sanders and Tyrell Woods, Indictment Number 2013-GS-33-00256. Your Honor, this is an indictment for murder, armed robbery, burglary 1st, possession of a weapon, and conspiracy.

THE COURT: As well as attempted?

MR. CLEMENTS: Yes, sir, and attempted murder.

THE COURT: All right. Ladies and gentlemen, the State has called the case of the State of South Carolina versus Marco Sanders and -- and Tyrell Woods. Mr. Sanders and Mr. Woods have been charged in a six-count indictment with the

offense of murder, armed robbery, burglary 1st degree, attempted murder, possession of a firearm in the commission of a violent crime, and conspiracy.

As to Count I, the offense of murder, alleges that Marco Sanders and Tyrell Woods did in Marion County on or about July 4, 2012, willfully, feloniously, and intentionally kill the victim, Samuel Rowell, with malice aforethought, either express or implied, by means of shooting the victim in the head, and the victim did die as a proximate result thereof on July 4, 2012, in Marion County in violation of Section 16-3-10 of the South Carolina Code of Laws.

Count II, armed robbery, alleges that Marco Sanders and Tyrell Woods did in Marion County on or about July 4, 2012, while armed with a deadly weapon, to wit: a pistol, did take and carry away personal property of Samuel Rowell, to wit: a wallet, credit cards, and monies from or in the immediate presence of Samuel Rowell with the intent to deprive Samuel Rowell of possession by use of force, threats or intimidation in violation of Section 16-11-330(a) of the South Carolina Code of Laws.

Count III, burglary 1st, alleges that Marco Sanders and Tyrell Woods did in Marion County on or about July 4, 2012, willfully and unlawfully enter the dwelling of Samuel Rowell located at Phil Court in Marion while armed with a deadly weapon and/or caused physical injury to Samuel Rowell, who was

not a participant in the crime, and/or entered in the nighttime without consent and with the intent to commit a crime therein and the defendants entered in the nighttime in violation of Section 16-11-311 of the South Carolina Code of Laws.

Count IV alleges that Marco Sanders and Tyrell Woods did in Marion County on or about July 4, 2012, with malice aforethought attempt to murder one Eddie Godbold Jr., by shooting at him with a firearm in violation of 16-3-29.

Count V, possession of a firearm in the commission of a violent crime, alleges that Marco Sanders and Tyrell Woods did in Marion County on or about July 4, 2012, possess a firearm or visibly display what appeared to be a firearm or visibly displayed a knife during the commission or attempted commission of a violent crime, to wit: the murder of Samuel Rowell and/or burglary 1st and/or armed robbery in violation of 16-23-490.

Count VI alleges a conspiracy charge and alleges that Marco Sanders and Tyrell Woods did in Marion County on or about July 4, 2012, did unlawfully, willfully, knowingly, wickedly, and feloniously unite, combine, conspire, confederate, agree between and among themselves and have tacit understanding with each other and with diverse other persons whose names are unknown to the grand jurors in committing the crime of burglary and/or armed robbery and/or murder in

violation of Section 16-17-410.

Now, ladies and gentlemen, listen to me very carefully. This document that I hold in my hand is an indictment. An indictment is not evidence in this case. It is simply the charging document by which these charges or these -- this case is brought into this court. It is not evidence in any way.

To these charges, the defendants have pled not guilty as to each of these charges. Therefore, the State of South Carolina bears the burden of proving their guilt as to each of them beyond a reasonable doubt as to each charge alleged in the indictment.

Now, before we go any further, there are some questions. Before we go any further in selecting a jury, there are some questions that I need to ask of you. Please listen very carefully to these questions.

Has any member of the jury panel ever been related by blood, connected by marriage, had a close personal, business or social relationship with Mr. Marco Sanders, Mr. Tyrell Woods, Mr. Eddie Godbold Jr., or Mr. Samuel Rowell? If so, please stand.

(Whereupon, several members of the jury panel stand.)

THE COURT: All right. In the blue shirt, please tell me your name and number, sir.

JUROR NUMBER 219: Derrick Smith.

THE COURT: Hold on just a minute. Juror Number 219.

Out of that list, whom do you know, Mr. Smith?

JUROR NUMBER 219: Sam Rowell.

THE COURT: Are you previous -- are you related to him?

JUROR NUMBER 219: No. Close friend though.

THE COURT: I'm sorry? Close personal friend?

JUROR NUMBER 219: Yes.

THE COURT: All right. Can you approach, please, sir? Can the lawyers approach? Come on around here, Mr. Smith.

(Whereupon, a bench conference is held in the presence of the jury panel but out of the hearing of the jury panel as follows.)

THE COURT: Hold on just a minute. Okay? You say he's a close personal friend?

JUROR NUMBER 219: Yes, sir.

THE COURT: Y'all engaged in social activities together?

JUROR NUMBER 219: Yeah. Yes, sir. I used to do work for him.

THE COURT: You used to work for him?

JUROR NUMBER 219: I used to work for him on the beach.

THE COURT: Okay. Would that in any way affect your ability to be fair and impartial to both the State and the defense in this case?

JUROR NUMBER 219: I have no idea.

THE COURT: All right. I'm going to set you aside for the trial of this case. I appreciate you bringing that to my

attention.

JUROR NUMBER 219: Okay. I'm sorry.

THE COURT: You can have a seat. Do not discuss anything. Okay?

(Whereupon, the bench conference ends.)

THE COURT: All right. In the green shirt, your name and number, please?

JUROR NUMBER 103: Nakita Godfrey.

THE COURT: All right. Hold on just a minute.

(Whereupon, a bench conference is held in the presence of the jury panel but out of the hearing of the jury panel as follows.)

THE COURT: 219 was set aside for the trial of this case. Sherry, did you hear that?

THE CLERK: Yes, sir. 219.

THE COURT: Thank you.

(Whereupon, the bench conference ends.)

THE COURT: Juror Number 103. Yes, ma'am, Ms. Godfrey?

JUROR NUMBER 103: I used to have a relationship with Marco Sanders.

THE COURT: I can't hear. Can you approach, please? Can y'all hear her? Come on around here, please. The other four of you all, if you would, come right here and form a line right here.

(Whereupon, a bench conference is held in the presence of

the jury panel but out of the hearing of the jury panel as follows.)

THE COURT: Hey.

JUROR NUMBER 103: I used to have a relationship with Marco Sanders.

THE COURT: Intimate relationship?

JUROR NUMBER 103: Yes.

THE COURT: I'm not even going to ask her if -- whether or not she could be fair and impartial. I'm not going to put you in that situation. I'm going to set her aside for the trial of this case. Any objection, Mr. Floyd?

MR. FLOYD: No, sir, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: I have no objection.

THE COURT: All right. Mr. Clements? I'm going to set you aside for the trial of this case. Do not discuss that with any of the jurors. Okay?

JUROR NUMBER 103: Okay.

(Whereupon, the juror leaves the bench conference and the next juror approaches.)

THE COURT: All right. Come on up, please, sir. What's your name and number?

JUROR NUMBER 168: Christopher Moody.

THE COURT: Sir?

JUROR NUMBER 168: Christopher Moody.

THE COURT: All right. 168. Hey, Mr. Moody.

JUROR NUMBER 168: Good morning. How are you doing? Sam's son is --

THE COURT: Sam's son?

JUROR NUMBER 168: -- is like my brother. We was raised together. His mother raised me.

THE COURT: Sam's son is like a brother to you?

JUROR NUMBER 168: Yeah.

THE COURT: Is that what you said?

JUROR NUMBER 168: We was raised together.

THE COURT: What's his name?

JUROR NUMBER 168: Christopher Davis.

THE COURT: Is he a witness in this case, Ed?

JUROR NUMBER 168: No. Oh, I don't know.

THE COURT: I don't remember seeing his name.

MR. CLEMENTS: No.

THE COURT: Any objection to me setting him aside because of the close relation -- because of the close personal relationship? Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: I'm going to set you aside for the trial of this case. Do not discuss it with anybody. Okay? You can have a seat back out there.

JUROR NUMBER 168: Okay.

(Whereupon, the juror leaves the bench conference and the

next juror approaches.)

THE COURT: All right. Come on up, sir.

MR. CLEMENTS: Jason, what's your last name?

THE COURT: What's your last name?

JUROR NUMBER 151: Legette.

THE COURT: Come on up, Mr. Legette.

THE CLERK: 151 is Jason Legette.

THE COURT: How are you, Mr. Legette?

JUROR NUMBER 151: Fine. I played softball with Sam and his brother.

THE COURT: Do what now?

JUROR NUMBER 151: I played softball with Sam and his brother.

THE COURT: You just played softball with them?

JUROR NUMBER 151: Mm-hmm. And I knew him real good.

THE COURT: Would that affect your ability to be fair and impartial --

JUROR NUMBER 151: Yeah.

THE COURT: It would?

JUROR NUMBER 151: Yeah.

THE COURT: All right. I'm going to set him aside. I appreciate it. Juror Number 151, Mr. Jason Legette. Thank you, Mr. Legette. You can have a seat back out in the audience. I set him aside.

THE BAILIFF: Brian Wilson, 245.

(Whereupon, the juror leaves the bench conference and the next juror approaches.)

JUROR NUMBER 245: Judge, how are you doing?

THE COURT: Hey, Mr. Wilson.

JUROR NUMBER 245: I'm related to the family.

THE COURT: Which family?

JUROR NUMBER 245: The Rowell family.

THE COURT: And how close relation?

JUROR NUMBER 245: By grandmother.

THE COURT: All right. Any objection to me setting him aside, Mr. Wilson or Mr. Floyd?

MR. WILSON: No, sir.

THE COURT: Mr. Clements?

MR. CLEMENTS: No, sir.

THE COURT: All right. I'm going to set you aside for the trial of this case.

JUROR NUMBER 245: Okay.

THE COURT: Thank you, Mr. Wilson.

JUROR NUMBER 245: Do I go back?

THE COURT: Yes, sir.

(Whereupon, the juror leaves the bench conference and the next juror approaches.)

THE COURT: What's your name, ma'am?

JUROR NUMBER 78: Deborah C. Grant, Number 78 I think.

THE COURT: All right. Yes, ma'am, Ms. Grant?

JUROR NUMBER 78: I'm related to Mr. Samuel. He's related to my grandparents and I used to hang out at the establishment.

THE COURT: You used to what?

JUROR NUMBER 78: Go to his place of business after the baseball games.

THE COURT: Any further inquiry, Mr. Clements?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson or Mr. Floyd?

MR. WILSON: No, Your Honor.

MR. FLOYD: No, Your Honor.

THE COURT: All right. I'm going to set you aside for the trial off this case.

JUROR NUMBER 78: Do I leave?

THE COURT: No, ma'am.

JUROR NUMBER 78: Oh, just stay.

MR. CLEMENTS: Did you ask her if she could be fair and impartial?

THE COURT: Would it -- is there any way that you could be fair and impartial to both the State and the defense?

JUROR NUMBER 78: Yes, sir.

THE COURT: You could be fair to both of them?

JUROR NUMBER 78: Yeah. I don't know them.

THE COURT: Ma'am?

JUROR NUMBER 78: Yes, sir. I don't know them.

THE COURT: I'm sorry?

JUROR NUMBER 78: You wondered if I could be fair?

THE COURT: And impartial to both sides?

JUROR NUMBER 78: Yes, sir.

THE COURT: Mr. Wilson? I mean I didn't ask her that initially.

JUROR NUMBER 78: Mm-hmm.

MR. WILSON: Didn't she say she's related to him?

THE COURT: In what capacity are you related to him?

JUROR NUMBER 78: My grandmamma is related to his family right around. Personally, I don't know my relationship. My grandmother is around with him. He was around. They was related. I think through --

THE COURT: But you don't know how close?

JUROR NUMBER 78: No.

THE COURT: Your grandmother and who?

JUROR NUMBER 78: His grandpa -- his father. They was related, but how close I don't know. My sister may know, but I don't know.

THE COURT: Did you engage in social activities with Mr. Rowell?

JUROR NUMBER 78: At his place of business.

THE COURT: You did?

JUROR NUMBER 78: Mm-hmm.

THE COURT: I'm going to set you aside for the trial of

this case.

JUROR NUMBER 78: Mm-hmm.

THE COURT: Just as a precaution.

(Whereupon, the juror leaves the bench conference and the next juror approaches.)

THE COURT: Come on up, please.

JUROR NUMBER 160: Katisha McBride, 160.

THE COURT: Yes, ma'am, Ms. McBride?

JUROR NUMBER 160: Me and Mr. Sanders went to school together and we are cousins.

THE COURT: You and Marco Sanders?

JUROR NUMBER 160: Yes. And Shalonda. All of those are my cousins.

THE COURT: First, second, third?

JUROR NUMBER 160: Like third or fourth cousins down the line.

THE COURT: Would that affect your ability to be fair and impartial to both the State and the defense in this case?

JUROR NUMBER 160: Sir?

THE COURT: Could you be fair and impartial to both the State and the defense if you were selected as a juror?

JUROR NUMBER 160: Yeah.

THE COURT: All right. Mr. Clements?

MR. CLEMENTS: She's -- she's a cousin. She knows her relationship to Marco and the last juror didn't know their

relationship to the Rowell's.

THE COURT: I'm going to excuse her. I excused the last lady who didn't have a relation -- who did have a relationship. I'm going to excuse you. Okay? Have a seat back out there.

JUROR NUMBER 160: Okay.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No, sir.

THE COURT: All right. 160, I'm going to set her aside.

THE CLERK: 160.

(Whereupon, the juror leaves the bench conference and the next juror approaches.)

MR. CLEMENTS: Name and number?

JUROR NUMBER 133: Barbara James.

THE COURT: 133. Yes, ma'am, Ms. James?

JUROR NUMBER 133: I don't know him personally, but my mother was related to the Rowells before marriage.

THE COURT: Before marriage?

JUROR NUMBER 133: Mm-hmm.

THE COURT: And you don't know Mr. Samuel Rowell?

JUROR NUMBER 133: No, I don't know him.

THE COURT: You didn't have any social interaction with him?

JUROR NUMBER 133: No.

THE COURT: The fact that -- what you told me here today, would that in any way affect your ability to be fair and impartial to the State and the defense?

JUROR NUMBER 133: No.

THE COURT: All right. I'm going to let you stay with us.

JUROR NUMBER 133: Okay.

THE COURT: Okay. Any objection?

MR. WILSON: No, sir.

THE COURT: All right. You can be seated. Thank you, Ms. James, for letting me know.

JUROR NUMBER 133: No problem.

(Whereupon, the juror leaves the bench conference and the next juror approaches.)

THE COURT: Come on up, ma'am.

THE CLERK: You did not excuse her?

THE COURT: Huh?

THE CLERK: You did not excuse her?

THE COURT: I did not, no. Hey.

JUROR NUMBER 40: Hey. Gloria Campbell.

THE COURT: All right. Hold on, Ms. Campbell. Juror Number 40. Yes, ma'am, Ms. Campbell?

JUROR NUMBER 40: I'm not sure, but I think I know the -- the father and the uncle. I'm not sure.

THE COURT: The father?

JUROR NUMBER 40: If they're -- his father named Eddie and Ernest Godbold. I'm not sure.

THE COURT: The fact that you may or may not know them, would that affect your ability to be fair and impartial to both the State and the defense?

JUROR NUMBER 40: No. I don't think so.

THE COURT: Yes or no?

JUROR NUMBER 40: No.

THE COURT: All right. Anything further, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No, sir.

THE COURT: All right. I'm going to -- thank you for bringing that to my attention.

MR. WILSON: Judge, one question.

THE COURT: Hold on, ma'am.

MR. WILSON: She's saying she knows the father. Which father is that? Mr. --

THE COURT: Mr. Godbold's father. Isn't that right?

JUROR NUMBER 40: Yes.

THE COURT: Okay. Mr. Godbold's father.

MR. WILSON: Okay.

THE CLERK: Did you keep her?

MR. CLEMENTS: Yes.

THE CLERK: Okay.

THE COURT: Where's my witness list?

(Whereupon, the bench conference ends.)

THE COURT: All right. Ladies and gentlemen, the following is a list of potential witnesses in this case. Please listen very carefully to this list. I am not going to go through all of their names at one time, but I'm going to -- I'm going to name about five or ten at one time. So I want you to listen and I'll continue with the next grouping. Okay?

Captain Judy Barker, Detective Martin Bell, Deputy Levern Nichols, James Lee, Neil Rouse, Clemson Legette, Chuck Page, Gregory Pike, Corporal Marion Richardson, Lieutenant Eddie Sawyer.

As it relates to those witnesses -- potential witnesses, is there any member of the jury panel that has ever been related by blood, connected by marriage, had a close personal, business, or social relationship with any of those individuals I just named? If so, please stand.

(Whereupon, several members of the jury panel stand.)

THE COURT: All right. In the white and black blouse, yes, ma'am? Your name and number?

JUROR NUMBER 81: Susan Ellis, Juror 81.

THE COURT: All right. Hold on just a minute, Ms. Ellis. Whom off that list are you related by blood or connected by marriage?

JUROR NUMBER 81: I'm not related or connected by marriage, but I do know Martin Bell and I forgot who else you mentioned.

THE COURT: You just know him?

JUROR NUMBER 81: Yes.

THE COURT: The fact that you know him, would that in any way affect your ability to be fair and impartial to both the State and the defense?

JUROR NUMBER 81: No, sir.

THE COURT: All right. Thank you. You may be seated. Yes, ma'am, your name and number, please?

JUROR NUMBER 58: Margaret Crawford.

THE COURT: Yes, ma'am, Ms. Crawford?

JUROR NUMBER 58: 58. Clemson Legette by blood.

THE COURT: First, second cousin or what?

JUROR NUMBER 58: First -- first cousins.

THE COURT: All right. Can the lawyers approach just a minute, please? I'm sorry.

(Whereupon, a bench conference is held in the presence of the jury panel, but out of the hearing of the jury panel as follows.)

THE COURT: Y'all might as well just stand up here. If it's within the -- is it first consanguinity? I'm going to ask her if she can be fair and impartial, but I mean that's first cousin. I think under the statute she can be excused.

MR. CLEMENTS: He didn't do anything but ride up on the scene and run some tape around it and went on and went back.

MR. WILSON: Yeah, but it's also a Marion County police case. I mean that --

THE COURT: All right.

(Whereupon, the bench conference ends.)

THE COURT: All right. I'm going to set you aside for the trial of this case, ma'am. Tell me your name and number again?

JUROR NUMBER 58: Margaret Crawford, 58.

THE COURT: Okay.

MR. CLEMENTS: First cousin is right.

THE COURT: All right. Yes, ma'am, your name and number, please?

JUROR NUMBER 38: Patricia Calhoun, Number 38.

THE COURT: Ma'am, you can sit down. Thank you. Whom do you know off that list?

JUROR NUMBER 38: James Lee and Neil Rouse and Eddie Sawyer.

THE COURT: Are you related to them?

JUROR NUMBER 38: No, sir. We're just real good friends.

THE COURT: Engage in social activities together?

JUROR NUMBER 38: Yeah, kind of. Well, sometimes we end up eating at the same place for supper or something.

THE COURT: Together or just end up being there?

JUROR NUMBER 38: Just end up getting there together.

THE COURT: All right. Would that in any way affect your ability to be fair and impartial to both the State and the defense in this case?

JUROR NUMBER 38: No, sir.

THE COURT: All right. You can be seated.

(Whereupon, a bench conference is held in the presence of the jury panel, but out of the hearing of the jury panel as follows.)

THE COURT: Any objection on her?

MR. WILSON: No, sir.

(Whereupon, the bench conference ends.)

THE COURT: Yes, sir, your name and number?

JUROR NUMBER 7: Brian Atkinson, Number 7. I'm related by marriage to Marion Richardson.

THE COURT: Y'all engage in social activities together?

JUROR NUMBER 7: Occasionally.

THE COURT: How often?

JUROR NUMBER 7: Family functions and get-togethers. We're actually stepbrothers.

THE COURT: You're actually stepbrothers?

JUROR NUMBER 7: Yes, sir.

(Whereupon, a bench conference is held in the presence of the jury panel, but out of the hearing of the jury panel as follows.)

THE COURT: I'm going to set him aside. Any objection?

MR. WILSON: No, sir.

THE COURT: Huh?

MR. CLEMENTS: Doesn't he do any -- I would love to have him. Let me just say that, but I can't really object.

THE COURT: Do what?

MR. CLEMENTS: I can't really object.

(Whereupon, the bench conference ends.)

THE COURT: All right. I'm going to set you aside for the trial of this case. Thank you, sir.

(Whereupon, a bench conference is held in the presence of the jury panel, but out of the hearing of the jury panel as follows.)

THE COURT: I'm just breaking this down because if I list all of these people at one time, they'll forget.

MR. WILSON: I know. I agree. I appreciate it.

THE COURT: Just kind of step to the side a little bit.

(Whereupon, the bench conference ends.)

THE COURT: All right. Listen to this next list, ladies and gentlemen.

Detective Harry Watson, Private First Class Justina Hayes, Alicia McGirt, Lieutenant Robert Smith, Dr. Lee Marie Tormos, Bart Cave, Sabrina Fellers, Scott Hardee, Carl Kinley, Kukila Stanley.

Is there any member of the jury panel that has ever been

related by blood, connected by marriage, had a close personal, business, or social relationship with any of those witness -- potential witnesses? If so, please stand.

(Whereupon, no one stands.)

THE COURT: All right. The next list.

Mindy Warley, Patricia Brooks, Betty Butler, Jessica Herron, Dan DeFreese, Thomas Darnell, Shawn Bart Davis, Gus Ann Weeks.

MR. CLEMENTS: Gus Ann.

THE COURT: Gus Ann?

MR. CLEMENTS: Gus Ann.

THE COURT: Gus Ann, excuse me. Gus Ann Weeks, Sue Davis, Eddie Godbold Jr.

(Whereupon, a bench conference is held in the presence of the jury panel, but out of the hearing of the jury panel as follows.)

THE COURT: You want me to say this other one?

MR. CLEMENTS: Sue is her nickname. Queen Esther is Sue.

THE COURT: Sir?

MR. CLEMENTS: Sue. Sue is her nickname. Queen Esther is her --

THE COURT: All right.

(Whereupon, the bench conference ends.)

THE COURT: Queen Esther, who is also Sue Davis. All right. Are there any member of the jury panel that has ever

been related by blood, connected by marriage, had a close personal, business, or social relationship with any of those potential witnesses? If so, please stand.

(Whereupon, no one stands.)

THE COURT: All right. Listen carefully. Andre Paige, Lafayette Reed, David Elon Rowell, Andre Sparks, Gene Stanley, Babe Francis Davis, Liston Phillips, Veronica Bonnie Davis, Valerie Commander, Shawn Laquan Davis.

Is there any member of the jury panel that has ever been related by blood, connected by marriage, had a close personal, business, or social relationship with any of those potential witnesses? If so, please stand.

(Whereupon, several people stand.)

THE COURT: To my right over here. Yes, ma'am, your name and number?

JUROR NUMBER 28: Toni Britt, 28.

THE COURT: All right. Who on that list do you know?

JUROR NUMBER 28: David Rowell.

THE COURT: Are you related by blood, connected --

JUROR NUMBER 28: No. I worked with him for sixteen years.

THE COURT: Still work with him?

JUROR NUMBER 28: No, sir.

THE COURT: Would that in any way affect your ability to be fair and impartial to both the State and the defense if you

were selected as a juror in this case?

JUROR NUMBER 28: No, sir.

THE COURT: Thank you, ma'am. You may be seated.

(Whereupon, a bench conference is held in the presence of the jury panel, but out of the hearing of the jury panel as follows.)

THE COURT: Did y'all get her name and number?

MR. CLEMENTS: Yes, sir.

THE COURT: Okay.

(Whereupon, the bench conference ends.)

THE COURT: Yes, ma'am?

JUROR NUMBER 56: April Crawford, 56.

THE COURT: All right. Who off that list?

JUROR NUMBER 56: Liston Phillips.

THE COURT: Are you related? How are you -- how do you know him?

JUROR NUMBER 56: He was married to my aunt. He's married to my aunt.

THE COURT: Okay. Do you engage in social activities together?

JUROR NUMBER 56: No, sir.

THE COURT: Would that in any way affect your ability to be fair and impartial to both the State and the defense if you were selected as a juror?

JUROR NUMBER 56: No, sir.

THE COURT: Thank you, ma'am. You may be seated. All right. Listen very carefully.

Willie D. Lewis, H. Charlie Watson, Reggie Hotelling, Darren Miles, David Bannon, Elijah Davis, Ernest Grice, Walker Davis, Lorianne Pitts, Stephanie Stanley, Lily Gallman, Britt Dove.

Are there any members of the jury panel that's ever been related by blood, connected by marriage, had a close personal, business, or social relationship with any of those witnesses? If so, please stand.

(Whereupon, two people stand.)

THE COURT: Your name and number, please?

JUROR NUMBER 259: Leslie Hucks, 259.

THE COURT: Okay. Ms. Hucks, who off that list?

JUROR NUMBER 259: Mr. Watson and myself go to church together.

THE COURT: Y'all engage in social activities outside of church together?

JUROR NUMBER 259: No, sir.

THE COURT: Ma'am?

JUROR NUMBER 259: No, sir.

THE COURT: The fact that y'all go to church together, would that in any way affect your ability to be fair and impartial to both the State and the defense if you were selected as a juror?

JUROR NUMBER 259: No, sir.

THE COURT: Thank you, ma'am. You may be seated.

(Whereupon, a bench conference is held in the presence of the jury panel, but out of the hearing of the jury panel as follows.)

THE COURT: And I think I hit all of the witnesses.

THE CLERK: Judge.

(Whereupon, the bench conference ends.)

THE COURT: I'm sorry. Yes, sir, your name and number?

JUROR NUMBER 251: I go to church with Charlie Watson also, but it won't affect my ability to judge or --

THE COURT: All right. It will not affect your ability to be fair and impartial to both the State and the defendants?

JUROR NUMBER 251: No, sir.

THE COURT: Okay. Thank you. You may be seated. Any other?

THE CLERK: Name and number?

THE COURT: Tell me your name and number again, sir?

JUROR NUMBER 251: 251, Alvin Boatwright.

THE COURT: Thank you, Mr. Boatwright. I think that's all the witnesses. Any other witnesses? All right.

MR. CLEMENTS: Let me check, Your Honor, to be sure. I beg the Court's indulgence. Your Honor, I think that covers all of them.

THE COURT: Okay. All right. At this time, I'm going to

ask -- Mr. Clements, if you would, stand and introduce yourself, followed by defense counsel, introduce yourself to the jury panel.

MR. CLEMENTS: Good afternoon, ladies and gentlemen. My name is Ed Clements. I am the solicitor for the Twelfth Judicial Circuit, Florence and Marion counties. I will be trying this case for the State of South Carolina, and trying this case with me is Mr. Dudley Saleeby, the former solicitor.

THE COURT: All right. Any member of the jury panel that's ever been related by blood, connected by marriage, had a close personal, business or social relationship with Mr. Clements or anyone in his office? If so, please stand.

(Whereupon, no one stands.)

THE COURT: All right. Mr. Wilson?

MR. WILSON: My name is Ralph Wilson. I practice in Horry, Marion, and Georgetown, and I represent the defendant, Marco Sanders.

THE COURT: Could you introduce the young lady to your right?

MR. WILSON: Yes, sir. I apologize. This is my trusted paralegal, Danielle Switzer.

THE COURT: Thank you, Mr. Wilson. Mr. Floyd?

MR. FLOYD: I'm Scott Floyd and I'm the chief public defender for Florence and Marion County. Vick Meetze of my office is sitting here to my left. Ms. Miley Sloan is our

office manager here in Marion, and we represent Tyrell Woods.

THE COURT: All right. Is any member of the jury panel that's ever been related by blood, connected by marriage, had a close personal, business or social relationship with any of those attorneys involved in this case? If so, please stand.

(Whereupon, no one stands.)

THE COURT: All right. Has any member of the jury panel or their immediate family ever been prosecuted by the Twelfth Circuit Solicitor's Office? If so, please stand.

(Whereupon, no one stands.)

THE COURT: All right. Has any member of the jury panel or their immediate family previously been represented by Mr. Wilson or his office or Mr. Floyd or his office? If so, please stand.

(Whereupon, several people stand.)

JUROR NUMBER 81: Ms. Sloan works at the Public Defender's Office in Marion?

THE COURT: Hold on a minute, ma'am. Tell me your name and number.

JUROR NUMBER 81: Susan Ellis.

THE COURT: Okay.

JUROR NUMBER 81: 81.

THE COURT: All right. Hold on, Ms. Ellis. All right. Ms. Ellis, Ms. Sloan does work at the Public Defender's Office here in Marion County. Are you related to her or --

JUROR NUMBER 81: No, sir. They handled my son.

THE COURT: All right. Are they current -- is it currently going on?

JUROR NUMBER 81: I think it just ended Friday.

THE COURT: Can you come up here for just a minute, please?

(Whereupon, a bench conference is held in the presence of the jury panel, but out of the hearing of the jury panel as follows.)

THE COURT: What's your son's name?

JUROR NUMBER 81: Jonathan Patrick Ellis.

THE COURT: Jonathan Patrick Ellis?

JUROR NUMBER 81: Yes, sir.

THE COURT: Do you recognize that?

MR. CLEMENTS: The name sounds familiar.

THE COURT: All right. So I mean it would hit on both fronts the fact that your office is prosecuting him and the fact that your office is defending him. Mr. Meetze has conveyed to me that he doesn't think it's over yet. I'm going to set you aside for the trial of this case. Okay? I appreciate you bringing --

JUROR NUMBER 81: Okay.

THE COURT: -- that to my attention.

JUROR NUMBER 81: All right.

THE COURT: Okay. She's -- I'm going to set her aside

for the trial of this case.

(Whereupon, the bench conference ends.)

THE COURT: In the back, yes, ma'am, your name and number, please?

JUROR NUMBER 128: My name is Ruby Huggins. I don't know my number.

THE COURT: Hold on just a minute. 128 -- Juror 128. Yes, ma'am?

JUROR NUMBER 128: The public defender did my son's trial for DUI.

THE COURT: Is that ongoing or is it disposed of?

JUROR NUMBER 128: No. It's over with.

THE COURT: All right. The fact that that -- that they previously represented your son, would that in any way affect your ability to be fair and impartial to both the State and the defendants in this case?

JUROR NUMBER 128: No, sir.

THE COURT: Thank you, ma'am. You may be seated.

(Whereupon, a bench conference is held in the presence of the jury panel, but out of the hearing of the jury panel as follows.)

MR. CLEMENTS: Does that also mean it was prosecuted by my office?

THE COURT: I assume so or, well, it could have been by law enforcement.

MR. CLEMENTS: It must have been here in General Sessions.

THE COURT: But it's over and disposed of.

MR. CLEMENTS: All right.

THE COURT: She said she could be fair and impartial so I'm going to allow her to stay. Anything else on that, Mr. Clements?

MR. CLEMENTS: No, sir.

(Whereupon, the bench conference ends.)

THE COURT: All right. Has any member of the jury panel formed or expressed an opinion about any issue or matter involved in this case? If so, please stand.

(Whereupon, no one stands.)

THE COURT: All right. Is any member of the jury panel aware of any bias or prejudice toward either the State or the defendants in this case? If so, please stand.

(Whereupon, no one stands.)

THE COURT: All right. Is there any member of the jury panel who is a member of or contributor to any group which has as its primary concern the promotion of law enforcement or victim's rights? These groups might include but are not limited to MADD, SADD, or CAVE, Citizens Against Violent Crime. If so, please stand.

(Whereupon, no one stands.)

THE COURT: All right. Does any member of the jury panel

know of any reason, any reason whatsoever, why he or she should not serve as a juror in this case with particular emphasis being placed upon your ability to be fair and impartial to both the State and the defendants? If so, please stand.

(Whereupon, no one stands.)

THE COURT: Does the State have any additional voir dire?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: Yes, sir. Your Honor, I ask the Court to inquire as to whether any member of the panel has been the victim of a crime of violence.

THE COURT: All right. Mr. Floyd, anything further?

MR. FLOYD: Nothing further, Your Honor.

THE COURT: All right. Has any member of the jury panel or their immediate family ever been the victim of a crime of violence? If so, please stand.

(Whereupon, several people stand.)

THE COURT: Tell me -- in the -- go ahead and stand up, ma'am. Hold on a minute, sir. Yes, ma'am, in the black sweater, tell me your name and number?

JUROR NUMBER 40: Number 40, Gloria Campbell.

THE COURT: All right. Would that in any way affect your ability to be fair and impartial to both the State and the defense in this case?

JUROR NUMBER 40: No.

THE COURT: All right. Thank you. You may be seated. To my right back here?

JUROR NUMBER 132: Jerry Jacobs, 132.

THE COURT: 32?

JUROR NUMBER 132: 132.

THE COURT: All right. Would that in any way affect your ability to be fair and impartial to both the State or the defense in this case?

JUROR NUMBER 132: No.

THE COURT: Thank you. You may be seated. Yes, sir?

JUROR NUMBER 205: Roy Russ, 205.

THE COURT: All right. Mr. Russ, would that in any way affect your ability to be fair and impartial to both the State and the defense in this case if you were selected?

JUROR NUMBER 205: No, sir.

THE COURT: Thank you. You may be seated.

(Whereupon, a bench conference is held with counsel off the record.)

THE COURT: All right. Is there any member of the jury panel that frequents the business establishment of Sweet Daddy's Sugar Shack? If so, please stand.

(Whereupon, one person stands.)

THE COURT: Tell me your name and number in the back, please, ma'am.

JUROR NUMBER 107: Deborah C. Grant, 107.

THE COURT: Would that in any way affect your ability to be fair and impartial to both the State and the defense if you were selected as a juror?

JUROR NUMBER 107: No, sir.

MR. CLEMENTS: She's already been excused.

THE COURT: All right. Thank you. You may be seated. All right. Anything further at this time, Mr. Clements?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: Nothing further, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing further, Your Honor.

THE COURT: All right. Madam Clerk?

(Whereupon, there is a pause in the proceedings while the jury list is drawn by the clerk.)

THE COURT: All right. Ladies and gentlemen, what's happening now after having gone through all of those questions, the Clerk's Office is generating a list of jurors to be selected for this case. It used to be a situation wherein everybody's name was printed on a little piece of paper and once we went through -- a judge went through all of that -- all of those questions, if people were excused, they'd pull their names to the side of those who were excused. Those who were not excused from a particular case, their names on a

little piece of paper were put in a little capsule and put into a bin and they would roll -- turn that bin over and over and pull each one out individually.

With the technology and computer, we have a computer that does all of that now. It does it a little bit quicker when it's working. Some days it doesn't work too well and it shuts things down a little bit, but when it's working, it's a lot quicker. So just bear with us as we go through this.

(Whereupon, there is a pause in the proceedings until the jury list is printed and distributed.)

THE COURT: All right. Madam Clerk, are you ready?

THE CLERK: Yes, sir.

THE COURT: Go ahead.

THE CLERK: We're going to start the process of selecting the jury. When your name is called, if you will, bring your possessions with you, pocketbook or whatever, and just stand right in front of the podium right here. I'm going to call by jury numbers. 154, Richard L. Little.

(Whereupon, a white male comes forward.)

THE CLERK: Come up here, please, sir.

THE COURT: That's good right there.

THE CLERK: That's good. Thank you, sir. What say the State?

MR. CLEMENTS: Please present Mr. Little.

THE CLERK: What say the defense?

THE COURT: Mr. Wilson?

MR. WILSON: Yes, sir.

THE COURT: Where's the indictment?

THE CLERK: Sir?

THE COURT: Where's the indictment?

THE CLERK: We gave it to you.

THE COURT: Here it is, right here. Mr. Wilson, if you will, go first.

MR. WILSON: Yes, sir.

THE COURT: Followed by them. That's just in line with the way it's listed in the indictment.

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: You're excused from this trial, sir. Thank you. Number 251, Alton Boatwright.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Boatwright.

THE CLERK: What say the defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: You're excused from this trial, Mr. Boatwright. Thank you, sir. Number 74, Markesha L. Dean.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Dean.

THE CLERK: What say the defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: You're excused from this trial, Ms. Dean. Thank you. Number 139, Jimmy L. Jones.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Jones.

THE CLERK: What say the defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: You're excused from this trial, Mr. Jones. Thank you. Number 20, James W. Bethea.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Bethea.

THE CLERK: What say the defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: You're excused from this trial, Mr. Bethea. Number 214, Michael E. Skipper.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Skipper.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: You may have a seat in the jury box.

THE COURT: Hold, hold, hold, hold.

THE CLERK: Oh, I'm sorry. I'm sorry.

THE COURT: Thank you. Mr. Floyd?

MR. FLOYD: Please swear Mr. Skipper.

THE CLERK: Now, you may have a seat in the jury box, Mr. Skipper. Thank you. Number 6, Brian A. Atkinson.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Atkinson.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please excuse the juror for the purposes of this trial.

THE CLERK: You're excused from this trial. Thank you. Number 133, Barbara A. James.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. James.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please bear with me, Your Honor.

THE COURT: Yes, sir.

MR. FLOYD: Please excuse the juror for the purposes of this trial.

THE CLERK: You're excused from this trial. Thank you, ma'am. Number 3, Charita R. Anderson.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Anderson.

THE CLERK: What say the defense?

MR. WILSON: Present -- present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: Ms. Anderson, if you will, have a seat in the jury box, please, ma'am. Thank you. Number 174, Harris V. Nichols.

(Whereupon, a black male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: I beg the Court's indulgence a moment. Please present Mr. Nichols.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: Mr. Nichols, if you will, have a seat in the

jury box, please, sir. Number 199, Lynda S. Rogers.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Rogers.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Bear with me one minute. Please swear the juror.

THE CLERK: If you will, have a seat in the jury box, please, ma'am. Thank you. Number 99, Thomas E. Godbold Jr.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Godbold.

THE CLERK: What say the defense?

MR. WILSON: Please excuse Mr. Godbold for the trial of this particular case.

THE CLERK: You're excused from this trial, Mr. Godbold. Thank you. Number 234, Judith G. Turbeville.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Turbeville.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: Have a seat in the jury box, please. Number 213, Vickie W. Shelley.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Shelley.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please excuse the juror for the purposes of this trial.

THE CLERK: You're excused from this trial, Ms. Shelley. Thank you. Number 122, Rashaun L. Hemingway.

(Whereupon, a black male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please excuse Mr. Hemingway from the trial of this -- this trial only.

THE CLERK: You're excused from this trial, Mr. Hemingway. Thank you. Number 5, Cameron B. Ard.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Ard.

THE CLERK: What say the defense?

MR. WILSON: Present Mr. Ard.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: Have a seat in the jury box, please, Mr. Ard. Thank you. Number 237, Earline Williams.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Williams.

THE CLERK: What say the defense?

MR. WILSON: Present Ms. Williams.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: You may have a seat in the jury box, Ms. Williams. Thank you. Number 50, Heather M. Collins.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Collins.

THE CLERK: What say the defense?

MR. WILSON: Present -- present Ms. Collins.

THE CLERK: What say the defense?

MR. FLOYD: Please excuse the juror for the purposes of this trial.

THE CLERK: You're excused from this trial. Thank you. Number 185, Donna M. Powers.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Powers.

THE CLERK: What say the defense?

MR. WILSON: Present Ms. Powers.

THE CLERK: What say the defense?

MR. FLOYD: Please excuse the juror for the purposes of this trial.

THE CLERK: Number 38, Patricia P. Calhoun.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Calhoun.

THE CLERK: What say the defense?

MR. WILSON: Please excuse Ms. Calhoun from the trial of this particular case.

THE CLERK: Thank you, Ms. Calhoun. You may be seated. Number 56 -- excuse me, 56, April D. Crawford.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please excuse Ms. Crawford from the trial of this case.

THE CLERK: You're excused from this trial, Ms. Crawford. Number 183, Jasmine M. Phillips.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Phillips.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: You may have a seat in the jury box, Ms. Phillips. Thank you. Number 156, Deborah S. Martin.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Martin.

THE CLERK: What say the defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: You're excused from this trial. Thank you. Number 9, Latonya Austin-Moore.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Austin-Moore.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: You may have a seat in the jury box, please. Number 22, Lorie Hewitt Blackmon.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Blackmon.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please excuse the juror for the purposes of this trial.

THE CLERK: You're excused from this trial. Thank you. Number 15, Jamie -- Jamie L. Benton.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Benton.

THE CLERK: What say the defense?

MR. WILSON: Present Ms. Benton.

THE CLERK: What say the defense?

MR. FLOYD: Please excuse the juror for the purposes of this trial.

THE CLERK: You're excused from this trial. Thank you. Number 180, Daniel A. Pedro.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Pedro.

THE CLERK: What say the defense?

MR. WILSON: Please excuse Mr. Pedro for the trial of this particular case.

THE CLERK: Thank you, sir. Number 73, Tara L. Dawson.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Dawson.

THE CLERK: What say the defense?

MR. WILSON: Present Ms. Dawson.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: You can have a seat in the jury box, please, Ms. Dawson. Thank you. Number 48, Cindy C. Coleman.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Coleman.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please excuse the juror for the purposes of this trial.

THE CLERK: You're excused from this trial, Ms. Coleman. Thank you. Number 157, Kenneth E. Matthews Jr.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Matthews.

THE CLERK: What say the defense?

MR. WILSON: Present Mr. Matthews.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: Mr. Matthews, have a seat in the jury box,

please, sir. Number 80, Jessica Elliott Turner.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Turner.

THE CLERK: What say the defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: Number 200, Milton E. Rogers.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Rogers.

THE CLERK: What say the defense?

MR. WILSON: Present Mr. Rogers.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: Mr. Rogers, have a seat in the jury box. How many alternates?

THE COURT: Alternates. Two alternates. One, two, and two on the alternates. All right.

THE CLERK: Number 165, Rhonda W. McIntyre.

(Whereupon, a white female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. McIntyre.

THE CLERK: What say the defense?

MR. WILSON: Please excuse the juror from the trial of

this particular case.

THE CLERK: Ms. McIntyre, you're excused. Number 66, Martha M. Davis.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: I beg the Court's indulgence just a moment. Please present Ms. Davis.

THE CLERK: What say the defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: You're excused from this trial. Thank you. Number 190, Chrystal G. Reaves.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please excuse Ms. Reaves from the trial of this case only.

THE CLERK: You're excused from this trial. Number 228, Brenda K. Sweat.

(Whereupon, a Native American female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Sweat.

THE CLERK: What say the defense?

MR. WILSON: Your Honor, is that one and one for the defense?

THE COURT: One, two, and two.

MR. WILSON: Excuse the juror from the trial of this case.

THE CLERK: You're excused from this trial, Ms. Sweat.

THE COURT: Hold on. Hold on.

THE CLERK: Hold on. I'm sorry.

THE COURT: You've already exercised your two. Mr. Floyd has got two. Do you wish to challenge this juror for cause, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: All right. All right, Mr. Floyd?

MR. FLOYD: Thank you, Your Honor. Please excuse the juror for the purposes of this trial.

THE CLERK: You're excused, Ms. Sweat. Number 98, Polly W. Gause.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Gause.

THE CLERK: What say the defense?

MR. WILSON: Present Ms. Gause.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: Ms. Gause, if you will, have a seat. Number 49, Bryan M. Collins.

THE COURT: Hold on a minute. You skipped one. Hold on a minute, sir.

THE CLERK: I'm sorry.

THE COURT: Number 115.

THE CLERK: Jeffrey A. Grubb, Number 115.

(Whereupon a white male comes forward.)

THE COURT: Now, gentlemen -- attorneys, it's one, two, and two.

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Grubb.

THE CLERK: What say the defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: You're excused, sir. Thank you. Number 49, Bryan M. Collins.

(Whereupon, a white male comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Mr. Collins.

THE CLERK: What say the defense?

MR. WILSON: Present -- present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please excuse the juror for the purposes of this trial.

THE CLERK: You're excused. Number 186, Rosamaria T. Ramos.

(Whereupon, a black female comes forward.)

THE CLERK: What say the State?

MR. CLEMENTS: Please present Ms. Ramos.

THE CLERK: What say the defense?

MR. WILSON: Present the juror.

THE CLERK: What say the defense?

MR. FLOYD: Please swear the juror.

THE CLERK: Have a seat in the jury box, please, ma'am.

THE COURT: All right. Are there any matters of law that we need to take up with regards to jury selection from the State?

MR. CLEMENTS: Nothing from the State, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: No, sir, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing, Your Honor.

THE COURT: All right. For scheduling purposes, can the lawyers approach a minute, please? We briefly talked about this, but I want to just be clear on this.

(Whereupon, a bench conference is held off the record.)

THE COURT: All right. Ladies and gentlemen, those of you who have been selected as jurors in this case, I am going to ask you all to step into the jury room for just a minute. That includes you two young ladies as well. I need all of you to step into the jury room just for a minute and I'll get you back out here in just a second.

(Whereupon, the jury exits the courtroom at 1:32 p.m.)

THE COURT: All right. Ladies and gentlemen, those of you who are seated in the audience, you were probably wondering whether or not we were ever going to break for lunch. I'm going to give you a break now. Okay? In fact, I'm going to give you the rest of the afternoon off. When I release you here today, you do not have to come back today, nor do you have to come back tomorrow. What I want you to do though -- on your juror summons there should be a telephone number on there. Is that right, Madam Clerk?

THE CLERK: It's on the card.

THE COURT: It's on the card they're telling me up here. Okay? There should be a telephone number on that card. Anybody out there not have that card with the telephone number on it, let me see your hand, please. All right. We'll get one for you on your way out of the courtroom. Make sure you do not leave this courtroom without that telephone number. Okay? But I need you to call that number tomorrow night after six o'clock and it will give you instructions on what you're to do possibly regarding Wednesday and maybe even later on during the week.

I want to thank you for being here this morning. Thank you for being prompt when I asked you to be here. Our system can't work without you. It can't work without you. While you might not have been selected as jurors in this particular case, that doesn't mean that you won't get selected. Again, I

thank you for being here.

Please call that number tomorrow night after six. Okay? Everybody please be seated while this jury panel exits the courtroom.

(Whereupon, the jury panel exits the courtroom at 1:34 p.m.)

THE CLERK: The bailiff has instructed me that he has put them in the jury room.

THE COURT: Who?

THE CLERK: The cards.

THE COURT: They're all in there?

THE CLERK: The extras, yes.

THE COURT: Hold on a minute. Are you going to get those cards?

THE CLERK: Yes, sir.

THE COURT: All right. Mr. Wilson, Mr. Clements, Mr. Floyd, I'm going to let the clerk step into the jury room. The cards that have those phone numbers are in there. Any objection to her getting those out?

MR. WILSON: No objection, Your Honor.

MR. FLOYD: No objection.

MR. CLEMENTS: No objection.

THE COURT: All right. If you'll get those.

THE CLERK: Thank you, sir.

THE COURT: Thank you.

(Whereupon, there is a pause in the proceedings.)

MR. CLEMENTS: Your Honor, I'm going to ask that they remove it. I missed it. There's a phone in the jury room. It probably needs to be unplugged and brought out.

THE COURT: All right. Is that phone still in there?

THE CLERK: Yes, sir.

THE COURT: Yeah. We need to unplug that and pull that phone out of there. We don't need it ringing or in any way access to it. When I release them, we can do that.

THE CLERK: Okay.

THE COURT: All right. Anything -- what I'm going to do is bring this jury back out. Anything before I release them, Mr. Clements?

MR. CLEMENTS: That was the only thing I had, Your Honor.

THE COURT: Okay. Mr. Wilson?

MR. WILSON: Nothing further.

THE COURT: Mr. Floyd?

MR. FLOYD: No, sir.

THE COURT: And we had previously discussed in chambers as far as scheduling goes and again here at sidebar. I am going to release this jury until nine o'clock in the morning. There's some matters that we need to deal with this afternoon and we'll start the trial of the case tomorrow morning at nine o'clock. Yes?

MR. CLEMENTS: Your Honor, just -- Mr. Saleeby brought

this to my attention. Just in case there's any snafus between now and in the morning, maybe if you have the jury come back at 9:30 just tomorrow morning, it would give us time to deal with anything if something did come up between now and then.

THE COURT: Okay. Any objection to that, Mr. Wilson?

MR. WILSON: I have no objection to that.

MR. FLOYD: That's fine, Your Honor.

THE COURT: All right. All right. If you will, bring me the jury, please, sir.

(Whereupon, the jury enters the courtroom at 1:37 p.m.)

THE COURT: All right. Ladies and gentlemen, I appreciate your patience. I'm -- what I'm going to do is I'm going to excuse you all here in just a minute for the balance of today. There are some matters -- pre-trial matters that we need to take up outside of your presence. Rather than have you sit in that jury room while we deal with these issues, I'm going to excuse you for the balance of today.

I'm going to ask that you be back in your jury room tomorrow morning at 9:30 -- at 9:30 up here in this room. When you come in, let them know that you're a juror. Do they take these tags home, Mr. Bailiff?

THE CLERK: Yes, sir.

THE BAILIFF: Yes, sir, Your Honor.

THE COURT: Wear those tags. Okay? Now, during your overnight break -- let me emphasize this. You are not to --

you are not to do any independent investigation about this case on your own. You are not to discuss this case with anyone. You know very little about this case right now other than what I've told you. That's it. Okay? But you are to decide this case as it relates to each defendant based solely -- based solely upon the testimony and evidence that is presented during the course of this trial and nowhere else -- and nowhere else.

You're not to discuss this case with anyone, nor is anyone allowed to try and discuss the case with you. If anybody tries to contact you about the case, let the bailiff know immediately upon your return in the morning and we will deal with it accordingly, but you are not to in any way, shape or form do any independent investigation on your own. I can't stress that enough.

You are to decide this case based solely upon the evidence and testimony as presented in this courtroom. Mr. Sanders and Mr. Woods are both presumed innocent, and the State, as I told you from the outset, bears the burden of proving their guilt as to each charge beyond a reasonable doubt, and you're to decide that solely on the evidence that's presented in this courtroom.

Please be back here at 9:30 tomorrow morning and we will start this trial as promptly as possible. Now, as you come in and out of the jury room, the only people that have assigned

seating right now is Ms. Gause and Ms. Ramos. Okay? You all have been selected as alternates in this case and those are your seats right now. Okay?

At some point in time, a foreperson will be selected. When the foreperson is selected, they will seat -- sit where this young lady is seated right now. Those will be the only people that have assigned seating during the trial of this case. So as you come in and out, you can sit wherever you so desire unless you're an alternate or unless you are the foreperson. Okay?

Anything from the State before I release the jury for the balance of today, Mr. Clements?

MR. CLEMENTS: Nothing, Your Honor. Thank you.

THE COURT: Mr. Wilson?

MR. WILSON: Nothing, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing further, Your Honor.

THE COURT: All right. You all are free to go. Please be back tomorrow morning at 9:30 and we'll start the trial of this case at that time.

(Whereupon, the jury exits the courtroom at 1:41 p.m.)

THE COURT: All right. It's my understanding that there are several pre-trial matters that need to be taken up. What we are going to do right now is we are going to break for lunch. It is about quarter of two. I'm going to ask that you

all be back in here about at a quarter of three -- at a quarter of three, and we'll start this and get as much done or try to get all of it done this afternoon so we can start at 9:30 in the morning. Anything from the State before we break?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: Nothing further.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing further, Your Honor.

THE COURT: All right. 2:45.

(Whereupon, there is a break in the proceedings from 1:43 p.m. until 2:55 p.m.)

(Whereupon, during the break, the transcript from the hearing of November 16, 2012, is marked as Court's Exhibit Number 1.)

THE COURT: All right. Is the State ready to proceed?

MR. CLEMENTS: No, Your Honor. We're waiting on Mr. Saleeby to get here. He has something downstairs, but we can go ahead and start. These are members of the victim's family that are coming in that want to hear the motions.

THE COURT: Does the State have any pre-trial matters that we need to address?

MR. CLEMENTS: Your Honor, we don't. We know there are some issues pursuant to the motion by the defense.

THE COURT: All right. Well, I'm going to -- I wanted to

clear it with you first whether or not there were any State issues. Mr. Wilson, now I know we heard some pre-trial matters concerning your client. Any additional pre-trial matters from you at this time? I mean I -- and you had brought up the issue of identification.

MR. WILSON: Yes, sir. I handed up a motion regarding identification, but, Your Honor, that -- I know we -- we addressed the motion for severance at our last -- and I can't remember the exact date of the hearing. It was recorded, and we filed a motion for severance in this case and the Court denied the motion.

I think that -- and -- and I'd like to revisit that briefly if I could simply to say that I think that in this case that because of the evidence as it stands and because we have two defendants and I'm not even sure whether or not the defenses would be consistent or inconsistent, I just -- I'd like to renew my motion for -- for severance in this case.

THE COURT: Okay. Your objection or your renewal of such motion is so noted for the record.

MR. WILSON: Thank you.

THE COURT: However, I'm going to respectfully deny it based --

MR. WILSON: Yes, sir.

THE COURT: -- upon my prior ruling.

MR. WILSON: Thank you very much, Your Honor.

THE COURT: All right.

MR. WILSON: Your Honor, the second issue was the identification issue. It is my understanding that the State intends to offer, one, some video evidence, and then in addition to that some eyewitness identification as to the perpetrators of the offense, and I would like to have -- I would like to have an in-camera hearing before each ID witness or identification witness testifies, whether it's in regards to the video or whether it's in regards to some out-of-court identification of the defendant -- some identification of in-court defendant based on some out-of-court contact that they claim that they may have had with the defendant at some prior time.

THE COURT: Mr. Clements?

MR. CLEMENTS: Your Honor, we do have some witnesses we can go ahead and put up now and deal with that and also, Your Honor, show the video.

THE COURT: All right. Let's move forward.

MR. CLEMENTS: Your Honor, the first witness we would call would be --

THE COURT: Hold on.

MR. WILSON: Judge, my understanding now is that all the witnesses are to be sequestered.

THE COURT: Correct. I've previously ruled on that.

MR. WILSON: Yes, sir.

MR. CLEMENTS: Yes, sir. If there are any other witnesses in the courtroom, I'd ask you to wait outside.

(Whereupon, there is a pause in the proceedings as several individuals leave the courtroom.)

MR. CLEMENTS: Mr. Wilson, you don't have any of your witnesses left in the courtroom?

MR. WILSON: No, except for law enforcement -- I mean the ones that were subpoenaed.

MR. CLEMENTS: Okay. We'd call Investigator Neil Rouse to the stand, Your Honor.

THE CLERK: Do you solemnly swear that the evidence you are about to give in the trial of this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

INVESTIGATOR NEIL ROUSE, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Good afternoon.

A: Good afternoon, sir.

Q: Can you please state your name for the record?

A: Neil Rouse.

Q: And where were you employed?

A: The Marion County Sheriff's Office.

Q: And you recently retired; is that correct?

A: That's correct.

Q: And how long did you serve in law enforcement in Marion County, Investigator Rouse?

A: I've been in Marion County 20 years.

Q: Twenty years? And were you involved in the investigation of the murder of Sam Rowell?

A: I was.

Q: As a result of that investigation and your participation in that, did you view any types of evidence?

A: I did.

Q: What types of evidence did you view?

A: I viewed a videotape.

Q: And that videotape -- do you know where that videotape came from?

A: It came from Mr. Rowell's residence off of Phil Court.

Q: All right. On Phil Court?

A: Yes, sir.

Q: And what -- was it a surveillance video or a VCR or what type? It wasn't like movies or anything? What was it?

A: Surveillance cameras.

Q: Okay. Did he have multiple cameras in his house?

A: He did.

Q: Okay. Now, do you happen to know Mr. Tyrell Woods?

A: I do.

Q: Okay. And do you see him here in the courtroom?

A: Yes, sir, I do.

Q: Okay. Where is he seated?

A: Over at the defense table on to the -- to the left of me.

Q: And what kind of shirt has he got on?

A: A plaid shirt.

MR. CLEMENTS: All right. May the record reflect for the purposes of this hearing that Mr. Rouse has identified the defendant Woods.

THE COURT: So noted for the record.

Q: Now, do you see -- or let me ask you this. Did you know Marco Sanders?

A: I did.

Q: How long have you known Marco Sanders?

A: Probably fifteen years.

Q: Fifteen years? And how long have you known Tyrell Woods?

A: About four years.

Q: Okay. So is it safe to say or fair to say that you know Marco Sanders a lot better than you do Tyrell Woods?

A: Yes, sir.

Q: Had a lot of dealings with Mr. Sanders?

A: I have.

Q: Have you had face-to-face dealings with him?

A: I have.

Q: Okay. Do you see him here seated in this courtroom?

A: Yes, sir.

Q: And where do you see him seated?

A: Sitting there beside of the defense attorney, Mr. Ralph Wilson.

Q: And can you describe what shirt he has on?

A: White shirt, black tie.

MR. CLEMENTS: All right. May the record reflect that Mr. Rouse has identified the defendant, Mr. Sanders?

THE COURT: So noted for the record.

Q: You said you reviewed some video; is that correct?

A: That's correct.

Q: From the surveillance system at Mr. Rowell's house?

A: That's correct.

Q: Did you see anyone on that video that you recognized?

A: Mr. Sanders.

Q: Okay. Did you see anyone on that video that you didn't recognize to begin with?

A: To begin with, Mr. Woods over there.

Q: So to begin with, you didn't recognize Mr. Woods?

A: No, sir.

Q: How soon from looking at that video did you recognize Mr. Sanders?

A: Time I saw it.

Q: The time you saw it?

A: Yes, sir.

Q: Okay. Did you have any doubts about that?

A: No, sir.

Q: Okay.

MR. CLEMENTS: Your Honor, we would ask permission to play a section of that video at this time.

THE COURT: All right. Go ahead.

MR. CLEMENTS: Your Honor, this video was running for hours, but we're going to take the last few minutes that are relevant here and we're going to show you that at this time.

THE COURT: All right.

MR. CLEMENTS: And, Mr. Rouse, I'm going to ask if you would watch this and when it's completed, you can tell us whether or not that is what you observed before or not.

(Whereupon, a four-minute portion of the surveillance video is played in open court. The video has no audible sound to be transcribed. The video is later marked and entered as State's Exhibit Number 18.)

Q: All right. Investigator Rouse, was this a single camera system or multiple cameras?

A: Multiple cameras.

Q: Did it alternate back and forth between views?

A: Yes, sir.

Q: Okay. And was that what you -- is this what you observed?

A: That's exactly what I observed.

Q: Okay. And you -- we saw a gentleman go up to the door in

a black shirt and then walk away. Did you recognize that individual immediately?

A: Not immediately, no.

Q: Okay. And then we saw two individuals come up. One was the gentleman in the black shirt and the other one was a gentleman in plaid-looking pants; is that correct?

A: Correct.

Q: Did you recognize that person?

A: I did.

Q: And how soon did you recognize that?

A: Time I saw it.

Q: And who was that individual?

A: Marco Sanders.

Q: Okay. And could you ascertain what he was holding in his hands?

A: It appeared to be a gun.

Q: Okay. All right. Please answer any questions that Mr. Wilson may have.

THE COURT: Cross examination.

MR. WILSON: Thank you very much, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:

Q: Detective Rouse, let me ask you -- now, you said you've known the defendant for how many years?

A: At least fifteen.

Q: At least fifteen? Well, now, do you recall a hearing that we had -- do you recall a hearing that we had back here I guess it was May 13th of last year?

A: No, sir.

Q: You don't recall testifying at a Schmerber hearing that we had back in May of last year?

A: I don't recall that. No, sir.

MR. WILSON: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q: Let me show you this transcript of a hearing and see if you recognize that, and you can turn it over, if you would, to the first page which would have your testimony on it which would be page -- do you see your name on there?

A: No.

Q: It --

A: There it is.

Q: Okay.

A: Yes, sir. Okay.

Q: Do you recall now?

A: Yes, sir.

Q: All right. And do you recall at that hearing saying that you had actually known this defendant since 1993?

A: Approximately, yes, sir.

Q: Okay.

A: '93 or '94.

Q: All right.

A: Somewhere in there.

Q: And do you know that in 1993 he was twelve years old?

A: I don't know how old -- I don't know how old he was then. He was a juvenile. Yes, sir.

Q: So how did you know him in 1993 as a juvenile?

A: I was a drug agent at that time.

Q: Okay. And are you saying that you had contact with him in 1993 while you were a drug agent? Is that what you're saying?

A: That's correct.

Q: When he was twelve years old?

A: That's correct.

Q: All right. And so you charged him with an offense in 1993?

A: No, sir.

Q: All right. Well, tell me what it is. How did you come to know him in 1993?

A: Through his family members, his brothers and stuff that we had had dealings with all the time. He was with his brothers several times on occasions we made charges.

Q: Okay. And so you said he was with his brother and so you got to know him. He was twelve years old and he was with his brother. Where was it that you met him with his brothers?

A: He was out here in the City of Marion.

Q: Where?

A: I don't recall the street.

Q: What --

A: It was out here in the City of Marion.

Q: Did you go to their home? Did you see him at some public location like a restaurant or a hotel? Did you see him in court or a police station?

A: I been -- I been -- I've been to their home. I have been seeing him on the street.

Q: Okay. Now, since you've known Mr. Sanders you say since 1993, you saw the video on the day of this incident or the very next day; is that fair?

A: Yes, sir.

Q: All right.

A: Well, no, no, no, not the next day, no.

Q: Well --

A: It was several days after. A week or something after. It might have been a week after. So --

Q: Well, did you tell the solicitor just a minute ago that you immediately recognized the individual in the video as being Marco Sanders?

A: That's correct.

Q: And the video was taken from the home of Mr. Rowell the day of the homicide or at least the morning after?

A: That's correct.

Q: All right. So you had it in your possession from July the 5th at least; is that correct?

A: No, sir.

Q: No, sir? What part is not correct?

A: I didn't have it in my possession.

Q: Well, who had it?

A: SLED.

Q: Okay. When did SLED give it to y'all or when did you -- when did they ask you to look at it?

A: I'm not quite sure the exact date on when I looked at it, but it was a few weeks after that.

Q: Well, so you're saying that now SLED has a video with two suspects on it, one of which you can immediately identify, and nobody asked you to look at it for how many days?

A: Well, at the time that SLED had the video equipment that was coming out of Mr. Rowell's house, they didn't have the system to play it on. Detective Lee then purchased a piece of equipment to carry to SLED for them to look at it.

Q: Okay. And my question then is you actually -- did you participate in a line-up -- showing a line-up to an individual of the -- of the robbery?

A: No, sir, I did not.

Q: All right. You didn't participate in any line-up?

A: No, sir.

Q: All right. The one with Shawn Davis, you didn't

participate?

A: No, sir.

Q: All right. Were you aware that there was a line-up --

A: Yes, sir.

Q: -- and that he was shown a line-up?

A: Yes, sir.

Q: Okay. Were you aware of the individuals who were in the picture?

A: You're talking about the --

Q: In the photo line-up.

A: No, sir.

Q: All right. You do not know?

A: No, sir.

Q: So what day was it that -- after July 5th, what day was it that you identified the person in the video as being Marco Sanders?

A: I'm not sure of the exact date. Whenever they brought it back to -- to the Sheriff's Office so we could look it, I looked at it. I don't know exactly what date.

Q: Okay. Was it before the 12th of July?

A: I'm not sure. I can't tell you the exact date.

Q: Well, did you make some notes? Here you get this video of this individual that you say committed a robbery and you don't make any -- a murder and you don't make any notes to know the date and time that you actually saw the video for the

first time and identified this person?

A: No, sir. I don't have it with me if I did, but I knew the subject on the video.

Q: Okay. So how many -- on how many occasions prior to -- to July 5th had you had personal contact with Mr. Sanders here?

A: Over the period from '93 until then?

Q: Yes, sir.

A: I'd say probably eight -- ten times.

Q: Okay. And -- and so you knew him by name; right?

A: Correct.

Q: And -- and now, what was your role? Were you the lead investigator in this --

A: No, sir.

Q: -- case?

A: No, sir.

Q: All right. Well, what was your role then?

A: I was assisting Detective Lee.

Q: I'm sorry?

A: I was assisting Detective Lee.

Q: And was Detective Lee the -- the lead officer?

A: He was.

Q: All right. And when did Detective Lee, to your knowledge, know that there were two men on a video which was in the possession of law enforcement?

A: If I can recall correctly, he was -- he received a call

from SLED telling him that there was something on the video that they didn't know what it was until they could get something to play it. He went to Harbor Freight in Dillon I think and purchased the same type of equipment that Mr. Sam Rowell had and carried it to Columbia and they looked at it at that time. I guess that's when he seen it.

Q: Okay. You didn't go with him to Columbia?

A: No, sir.

Q: So did he bring a copy of it back for you?

A: Yes, sir.

Q: All right. And so that was brought back to you and you then told law enforcement that very day that the individual in that video was Marco Sanders?

A: That's correct.

Q: Is that correct?

A: That's correct.

Q: All right. Now, during -- during the time that -- I'm going to try that question again. Just let me ask you this way. Have you -- I'm trying to -- have you -- you said that you know Mr. -- Mr. Rowell -- Mr. -- Mr. Sanders and that you've known him well and you've had several contacts with him, including arrests? Is that --

A: Correct.

Q: -- fair?

A: That's correct.

Q: Okay. Now, then you also are aware then that he has tattoos; correct?

A: I wouldn't know if he did or not. No.

Q: Well, you don't know if he has tattoos on a man that you've known for twenty-plus years? You don't know?

A: No, sir. I don't look at his body.

Q: You don't look at his body? What about his hands and his arms?

A: I really haven't paid any attention.

Q: You haven't paid any attention? Okay. Well, would it surprise you to know that he has tattoos all over his arm, inside and out?

A: No, sir. No, sir. It wouldn't surprise me any.

Q: And did you see tattoos on the video on the man in the video?

A: I didn't look that close at his -- at his arm, sir.

Q: Well, so you didn't -- so you looked at the face, but you didn't look at the arms so you don't know whether the person in the video had tattoos or not had tattoos?

A: No, sir, not particularly I don't.

Q: You would -- would you disagree with me that, in fact, that video is of very, very poor quality? Is it not?

A: No, sir, it is not.

Q: It is not?

A: No, sir.

Q: Okay.

A: I've seen a lot worse.

Q: All right.

MR. WILSON: I don't have any other questions. Thank you.

THE COURT: Mr. Floyd, anything?

MR. FLOYD: I don't have anything.

THE COURT: Any redirect?

MR. CLEMENTS: I beg the Court's indulgence a moment.

THE COURT: Mr. Wilson, don't get too comfortable. You might have some recross. Go ahead, Mr. Clements.

MR. CLEMENTS: Investigator Rouse, that's all the questions I have for you right now. Thank you very much.

THE WITNESS: Thank you, sir.

THE COURT: Thank you, sir. You may step down. Call your next witness.

MR. CLEMENTS: Your Honor, we would call Investigator Lee to the stand. Does Investigator Rouse need to step outside now?

THE COURT: Yes. I'd ask that he step back outside. Yes, sir.

MR. CLEMENTS: All right. Thank you. We'd call Investigator Lee in.

(Whereupon, there is a pause in the proceedings until the witness enters the courtroom.)

MR. CLEMENTS: Step over there.

THE CLERK: Come around this way to be sworn, sir. Do you solemnly swear or affirm the evidence you are about to give in this trial shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Go ahead and have a seat.

INVESTIGATOR JAMES LEE, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Can you please state your name for the record?

A: James Lee.

Q: And what are you doing work-wise right now?

A: Deputy Coroner work for Marion County.

Q: Deputy Coroner work? And did you recently retire?

A: Yes, I did.

Q: Where did you retire from?

A: Detective for the Marion County Sheriff's Department.

Q: And how long have you worked in law enforcement in Marion County, Mr. Lee?

A: Eighteen years.

Q: Okay. All right. I'm used to calling you Investigator Lee. I guess you can still be called that title being retired; can't you?

A: I've been called most everything.

Q: All right. Investigator Lee, were you the -- the main agent investigating the murder of Mr. Sam Rowell --

A: Yes, sir.

Q: -- at his home and burglary?

A: Yes, sir.

Q: Now, as a part of your investigation, did you have a chance to deal with any type of video evidence?

A: Yes, sir, I did.

Q: Can you tell the Court please when you first became aware of video being a part of this investigation?

A: When I went to Columbia to meet with the investigator there with SLED, I was told there was some video on the recorder, but he said he was unable at that time to pull it up because of damage to the piece of equipment.

Q: And how was it -- how do you think the equipment was damaged?

A: Wires being cut from the main box.

Q: Okay. So they were cut and left in the home?

A: Correct.

Q: During the burglary and the murder?

A: Yes, sir.

Q: Now, do you remember -- and if you don't, that's fine. Just tell me you don't remember, but do you remember the day when you went to SLED how soon after the murder that was or

not?

A: No, sir, I can't.

Q: You can't say the exact day? A few days? A week maybe? Or you just can't remember the exact dates on that?

A: I'd say it was a week maybe.

Q: Okay. And when you went up there and they told you that, as a result of that and knowing that they had a video they thought something was on, but they couldn't play it, what did you then do?

A: Once I found out who -- who was selling the -- that type of equipment -- and at that time it was Harbor Freight.

Q: Over in Dillon?

A: Yes, sir.

Q: Okay.

A: Or most Harbor Freights, yeah. I -- I told the agent there that I was going to go to Dillon because that's where I buy a lot of tools and I'd buy it --

Q: Yeah.

A: -- to see if I could get one from them, and if I could, I'd call him back to let him know I'd be coming up the next morning.

Q: Okay. And did you do that?

A: Yes, I did.

Q: You found that type of equipment over in Dillon?

A: Yes, sir.

Q: And -- and what did you do then?
A: Well, the next morning I carried it up to SLED and met with the agent again.
Q: You -- you remember his name?
A: Mark Cave.
Q: Okay. All right. And what -- what did you give to Mr. Cave?
A: I gave him the whole surveillance kit, the box and all.
Q: Okay. And did you stick around that day to see what he was going to be able to find out or did you come back to Marion that day?
A: No, I stuck around that day.
Q: Okay. And what -- did you end up seeing anything that day?
A: Yes, sir.
Q: And you watched the video?
A: Yes, sir, I did.
Q: Okay. What did you see on that video?
A: I noticed the two defendants going up toward the house with guns pulled.
Q: Did you recognize either one?
A: Yes, sir.
Q: Did you recognize both?
A: Both.
Q: Okay. And who did you see on that video?

A: Marco Sanders and Tyrell Woods.

Q: Okay. Can you tell the Court how do you know Tyrell Woods?

A: Incidents in the past that he would be at the Sheriff's Office for.

Q: Okay. And did you know Tyrell Woods very long? He's pretty young.

A: No. Matter of fact, he was a juvenile.

Q: Okay. When you first met him?

A: First met him.

Q: Okay. And how long would you say, if you know, roughly how many years have you known Tyrell?

A: That was in '07.

Q: Back from like '07?

A: Yes, sir.

Q: Okay. All right. And you said you recognized the second individual. Who was that?

A: Marco.

Q: Marco Sanders?

A: Yes, sir.

Q: How long have you known Marco Sanders?

A: Well, about the same time because they were together.

Q: Okay. All right. Are they related?

A: I believe they are related.

Q: Okay. All right. And have you had face-to-face

encounters with both?

A: Yes, sir.

Q: One time or multiple times?

A: Just one time.

Q: Okay. And you noticed both of them on this video?

A: Yes, sir.

Q: How -- how quickly were you convinced who you saw?

A: In no time it was clear.

Q: Okay. All right. Now, are you aware -- do you ever pay attention to -- to, for instance, Mr. Sanders or Mr. Woods to see if you know whether or not they have any tattoos or any type markings like that?

A: No. No.

Q: Okay. And you never paid attention to that one way or another?

A: Not when I met them the first time, no.

Q: Okay. All right.

MR. CLEMENTS: I'm going to ask, Your Honor, if we can show the video just to see if this is the same thing Mr. Lee has watched.

THE COURT: All right.

MR. CLEMENTS: And while he's loading that up --

Q: Well, how many cameras do you know were on that surveillance system?

A: Three or four.

Q: Okay. And it alternated between those -- those cameras?

A: (No verbal response.)

Q: Do you know whether all of them were working or not?

A: I don't think they were all working. I believe the back of the building wasn't.

Q: In your investigation, what, if any, type of vehicle was being looked for?

A: A white Expedition.

Q: Okay. And that was based on? What was the first information you had about a white Expedition?

A: Well, everybody when we arrived at the scene was bringing it up there was a white Expedition out there.

Q: Okay. All right. And what did you see on the video in regards to a vehicle?

A: A white Expedition.

Q: Okay. All right.

MR. CLEMENTS: Please play the video.

(Whereupon, the surveillance video later marked and entered as State's Exhibit Number 18 is played in open court.)

Q: Investigator Lee, is this -- is that what you observed at SLED?

A: Yes, sir.

Q: Okay. And who was the person with the black shirt on? Do you recognize that person in the black shirt?

A: Well, I weren't basically looking at the black shirt. I was looking at the weapons.

Q: Okay. All right.

A: I know -- I know who went in the house first.

Q: Who went in the house first?

A: Marco.

Q: Marco? Okay. And the second person was who?

A: Tyrell.

Q: Okay. All right. You looked at the weapons. What else were you focusing on that determined who it was?

A: That was it.

Q: Okay.

A: Just faces.

Q: Faces? Okay. All right. Please answer any questions Mr. Wilson might have.

THE COURT: Cross examination?

MR. WILSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:

Q: Detective, now, as I understand it, you say that you've known Marco Sanders since 2007; is that correct?

A: Somewhere abouts, yes, sir.

Q: Well, somewhere thereabouts? I mean was it 2007 or --

A: In that year.

Q: -- you're not sure?

A: Within the year.

Q: I'm sorry?

A: Sometime that year.

Q: Okay.

A: I'm pretty sure it was 2007.

Q: You're sure? You're absolutely positive?

A: No. If you're going to pin me down, not 2007 then.

Q: Well, then when was it?

A: It was somewhere in that time --

Q: Okay.

A: -- period.

Q: Well, did you know that he was in prison in 2006, 2007, and 2008? You didn't know that?

A: I wasn't aware of that.

Q: Okay. So then you couldn't have known him in 2007 if you weren't working at the prison; right?

A: Not if he was in prison.

Q: Right. So that much we know is not correct from what you said. You did not know him if he was in prison in 2006, '07, and '08; right?

A: Correct.

Q: All right. So when did you know him?

A: I can tell you where I know him from.

Q: Okay. Tell me where you know him from?

A: When he was brought in, him and Tyrell, about an incident

that happened.

Q: Okay. When was that?

A: I was thinking it was '07, but apparently it was not '07.

Q: What were they brought in for?

A: For theft of a lawnmower from another county.

Q: Okay. Was that your first contact with him?

A: Yes, sir.

Q: All right. And was he arrested at that time?

A: No, sir.

Q: Okay. Now, you say -- I think you said earlier that -- that you didn't know about the video; right?

A: No. I don't remember saying that.

Q: You didn't know about the video until you went to SLED and somebody at SLED told you or showed you the video; right?

A: I knew video had been carried to SLED from the scene by their agents.

Q: Okay. But you knew from July the 5th that, in fact, there was a video recording device and that it may have video on it?

A: Sure.

Q: Right?

A: Sure.

Q: All right. In fact, you are the one that -- that actually got it; right?

A: No, I didn't get it.

Q: You didn't get it?

A: Not that night. SLED got it.

Q: Well, it says here this inventory was made in the presence of Sabrina Fellers, Agent, Carl Kinley, Agent, and Detective James Lee, and Detective Rouse.

A: That was that night at the scene.

Q: Yes, sir. And it's signed by you. Is that your signature?

A: I told you I knew they carried it with them, SLED, that night.

Q: Okay. Well, but this is your inventory sheet, which is what my --

A: No. That's SLED's inventory sheet.

Q: No, sir. Your name is signed. Look at the bottom of that.

A: I think I was asked to witness it.

Q: Is that your name at the bottom of that?

A: Yeah, that's my name.

Q: Yeah. So that shows that you knew about this video equipment that night. The morning of July the 5th, you were well aware that there was video equipment and that there were cameras there that may have taken pictures?

A: Sure.

Q: Okay. Now, you participated in a line-up -- did you not? -- with Bart -- what's his name? Shawn Davis, back on the 5th; right?

A: Not on the 5th.

Q: You sure?

A: Almost positive.

Q: Do you recall meeting with Shawn Davis at any point?

A: Yes, sir.

Q: All right. Do you recall showing him a line-up?

A: Yes, sir.

Q: All right. Did you show him a line-up on more than one occasion?

A: I only showed him one line-up.

Q: Was that on the 12th?

A: It could have been. Yes, sir.

Q: Well, I don't want to know when it could have been. I want to know when it was. Did you show him a line-up on the 12th or did you show it to him on the 5th or do you know? And if you don't know, that's fine. I'm just asking.

A: I'd say it was around the 12th.

Q: Okay. All right. Did you meet with him on the 5th?

A: I don't recall meeting with him on the 5th.

Q: Now, you were the lead investigator in this case. Is there any -- before we go any further, is there any question about that fact that you were the lead investigator in this case? Is that correct?

A: Well, it all depends on what day you're referring to because all detectives were working this case first to start

with.

Q: Okay.

A: It just all depends on what date you're referring to.

Q: All right. When is the first time that you met with Shawn Davis about this case?

A: I know I met with him on the line-up, and I think Detective Rouse had spoken with him in my presence.

Q: Do you know whether or not the police showed him a line-up on more than one occasion that he didn't pick anybody out of? Do you know whether that's true or not?

A: I think he was probably shown a line-up around the 4th or the 5th, but not by me.

Q: Okay. Well, who was it by?

A: I think it was either Captain Barker and Detective Bell or either Captain Barker or Charlotte.

Q: Okay. Did they share that line-up with you?

A: Later.

Q: Okay. And was Marco Sanders' picture in that line-up?

A: I don't recall it being in that particular line-up because I think that early in the stage, we really didn't have him as a suspect.

Q: Okay. So are you telling us then that the first time that anybody -- the first time that anyone picked Marco Sanders out of any line-up was on August -- I'm sorry -- July the 12th? Is that correct? That's the first time that any

person picked Marco Sanders out of a line-up in that? Is that a fair statement?

A: That's a fair statement.

Q: Okay. Is there any affidavit or any statement prior to the 12th of July where it says that you picked Marco Sanders out of anything?

A: Any statements anywhere?

Q: Is there any affidavit, any recorded statement, anything in writing showing that prior to July the 12th of 2013 -- I'm sorry -- 2012, that you picked Marco Sanders out of a line-up or out of the video?

A: Not to my knowledge.

Q: Not to your knowledge?

MR. WILSON: Will the Court bear with me just for a minute?

THE COURT: Yes, sir.

MR. WILSON: No other questions.

THE COURT: Mr. Floyd?

MR. FLOYD: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FLOYD:

Q: Detective Lee, you said you had known Tyrell Woods since 2007?

A: Somewhere in there.

Q: Or thereabouts? And how did you know him?

A: At that time, he was involved in an incident where lawnmowers were being stolen or had been stolen, but he was in the office at that time, if I remember, interviewing by Detective Rouse.

Q: So you met him that one time in 2007? And after that, how many times did you meet with him that you recall? Just that one time?

A: As far as -- yeah. You know, one on one, yeah.

Q: Okay. All right. And that was done inside your office or at the Marion County Sheriff's Office?

A: Yes, sir.

Q: Did you personally interview him in connection with that night?

A: No.

Q: You were just there?

A: Well, we were working out of the same office. I couldn't help but be there.

Q: Okay. Now, you gave -- made an affidavit I believe in connection with this case on August the 1st of 2012; is that true? Is that your signature on that?

A: That's my signature. Yes, sir.

Q: Okay. Did you sign that affidavit?

MR. CLEMENTS: Your Honor, may I see what he's showing the witness?

THE COURT: Yes.

MR. CLEMENTS: Mr. Wilson didn't give me that courtesy.

(Whereupon, there is a pause in the proceedings.)

Q: Is that your signature on the affidavit that I just showed you --

A: Yes, sir.

Q: -- dated August 1st, 2012?

A: Mm-hmm.

Q: Was that a yes?

A: Yes.

Q: Other than signing that affidavit -- and I believe you said you put your signature on the photo lay-down affidavits of July the 12th; is that correct?

A: Yes, sir.

Q: Okay. Did -- did you make any other incident report or written statement about this investigation insofar as it relates to Mr. Woods?

A: No. I think everything that was turned over by the State y'all got.

Q: So you did not make a report of your viewing of the video at SLED?

A: No.

Q: Is that correct?

A: That's correct.

MR. FLOYD: I don't have anything else. Thank you.

THE COURT: Anything further, Mr. Clements?

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Detective Lee, I'm kind of unclear what Mr. Floyd was asking you. He was asking you if you had seen Mr. Tyrell Woods in your office, and you testified it was just that one time; is that correct?

A: Yes, sir.

Q: What other times and what other places did you see Mr. Woods or run into him?

A: Only in photographs, sir.

Q: Okay. Ever see him out on the street or in the community?

A: No.

Q: Okay. All right. And the other photographs -- you said you saw other photographs. Did you know those to be photographs of him at the time you were looking at them?

A: Yes, sir.

Q: Okay. And what was the purpose for looking at other photographs of him at other times?

A: When he was -- when it was drawed interest to him to being a suspect.

Q: Okay. All right. And those were in other cases that he wasn't arrested in, but --

A: Correct.

Q: Okay. All right.

MR. CLEMENTS: That's all I have. Thank you.

THE COURT: Mr. Wilson, anything further?

MR. WILSON: Nothing further, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing further.

THE COURT: All right, sir. You may step down. Anything further?

MR. CLEMENTS: Just that on the identification off the video, that's it, Your Honor.

THE COURT: I'm sorry. What was that?

MR. CLEMENTS: On the identification of the video, that's all we have. These are the only two witnesses -- only two people that we're going to put up to testify about that.

THE COURT: All right. Mr. Wilson, anything by way of argument?

MR. WILSON: No, sir. I don't have any testimony at all. No, sir.

THE COURT: All right. Mr. Floyd, have you got any testimony?

MR. FLOYD: None, Your Honor.

THE COURT: All right. Happy to hear from you by way of argument as to why it's admissible.

MR. CLEMENTS: Your Honor, he had prior -- both individuals had prior dealings with the individuals that they identified. Mr. Lee identified both individuals. He had

prior dealings with both of them. Mr. Rouse had prior dealings with them, with the video determined who it was. Mr. Rouse did not have enough dealings with Mr. Woods to recognize him immediately, but he did with Mr. Sanders, and Mr. Woods was not identified by Mr. Rouse. Mr. Lee identified both of them and has got the foundation to do so.

THE COURT: Mr. Wilson?

MR. WILSON: Based on -- on the totality of all of the circumstances in this case, I don't think that the State has established a substantial basis -- factual basis to show that these two witnesses have the kind of knowledge -- intimate knowledge of the individuals that they claim to have known to make identification in the first place, but even beyond that when you talk about Mr. Rouse -- let's talk about Mr. Rouse's testimony first -- Detective Rouse's testimony. He indicated that -- that he had known the defendant since 2007 and I asked him, well, if the defendant was in jail in 2006, '07, and '08, how could he have possibly known him, and he said, well, it was sometimes around that time.

THE COURT: You talking about Mr. Rouse?

MR. WILSON: Yes, Neil Rouse.

THE COURT: Okay. Go ahead. I'm sorry.

MR. CLEMENTS: Your Honor?

THE COURT: Hold on. I'll let you reply. Go ahead, Mr. Wilson.

MR. WILSON: I thought that was Detective Rouse that I asked that question to. I asked both of them --

THE COURT: You asked it of Investigator Lee.

MR. WILSON: Well, I asked him --

THE COURT: Go ahead though.

MR. WILSON: And then I apologize, Your Honor.

THE COURT: That's okay.

MR. WILSON: But my understanding of Mr. Rouse's testimony because he was the first one to testify -- I mean what I asked him was if he knew the defendant, how he knew him, and he said he knew him since 1993 and -- and you're right. Mr. -- Detective Lee said since 2007, but what -- what Detective Rouse -- let me go back to him.

He said he knew him since 1993, which the defendant would have been twelve or thirteen years old at that time. He wouldn't have even been able to get in difficulty with -- with law enforcement because he wasn't old enough at that point and so I have a real problem with that.

The other thing is is that not either of -- either Detective Lee or Detective Rouse indicated that they knew about any tattoos that the defendant had and, if so, where were they located. Neither of them knew anything about it and I just -- you know, and the other problem is is that with the video surveillance equipment.

Apparently, they showed -- according to Detective Lee,

they showed some kind of a line-up to -- to Shawn Davis at some point in time trying to get him to identify somebody, but nobody seems to know exactly when it was that they showed him the line-up, but by all conclusions, there was never an identification of Mr. Sanders before July the 12th by anybody, and certainly there is no indication that Mr. -- that Detective Lee or Detective Rouse in any way identified Mr. Sanders as being a participant or being on that video before the 12th, and the 12th is when the -- which is what we were asking about the affidavit or the photo line-up that was shown to Shawn Davis. Apparently, they're claiming that Shawn Davis picked out these two individuals on July the 12th, which is the first time that anybody supposedly picked them out of anything.

And then you go back to -- to the testimony from these two officers. Apparently, they went to SLED and -- and Detective Lee I think it was -- well, Detective Rouse actually signed the first affidavit of the return for the search warrant showing that he actually had this surveillance equipment since July the 5th. He had it since July the 5th in his possession and he said it was sent to SLED, but nobody knows when it was that they saw it at SLED.

Now, I just think that there's just -- there is absolutely nothing to show that what they're saying ever occurred, that it actually -- that they actually identified

Marco Sanders before July 12th, and the reason that's important is because there is a witness who supposedly identified him on July the 12th. Before that, there has been no mention that Marco Sanders or Tyrell Woods for that matter was ever involved in this robbery/homicide and -- and now they come to court and they say, oh, well, we picked them out.

Well, if they picked them out -- if they picked them out -- if two officers -- two law enforcement officers actually picked these individuals out, why would there be a necessity to get -- on the 12th to get a layperson to say, oh, yeah, that's the two of them there? I just -- it makes no sense and -- and knowing law enforcement and how they work, if prior to the 12th if they had information that these individuals, Marco Sanders and Tyrell Woods, were the two culprits, believe me they would have a warrant, they would have went out and got them and tried to find them and arrest them. None of that was done until the 12th, which is when Shawn Davis is supposed to be the one who identified them as being the culprits. So I just don't think that there's a sufficient basis for their identification.

THE COURT: All right. Mr. Floyd, anything?

MR. FLOYD: Thank you, Your Honor. Your Honor, insofar as Mr. -- or Detective Rouse is concerned, he never says he identified --

THE COURT: Well, never identified your client.

MR. FLOYD: -- Mr. Woods in that video and, therefore, I would submit I don't believe he should be allowed to make an in-court identification of Mr. Woods off the video. In addition to what was the statement here about Detective Lee, Your Honor, he was shown the video here on the stand and a minute later was asked by the solicitor I believe who had on a black shirt. I mean -- I mean he's sitting right here in the courtroom and couldn't say Mr. Woods had on a black shirt.

He says he recognized his face, but yet if you watch that video, Your Honor, you can't see his -- his face on that video. You know, he never turns to that camera. I mean you can see certainly a side view of the individual and, Your Honor, his testimony was that he had I guess contact with him in his office back in 2007. I think Mr. Woods is twenty-one years old now so help me do the math. That would be -- he would have been a teenager at that time and, other than that, I can't remember him saying he had any real contact with him, and it wasn't even his case that he was in the office for. He just said he was in the office and another detective actually was assigned the case.

Your Honor, I just don't think there's any basis for him to make an in-court identification off of a video of Mr. Woods.

THE COURT: Anything further, Mr. Clements?

MR. CLEMENTS: Yes, sir. Mr. Tyrell Woods' juvenile

record starts in 2007 just at the time period that Mr. Lee was talking about, and he says he reviewed him several times. He'd pull out -- he'd have pictures and photos that he knew as Tyrell Woods in trying to identify suspects in other cases.

There is nothing that we show we have to prove what Mr. Wilson has said about when Mr. Sanders was in jail all that whole time because we have him pleading guilty and -- being arrested in April 2008 and pleading guilty in May of 2008, plus other things that show that there was several times he was out of incarceration during that time period that Mr. Wilson asked him about. So I submit Mr. Wilson has got that all confused.

Other than that, Mr. Lee said he concentrated on the faces and who went in when, who went in first, and Mr. Sanders went in first and Mr. Woods followed him in. You know, I'd referred to it as being a black shirt. It's a black and white video. It might not have been a black shirt for all I know, but it appeared black. But I was looking at the shirt. He was looking at the faces and the order of which way they're going in, and he recalled that.

Now, Mr. Wilson is going on and on about the 12th. I don't recall either one of those witnesses testifying that they viewed the video before the 12th or trying to say that they viewed the video before the 12th. I don't recall that. They might have, but yeah, there was an identification on the

12th and Mr. Lee acknowledged that he talked to Shawn Davis. When Mr. Wilson was talking about, well, did you talk to him before, and he thinks somebody did before, but he didn't, and he did say that he identified talking to Mr. Davis on the 12th, which has nothing to do with whether he knew or had enough knowledge of Mr. Woods and Mr. Sanders as to what they looked like and whether he could identify them if he saw them on a video.

That would all go to the weight of their testimony for the jury to look at that and see if they felt like they saw enough of them and if they feel like if they look at the video themselves and see that they can recognize them on there. So all that goes -- argument goes to the weight of evidence, but not to the admissibility of it. I think there is a foundation that they can testify they've known, they had prior dealings with them, and they knew what they looked like, and they identified them.

THE COURT: All right. All right. Anything else, Mr. Wilson? I'll give you -- since I gave him another shot at arguing.

MR. WILSON: No, sir. I don't have anything else.

THE COURT: Mr. Floyd, anything further?

MR. FLOYD: Well, Your Honor, I think Detective Lee's testimony was that he concentrated on the gun. I don't think he said anything about concentrating on Mr. Woods' face, and

when he viewed the video, he said I concentrated on the gun. I was looking at the weapons. And also, Mr. Woods' juvenile record actually starts in 2004, not 2007.

MR. CLEMENTS: Well, he's got a --

THE COURT: All right. That's enough. I've heard enough.

MR. CLEMENTS: All right. Your Honor, we have some law we feel like supports our position as well.

THE COURT: Okay. Give me the case name.

MR. CLEMENTS: State versus Gerald Fripp, a 2012 case.

THE COURT: All right. Any law you want me to look at, Mr. Wilson or Mr. Floyd? I mean that is --

MR. WILSON: No, sir.

THE COURT: -- important if you have any. All right. Pursuant to State v. Mitchell, 399 S.C. 410 -- and that particular case is a 2012 case where an officer testified that he believed the individual captured on the victim's deer camera breaking in was defendant. That testimony was based upon the officer knowing the defendant from twenty years of living in the same town.

State v. Mitchell cites State v. Fripp, the one Mr. Clements just cited, 396 S.C. at 438 and 440 -- 438 and 440, and in Fripp, the Court determined that two witnesses could testify to the identity of a person depicted on a surveillance videotape. The witnesses in that particular case testified

that they knew the defendant, saw him all the time, and the Court concluded that their testimony -- that their testimony was rationally based on their perception of Fripp's appearance, including his physical appearance, mannerisms, and clothing. The Court concluded that the two witnesses' opinions were helpful in determining a key fact in issue.

As it was in that case, it is in this case. These witnesses' testimony would be helpful in determining a key fact in issue, and that is whether the defendants were the persons depicted in the video. Each of these two witnesses -- more specifically now as it relates to Mr. Rouse's testimony, he doesn't identify Mr. Woods. He doesn't identify Mr. Woods in this video. He said he didn't know who he was, but Officer Lee identified both of these individuals. He indicated that he knew them over a period of time.

While there is some discrepancy as to when and how long each of these defendants were known by the officers, there's no question that each of them testified based upon prior dealings with each of the defendants that they knew them, that they had interaction with them. As it relates to Mr. Sanders, Mr. Rouse indicated he identified him I believe immediately. He has firsthand knowledge of Mr. Sanders, and his identification as an individual involved in this act or in these alleged offenses is a fact in issue for the jury, and his testimony will certainly aid in that.

Now, with regards to Mr. Lee, his identification of -- he identified Sanders and Woods. His testimony was that he knew Woods from previous incidents in the past since '07. There is some discrepancy as to how long the juvenile record went back to. I've heard '04, I've heard '07, but did know him prior to this time.

As it relates to Mr. Sanders, he has known Mr. Sanders he indicated since about '07 as well and had face-to-face with both of them, albeit the testimony was that that face-to-face I believe was one time, but he did testify that he recognized him, knew him. I think it goes to the weight, not to the admissibility.

Further testimony of Officer Lee was that he identified each of them in no time. In no time, once he saw the video, it was clear to him as to the identity of not only Mr. Sanders but Mr. Woods as well. Therefore, I am going to allow it. Anything further from the State?

MR. CLEMENTS: Not on this issue, Your Honor.

THE COURT: Mr. Wilson? But your objection, Mr. Wilson and Mr. Floyd, is so noted for the record. Anything further, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing further, Your Honor.

THE COURT: All right. Now, are there any other matters?

And this was an issue that Mr. Wilson brought up some time ago when we previously had these -- some pre-trial matters. The identification issue just was hashed out today. Are there any other pending matters, Mr. Wilson --

MR. WILSON: The only --

THE COURT: -- that were not dealt with before that we need to deal with as it relates to your client?

MR. WILSON: I'm not sure -- again, I don't know who the State intends to call, but I would object to any identification of the defendants in addition to the ones from the tape unless we have an in-camera hearing before that identification is made.

And secondly, I would ask the Court to -- to admonish the witnesses when they are on cross examination in this trial that -- especially these officers that while we have to cross examine them that they can't talk about the defendants' criminal history and --

THE COURT: Well, I mean I'm not going to --

MR. WILSON: -- try to sneak that in.

THE COURT: I understand your position on that. However, I'm not going to tell them they can't when you might as -- you might open that door. If you or Mr. Floyd open that door -- I mean Mr. Clements can talk with his clients about not opening it without the question being answered, but if you or Mr. Floyd open that door, then I'm not going to sit here and tell

them they can't discuss it.

MR. WILSON: Well --

THE COURT: I mean certainly recognizing if there any issues out there that we need to address concerning -- I mean I think that's something that will have to be addressed as we go along.

MR. WILSON: Yes, sir.

THE COURT: Mr. Clements knows I think not to necessarily cross that line, but if you open that door or Mr. Floyd opens that door, then I'm not going to sit here and say that they can't discuss that if the door is opened. Okay? But we'll address it here.

MR. WILSON: Yes, sir. My concern, Your Honor is is that even if we don't open the door and they're looking for opportunities to jump through a door that's not open and -- and I --

THE COURT: I mean you asked -- I'm sorry. Go ahead.

MR. WILSON: And I have some real concerns about it and I just kind of want the Court to -- to be on notice that -- that -- that it's not appropriate to -- to bring up the defendants' criminal history. If I ask them do you know the defendant, yeah, they can -- there are a hundred ways they could answer it, but one of them would be, yeah, I mean I arrested him for armed robbery 25 years ago.

So, you know -- and when they know that that's not where

I'm going, but it just gives them the opening and it -- and it puts us in a really precarious defense and a really precarious situation when we're trying to cross examine, especially police officers --

THE COURT: Right.

MR. WILSON: -- who have this knowledge that laypeople would not have had in the first place.

THE COURT: Well, police officers ought to know even more so not to.

MR. WILSON: Yes, sir.

THE COURT: That a question that necessitates a yes or no answer doesn't necessarily, you know, throw the door wide open for them to go down any avenue that they want. Mr. Clements?

MR. CLEMENTS: Your Honor, they are aware of that because they know how to answer questions when I ask them, but we ask them how and tries to get in, but yet have their -- their tongues tied before we ask them about it and then he tries to use that a certain way. I think if he opens the door, they're going to bust right through it if he opens it up. So he better be careful how he cross examines. Otherwise, they're not going to volunteer that information.

THE COURT: Well, both -- all of y'all are very experienced lawyers. Be careful in what you're questioning. I mean how you do so. I mean if you certainly ask them an open question of how you know them, you know, that very well

could be throwing that door wide open.

MR. WILSON: I understand.

THE COURT: All right. Mr. Floyd, anything on that issue?

MR. FLOYD: Nothing further, Your Honor.

THE COURT: All right. Anything else at this time, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: We've got some motions to address from Mr. Floyd.

MR. FLOYD: Yes, Your Honor. I had some motions that we filed this past Friday, May the 16th.

THE COURT: Right.

MR. FLOYD: I believe that the solicitor has a copy of that already.

THE COURT: All right. The first motion on here -- let's deal with them one at a time. Did you get a copy of these, Mr. Wilson?

MR. WILSON: Thank you.

MR. FLOYD: Ed, you have a copy?

THE COURT: And there were a total of seven; is that correct?

MR. FLOYD: Yes, Your Honor, but, you know, we've been provided with the witness list this morning.

THE COURT: Yes, sir.

MR. FLOYD: And also, I have here NCIC reports I believe on Gene Stanley, Lafayette Reed, Eddie Godbold, and Frances Davis. I think y'all provided me these today and I believe that would resolve Number 5, Your Honor.

THE COURT: What number?

MR. FLOYD: Number 5.

THE COURT: All right. Well, let me ask this, and you all need to get together on those witnesses to determine what, if anything, comes out as it relates to those lay witnesses. Okay? And y'all can do that overnight and advise me.

MR. CLEMENTS: Your Honor, we will do that. We will certainly go above and beyond what the rule requires us to do because the rule only requires us to give them the criminal record after they've finished their direct testimony, and we're going to be sure we don't have any other records out there of any of our lay witnesses and provide that to them as quickly as we can out of courtesy.

THE COURT: Okay. All right. What else, Mr. Floyd?

MR. FLOYD: Your Honor, on Number 7, I think we're going to table that motion for the time being. I think that's --

THE COURT: I think that --

MR. FLOYD: -- probably best left to see how the evidence unfolds and the testimony.

THE COURT: Well -- and I've read the cases that you all have forwarded to me and did a little additional research on

my own yesterday, and certainly believe that that issue is best, as you've stated, to be decided based upon how the evidence comes out during the course of this trial. We can revisit that issue later if necessary.

MR. FLOYD: Yes, sir.

THE COURT: How about -- let me ask you this now. You -- you've hit on some and you have not hit on others. Number 1, are y'all satisfied that the State has complied with Rule 5 and Brady?

MR. FLOYD: Yes, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: Yes, sir.

THE COURT: Okay. All right. Number 2?

MR. FLOYD: Yes, Your Honor. That's just a motion to determine the prior record of Mr. Woods that the State would introduce if he should choose to testify.

THE COURT: All right. And you've got a copy of your client's record?

MR. FLOYD: I do, Your Honor.

MR. MEETZE: Your Honor, the only adult record we have on Mr. Woods is a prior burglary and -- so we would submit since one of the charges on this indictment is burglary that they just be able to say -- or whoever asks him that he had a prior felony conviction.

THE COURT: Mr. Clements?

MR. CLEMENTS: I think he's on parole or probation violation now for burglary.

THE COURT: Well, I understand that.

MR. CLEMENTS: All right.

THE COURT: But what he indicated or Mr. Meetze indicated is that if you do intend to impeach him on something that you certainly -- that you only be allowed to do so by asking if he's been convicted of a prior felony, not a burglary since he's currently on trial for a burglary 1st.

MR. CLEMENTS: Yes, sir.

THE COURT: Is the State in agreement with that?

MR. CLEMENTS: Well, if Your Honor rules that's what we can ask him, we will be happy to ask him that. If we can go further, that's within the discretion of the Court.

THE COURT: Okay.

MR. CLEMENTS: I haven't exactly researched that issue so I don't want to punt right now, but --

THE COURT: I'll let you look at it overnight. I'll let you look at it overnight. I mean his testimony, if he testifies at all, will be over the next -- not tomorrow, probably even Wednesday. So I'll give y'all a couple days to address that issue. All right? All right.

Number 3 is -- is correct. How about Number 4?

MR. FLOYD: Yes, Your Honor. That's a motion to determine the existence and admissibility of any prior bad

acts or Lyle testimony that the State would intend to offer to use against Mr. Woods in this case.

THE COURT: Mr. Clements?

MR. CLEMENTS: Your Honor, earlier the same day Mr. Rowell was killed, Mr. Liston Phillips was robbed -- armed robbed on Jones Avenue by an individual he identified as being Mr. Tyrell Woods using a similar handgun to the handgun seen in the video where they entered Mr. Rowell's home.

THE COURT: All right. The State intends to try to introduce that?

MR. CLEMENTS: Your Honor, we -- we are certainly contemplating that at this time. We think it fits under the common scheme, motive, and plan under Rule 404(b).

THE COURT: All right. We'll cross that bridge if need be. All right. Mr. Floyd, anything else? You indicated Number 5 was -- was okay?

MR. FLOYD: That's correct, Your Honor.

MR. WILSON: Your Honor --

THE COURT: How about Number 6?

MR. WILSON: Your Honor --

THE COURT: I'm sorry. Go ahead, Mr. Wilson.

MR. WILSON: Yes, sir. Did I understand Mr. Clements to say that he does intend to offer Lyle in regards to --

THE COURT: He said he's contemplating it.

MR. WILSON: So then -- then I certainly want to

interpose an objection to that because, again, that goes back to my whole severance argument and if he's now going to offer Lyle on this defendant, which I certainly think prejudices my defendant if we are here at the table with him, and anyway, we'll deal with that I guess if he offers it, but I just want to for the record be clear that I object to that vehemently.

MR. CLEMENTS: Of course, if I do choose to introduce it, Your Honor, I'm going to say that we had no evidence whatsoever that Mr. Sanders had anything to do with Mr. Phillips' armed robbery, just so that Mr. Wilson feels better.

THE COURT: Thank you, Mr. Clements. Mr. Wilson, your objection is so noted --

MR. WILSON: Thank you.

THE COURT: -- for the record on that issue. How about this Number 6, Mr. Floyd?

MR. FLOYD: Yes, sir, Your Honor.

THE COURT: What's y'all's position on that?

MR. FLOYD: Your Honor, we had a Schmerber hearing back here in this courtroom. I believe it was on November the 16th of 2012. I believe the solicitor had a copy of the transcript.

THE COURT: And for the record, y'all provided me with a copy of it --

MR. FLOYD: Yes, sir, Your Honor.

THE COURT: -- Friday when you filed your motion and

forwarded it to me.

MR. FLOYD: I actually had one marked Court's Exhibit 1.

THE COURT: All right.

MR. FLOYD: Just so -- for the record. Your Honor, one of the things that we took up in that hearing was whether or not to allow Mr. Woods' fingerprints to be taken by SLED. Judge Seals did order that Mr. Woods give fingerprints, Your Honor. However -- and as you can see in the transcript, he did say that I should be allowed to sit with Mr. Woods while that was taking place.

It's my understanding that those fingerprints were collected that day, November the 16th, 2012, and I think it was done here in the courthouse somewhere. Of course, we were having court then, Your Honor, and I was up here in the courtroom, and after we had this hearing, they took Mr. Woods out of the courtroom and I -- I mean I was never notified they were actually doing it, but apparently it was done later on that day at some point. I don't know when exactly, but I was never told that they were getting ready to do it, Your Honor, and so I was not there.

THE COURT: All right. Anything further?

MR. FLOYD: Nothing further, Your Honor.

THE COURT: And the defense wants simply to suppress them?

MR. FLOYD: Yes, Your Honor.

THE COURT: Mr. Clements, anything?

MR. CLEMENTS: Your Honor, I'm not aware of any written order from this transcript, and the way I read it, Your Honor -- and if I may read it into the record. It says -- it talks about Mr. Woods wants his fingerprints to be taken electronically and the Court said can you do that and I said, no, sir, Your Honor. We have the guy here and he has his ink pads and his paper, but I don't know of any way to do it electronically.

And then the Court interjected and said, well, how about your lawyer sitting with you while that's being done and monitors the situation to make sure that it's done properly and stored properly and carried out properly. Would you be okay with that? The defendant said, I guess so, Your Honor.

Then the Court said, you can sit with him. Yes, sir. Any problem with the swabs? And Mr. Floyd said, we're fine with that, Your Honor, and I'll be glad to sit with him.

I don't think that was an -- an order. He didn't order it on the record and he didn't do a written order. He -- I think he was just trying to make somebody a little more comfortable even than they needed to be. I do not think that any defendant has any inherent rights to refuse to have his fingerprints taken, and I don't think there was anything done by design or intent that these fingerprints were taken without Mr. Floyd being there.

I think it just inadvertently happened and no one I think thought that there was a order and it was just to make Mr. Woods comfortable. I don't think any of his rights -- inherent rights have been violated and I don't think really that a court order has been violated. It's certainly not the spirit of a court order.

THE COURT: Anything else, Mr. Floyd?

MR. FLOYD: Your Honor, I don't have anything else.

THE COURT: Do you have any case law or anything?

MR. FLOYD: I have no case law, Your Honor. I just have the transcript of what Judge Seals said.

THE COURT: Well -- and I'm looking at the transcript that you provided to me on Friday when you forwarded these motions to me. I am going to respectfully deny your request. I mean from my reading of the transcript, it does not say that -- it's not an order the way I read it that it be done a particular way.

Therefore, I am not going -- I do not believe -- unless you can convey to me how your client was prejudiced or could be prejudiced as a result of yourself or Mr. Meetze or any other lawyer being there. Is there anything you can convey to me on that, Mr. Floyd?

MR. FLOYD: Your Honor, I don't have anything.

THE COURT: Okay. Well, your objection is so noted for the record, but I'm going to respectfully deny that -- all

right? -- that it be suppressed. All right. Any other pre-trial matters?

MR. CLEMENTS: Your Honor, we have all of the exhibits here we'd like to lay out for defense counsel to look at and see if there's any we can agree on so that it would speed up the trial presentation for all parties involved, and we're prepared to do that at this time.

Your Honor, I don't know of any other issues that may come up. There is one we didn't get into. There's one witness that did do an identification on a photo line-up that Mr. Wilson referred to in his questioning of Investigator Lee. I think also Investigator Rouse. We're undecided whether we're going to bring that guy back or not. He's off in the Department of Corrections, but if that happens, we can take that -- those matters up in-camera.

We just want to let you know -- let the Court know that we're not trying to avoid that now and then later slow the process down. He just wasn't available for us to bring him over today and we're undecided whether we need to use him or not.

THE COURT: All right. Mr. Wilson, anything else?

MR. WILSON: Yes, sir. Your Honor, in regards to that particular witness, we had put him under subpoena. I guess we probably still need an order of transportation though. If the solicitor does not call him, I will need an order of

transportation from the Court to get him here.

THE COURT: Well, you need to get me one.

MR. WILSON: I'll go ahead and do that. He's under subpoena.

THE COURT: All right. That'll conclude our pre-trial matters today. Is that right? All right. Any other matters that y'all can think of at this time, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: I don't have anything.

MR. CLEMENTS: Your Honor, are you going to rule on the exhibits or -- because we have --

THE COURT: How many exhibits are they?

MR. CLEMENTS: The exact number, Your Honor, 45.

MR. SALEEBY: But some of them are multiples.

MR. CLEMENTS: But some of them are multiple because they're like 45-A, B, C, D, and E, they're photographs.

THE COURT: Well, I mean I'm -- I'm not going to sit here the balance of the afternoon while y'all go through them. You can go through them this afternoon, you and Mr. Wilson and Mr. Floyd, and be back here at 8:30 in the morning and tell me what you agree on and what you don't agree on and I'll rule on them before we start the trial at 9:30 in the morning.

MR. CLEMENTS: Thank you, Your Honor.

THE COURT: All right. Thank you. Hold on a minute.

Can the lawyers approach just a minute?

MR. CLEMENTS: Certainly.

MR. SALEEBY: Ed, are we going to use this or take them to the jury room?

MR. CLEMENTS: Your Honor, may we use the jury room to lay out the exhibits so everybody can look at them?

THE COURT: Yeah. Can the lawyers approach a minute?

(Whereupon, a bench conference is held off the record.)

THE COURT: All right. We'll start at nine o'clock in the morning. Just have them here, please, sir, in their seats ready to go. Anything else?

THE CLERK: No.

(Whereupon, the proceedings are adjourned at 4:18 p.m. until the following day.)

May 20, 2014

(Whereupon, the proceedings resume at 9:15 a.m.)

THE COURT: All right. When we broke yesterday afternoon, I asked the lawyers to be back here at nine o'clock to proceed. During the break, I asked the lawyers to go over the items of evidence. I think Mr. Clements indicated there were over 40-some pieces of evidence. Is that right, Mr. Clements?

MR. CLEMENTS: That is correct, Your Honor, and we have all of these lined up right here and we are seeking to introduce them at this time and, Your Honor, we'd like to go

through them numerically. I think we can very quickly go through them in numerical order.

THE COURT: All right. Do you have a list for my court reporter?

THE COURT REPORTER: Yes, sir.

THE COURT: Okay. Can I have a -- can I have a copy of that, please?

MR. CLEMENTS: Sure.

THE COURT: Do you have an extra copy?

MR. CLEMENTS: Mr. Saleeby has got a copy, Your Honor.

THE COURT: Okay. I mean I could -- if not, I can get Christy to make a copy right here. That copy machine --

MR. CLEMENTS: We'll make a copy real quick.

THE COURT: That would be great. Is that a copy machine right there? Okay.

MR. CLEMENTS: Your Honor, what we -- what we propose doing is we just go through them in numerical order.

THE COURT: All right.

MR. CLEMENTS: And find out what we agree on and not and that way the court reporter has a list and we can do that in a succinct fashion.

THE COURT: All right. Very well. Let me hear from you.

MR. CLEMENTS: Your Honor, I am going to defer at this time to Mr. Saleeby --

THE COURT: Okay.

MR. CLEMENTS: -- on these. He's been handling the numbering of that. I think it would be quicker for him to do it.

THE COURT: Okay. Mr. Saleeby?

MR. SALEEBY: Your Honor, the State's Exhibit Number 1 would be an aerial diagram.

THE COURT: Okay. Any objection from defense counsel?

MR. WILSON: No objection.

THE COURT: Defense --

MR. SALEEBY: Number 2 would be -- I just call it a diagram. It's an aerial photograph. Number 2 is an aerial photograph of Phil Court.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objection.

THE COURT: Mr. Floyd?

MR. FLOYD: No, sir.

THE COURT: All right.

MR. SALEEBY: Then Number 3 is a diagram not to scale of Phil Court.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No objections, Your Honor.

MR. SALEEBY: Number 4 is a CD of the 9-1-1 call.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: I don't have any objection to the actual tape. I'm just --

THE COURT: Well, then what's the problem?

MR. WILSON: I don't -- I don't have any objection to that. I won't have any objections.

THE COURT: You sure?

MR. WILSON: Yes, sir.

THE COURT: All right. Mr. Floyd, any objection?

MR. FLOYD: None, Your Honor.

THE COURT: All right.

MR. SALEEBY: Your Honor, the next exhibit is -- 4 through 17 are a series of photographs.

THE COURT: Hold on a minute now. What -- 5 through 17.

MR. SALEEBY: Yes, sir. I beg your pardon, 5 through 17.

THE COURT: Are what now? Photographs? What kind of photographs?

MR. SALEEBY: 5-A through E are photographs of the front and outside of the residence.

THE COURT: All right. 5-A through E are photographs of the outside of the residence. Any objection, Mr. Wilson?

MR. WILSON: No objection to the outside.

THE COURT: Mr. Floyd?

MR. FLOYD: None, Your Honor.

THE COURT: All right. All right. Go ahead, Mr. Saleeby.

MR. SALEEBY: 6-A to B, photographs of the rear.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections.

MR. SALEEBY: 7-A --

THE COURT: Hold on a minute. Hold on a minute.

MR. SALEEBY: I'm sorry, sir. Excuse me.

THE COURT: All right. 7-A through C; is that right?

MR. SALEEBY: Yes, sir.

THE COURT: Photographs of the front porch?

MR. SALEEBY: Yes, sir.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: None, Your Honor.

THE COURT: All right. Go ahead, Mr. Saleeby.

MR. SALEEBY: 8-A to G are photographs of the side door and some cartridge cases.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd? Mr. Meetze?

MR. MEETZE: Your Honor, one of the pictures -- I don't know which one it is -- in Number 8, they're trying to show the front door, but also you can clearly see the victim's feet.

THE COURT: Well, it says side door.

MR. MEETZE: Side door. I'm sorry. That's correct. Side door is correct. We would object to the picture showing the defendant's feet. I think --

THE COURT: You mean the victim's feet?

MR. MEETZE: The victim's feet. I'm sorry. Other than that, we don't object to any of the other pictures in that grouping.

MR. SALEEBY: Your Honor, that appears to be 8-A.

MR. MEETZE: And I think they have pictures that show what they want to show.

THE COURT: What's your objection to it, Mr. Meetze?

MR. MEETZE: I just think it's overly prejudicial. It's not what they're trying to display in the picture and I think other pictures in the grouping show what they're trying to show and --

MR. SALEEBY: Excuse me, sir. 8-D would have the same thing.

THE COURT: 8-D is -- has the same thing.

MR. MEETZE: I just think --

THE COURT: Because it shows even more --

MR. MEETZE: Yes, sir.

THE COURT: -- of what you're --

MR. MEETZE: We'd object to any of those.

THE COURT: Any response, Mr. Saleeby?

MR. SALEEBY: Your Honor, I don't think it's prejudicial

without being explained. I don't see anything there that would inflame the senses or cause people to revolt or to act out of passion or prejudice.

THE COURT: All right. Over defense counsel's objection, I'm going to allow photographs 8-A, as well as 8-D, but your objection, Mr. Meetze, is so noted for the record.

MR. SALEEBY: Just a moment. I'm just trying to get them back so we -- are you ready for me to proceed, Your Honor?

THE COURT: Yes, sir.

MR. SALEEBY: 9-A to E are pictures of the interior of the side door.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir, no objection.

THE COURT: Any objection, Mr. Floyd or Mr. Meetze?

MR. MEETZE: Yes, Your Honor. Again, there are two pictures in that grouping same as the first two that -- that are showing a good bit of I think the victim's feet and legs, and we would object to those for the same reason as being overly prejudicial and there are other pictures that I think show what the State is trying to show in those pictures.

MR. SALEEBY: Your Honor, I'll hand them up to the Court, and our argument would be the same that there's nothing inflammatory or prejudicial, and it would be very difficult to take a picture of the door from that angle without showing Mr. Rowell.

THE COURT: It appears only that 9-A and 9-B has a -- it looks like his -- the victim's foot at the bottom. It appears to be so. Over defendant's objection, but your objection is noted for the record as to 9-A. I'm sorry, Mr. Saleeby.

MR. SALEEBY: Your Honor, photographs 10-A to C are pictures of the den.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: I'm sorry. I apologize.

MR. SALEEBY: 10-A through C --

THE COURT: 10-A through C.

MR. SALEEBY: -- are pictures of the den.

MR. WILSON: I have no objections to pictures of the den.

THE COURT: Any objection, Mr. Meetze or Mr. Floyd?

MR. MEETZE: Just the pictures that show the body. I think, you know, you get to a point where it's overkill, Your Honor.

THE COURT: All right. I'm going to allow 10-A and 10-B. I'm going to reserve my ruling on 10-C right now. I want to look at something. What did I do with the paperclip? Mr. Saleeby, I've misplaced your paperclip. I'm sorry.

MR. SALEEBY: What do you need, sir?

THE COURT: I misplaced your paperclip.

MR. SALEEBY: I've got one.

THE COURT: I'm sorry.

MR. SALEEBY: I'm good. Your Honor, Number 11,

photographs of Mr. Rowell, I know that we'll have to talk about that in detail so --

THE COURT: Okay. What point are those -- and let me ask this question. Are -- these items of evidence that there is no objection to, are they without objection subject to laying the proper foundation or are they just agreed upon admissible without objection, Mr. Wilson and Mr. Floyd?

MR. WILSON: Your Honor, the photos that I have agreed to --

THE COURT: I'm talking about everything that we have talked about thus far and everything beyond. There are 45 items of evidence and I want to know that so it's clear as --

MR. WILSON: Yes, sir.

THE COURT: -- we go forward here.

MR. WILSON: The things that I have not objected to thus far, I don't need them to lay a foundation for, which are simply pictures of the residence and the yard and the exterior of the house and I think there were some of the interior of the house.

THE COURT: Correct.

MR. WILSON: Those -- I have no objections to those pictures and I'm not requiring them to lay a foundation for them.

THE COURT: Okay.

MR. WILSON: Almost all of the other evidence, I am.

THE COURT: All right. Well, as we go through these --

MR. WILSON: Yes, sir.

THE COURT: -- I want you to make that issue clear on the record or your position on the record.

MR. WILSON: Yes, sir.

THE COURT: If it's without objection subject to foundation, you need to state that. Both of you state it on the record --

MR. WILSON: Yes, sir.

THE COURT: -- so the record is clear on that. Okay?

MR. WILSON: Yes, sir.

MR. CLEMENTS: Your Honor, then I'm going to ask does that cover the three diagrams and the 9-1-1 that he doesn't require us to lay a foundation for those four?

THE COURT: That's my understanding of what he's just conveyed here and Mr. Floyd is shaking --

MR. FLOYD: Certainly.

THE COURT: -- his head in the affirmative as well. Is that right?

MR. FLOYD: That's right.

THE COURT: Okay.

MR. SALEEBY: Your Honor, I'm going to come back to Number 11.

THE COURT: Okay.

MR. SALEEBY: But I will go to Number 12. A to F are

photographs of the master bedroom.

THE COURT: All right. Any objection, Mr. Wilson?

MR. WILSON: No objections.

THE COURT: No objection period?

MR. WILSON: No objections.

THE COURT: All right. Mr. Floyd?

MR. FLOYD: No objection, Your Honor.

THE COURT: All right.

MR. SALEEBY: Number 13-A to H are photographs of the kitchen and living room.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No, Your Honor.

MR. SALEEBY: Number 14-A to C are photographs of the storage room.

THE COURT: Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No objections, Your Honor.

MR. SALEEBY: Number 15-A to C are photographs of what we call the dining or club area.

THE COURT: Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

MR. SALEEBY: Number 16-A through D are photographs of the intersection of Foxworth and Wahee Drive where some items belonging to Mr. Rowell were recovered.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection, Your Honor.

THE COURT: All right.

MR. SALEEBY: 17-A and B are photographs of a white Ford Expedition.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: Yes, sir. I don't -- subject to a foundation. Let me say that I --

THE COURT: All right.

MR. WILSON: -- have no objection subject to them laying some foundation for that. I just -- I'm not sure of relevance.

THE COURT: Mr. Floyd, any objection?

MR. FLOYD: No objections, Your Honor.

THE COURT: All right.

MR. SALEEBY: Number 18 is the DVD of the surveillance video that you were shown yesterday.

THE COURT: Mr. Wilson, any objections?

MR. WILSON: I object. Yes, sir.

THE COURT: And that's noted for the record.

MR. WILSON: Yes, sir.

THE COURT: And I've ruled on it. Mr. Floyd, the same?

MR. FLOYD: I object, Your Honor.

THE COURT: All right.

MR. SALEEBY: So, Your Honor, is it admitted or --

THE COURT: Over defense -- it's admitted over defense counsels' objection.

MR. SALEEBY: And, Your Honor, while -- while we're on that, I just want to call to the Court's attention that SLED started the first recording and ran the DVD from like three in the afternoon until this cut off around nine, and then they went and ran a DVD from six in the morning until this thing cut off at nine in the evening. Now, both of those are available, but the part that we thought was pertinent is here. Now, we're not hiding those from anybody. If the defense wants to use them and play the whole thing, the whole nine hours or the last three hours, they're there, but this is what we propose to introduce.

THE COURT: All right. Mr. Wilson?

MR. WILSON: Your Honor, the Court ruled on the identification issues on yesterday. Now, I'm not sure that we actually addressed the admissibility of the video itself.

THE COURT: All right.

MR. WILSON: And so that's --

THE COURT: All right. I'll rule on it pending y'all laying a proper foundation on it.

MR. WILSON: All right, sir.

THE COURT: But it's subject to their objection at this time. Same for you, Mr. Floyd?

MR. FLOYD: Yes, Your Honor.

THE COURT: All right.

MR. SALEEBY: All right. Your Honor, 19-A through R will be photographs taken from the surveillance video.

THE COURT: Any objection, Mr. Wilson?

MR. SALEEBY: Still photographs.

MR. WILSON: Subject to foundation and admissibility of the video itself and the video equipment itself.

MR. FLOYD: Same, Your Honor.

MR. SALEEBY: Okay.

THE COURT: All right.

MR. SALEEBY: Your Honor, the next items are tangible items recovered from the scene and that would be items Number 20 through 38, all recovered at the scene by SLED with the exception of -- and I guess I can get to this one next. This is an x-ray taken at the Medical University at the autopsy. This is Number 29. I'll put it up by the doctor.

THE COURT: All right. Any objection as to 20, Mr. --

MR. SALEEBY: 29, sir.

THE COURT: Well, 29, Mr. Wilson?

MR. WILSON: I object to it unless there's a foundation laid for it. Now, I've not seen it until yesterday so -- and I assume that the expert is coming to testify and he will use it as a prop and I wouldn't have any objection to having the expert identify it and he says that he needs to use it as a prop.

THE COURT: Okay.

MR. SALEEBY: Your Honor, we can handle that, but just to clarify the record, I believe that the DVD that we handed over and the photographs that we handed over might have included this. But it doesn't matter. We'll take care of that one. Your Honor, like I said, we'll deal with them as a group.

The next items, 20 through 38, with the exception of 29, are tangible items recovered from the scene: cartridge cases, cigar boxes that are going to be matched to fingerprints, Crown Royal boxes, papers, and the DVR that recorded the security thing, bullet fragments, duct tape taken from Mr. Rowell's person, items used as a gag, pillowcases used to store stuff in. Those are all tangible items recovered by SLED at the scene.

THE COURT: All right.

MR. SALEEBY: Taken to SLED and then brought back by the Sheriff's Department and kept here in Marion.

THE COURT: All right. Items 20 through 38?

MR. SALEEBY: 20 through 38 with the exception of 29.

THE COURT: Excluding 29. With the exception of 29, any objection, Mr. Wilson?

MR. WILSON: Yes, sir. To the admissibility and to them having to lay a foundation for the admissibility.

THE COURT: Same for you, Mr. Floyd?

MR. FLOYD: Same objection, Your Honor.

THE COURT: All right. Object in full as quoted by -- quoting Mr. Wilson and subject to foundation.

MR. SALEEBY: Your Honor, Number 39 is -- are Mr. Rowell's driver's license and debit cards that were found at that intersection of Wahee and Foxworth Road and recovered and turned over to the Sheriff's Department.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: Yes, sir. Your Honor, my -- my real issue with that piece of evidence is relevance. This was found much, much later. It's not contemporaneous with the homicide itself so I'm not sure how it's relevant, but anyway, I don't know how it's relevant to any issue at hand.

MR. SALEEBY: Your Honor, I can speak to that if you wish.

THE COURT: Hold on a minute. Mr. Floyd, any objection?

MR. FLOYD: Yes, Your Honor, same objection.

THE COURT: All right. Yes, sir, Mr. Saleeby?

MR. SALEEBY: Your Honor, one of the charges here is armed robbery. Proof of armed robbery is largely the taking

and carrying away. We have information and I think we'll present testimony that Mr. Rowell carried a wallet and had money, but we're going to show you photographs in a moment of Mr. Rowell with his pockets picked out. The fact that his personal possessions, including his driver's license, were found a distance of a few miles at a route fairly close to where this incident took place.

THE COURT: Well, I'm noting their objection. I'm going to reserve ruling pending a foundation being laid. All right?

MR. SALEEBY: Your Honor, Number 40 is a fingerprint card belonging -- that was taken at the autopsy of Mr. Rowell.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: None, Your Honor.

THE COURT: Mr. Floyd? This is Mr. Rowell now.

MR. FLOYD: No objection, Your Honor.

THE COURT: All right.

MR. SALEEBY: Number 41 is the fingerprint card of Marco Sanders.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

MR. FLOYD: None, Your Honor.

MR. SALEEBY: And Number 41 [sic.] is the fingerprint card of Tyrell Woods.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

MR. SALEEBY: 42. I'm sorry, Your Honor.

THE COURT: All right, 42.

MR. SALEEBY: Your Honor, I --

THE COURT: Hold on a minute. Hold on a minute.

MR. SALEEBY: Excuse me. I'm sorry.

THE COURT: I know that you -- I note your objection for the record, Mr. Floyd.

MR. FLOYD: Yes, Your Honor. Thank you.

THE COURT: All right. Go ahead. I'm sorry.

MR. SALEEBY: Your Honor, Items 43, 44, and 45, fingerprint exhibits and photographs representing the firearms are not in our possession right now. SLED agents that will be testifying to those will be bringing them.

THE COURT: All right. We'll deal with those when they bring them here and when they're up.

MR. SALEEBY: Your Honor, that covers everything with the exception of the photographs of Mr. Rowell, which are Items Number 11-A to H, and I'm sure you'll want to look at them one at a time. I would ask you, Your Honor, realizing that you want to move the jury in, if while we're discussing these if I could ask Mr. Sawyer to go ahead and to leave the diagrams up here, but box up everything else and get it out of the jury's way.

THE COURT: That's fine. I mean you're going to need to move those diagrams as well.

MR. SALEEBY: Yes, sir. Well, I was going to move them out of the way, but the rest of it I was just going to get out of the way.

THE COURT: Yeah. Go ahead and box that up.

MR. SALEEBY: All right, sir. All right. Your Honor, what I'm going to hand up to the Court is a series of photos taken of the deceased, Mr. Rowell. It's A to H. I know counsel would like to look at them and you at the same time. In handing them up, I will tell you that the purpose of these is to show how he was bound, how he was gagged, and how his -- how his pockets were pulled out, at least three of them, to support the charge of armed robbery. I'll hand these up to you now, sir, and I'm sure that counsel will want to take a look at them. I know you'll want to rule on them one at a time.

(Whereupon, there is a pause in the proceedings.)

THE COURT: Do you want to look at these, Mr. Floyd and Mr. Wilson?

MR. FLOYD: Yes, Your Honor.

(Whereupon, there is a pause in the proceedings.)

THE COURT: All right. Are we bringing the jury up now? Okay. Are they bringing the jury up?

MR. SALEEBY: Your Honor, I'm having that evidence taken downstairs because the SLED agent who gathered it is here and to save time so that she can identify all of it as opposed to

having to unwrap it when we are --

THE BAILIFF: Are you ready for them now?

THE COURT: Hold on just a minute. There's no need to bring them up here and put them in this room. Let's go ahead and finish what we're doing and we'll bring them up and put them in the box and start.

MR. SALEEBY: Are you ready? All right, sir.

(Whereupon, there is a pause in the proceedings.)

THE COURT: All right. Mr. Wilson, have you looked at the photographs?

MR. WILSON: Yes, I have, Your Honor.

THE COURT: All right. Let's go through them one by one. Did you leave them in the same order, Mr. Floyd?

MR. FLOYD: Yes, Your Honor.

THE COURT: All right.

MR. FLOYD: I didn't shuffle them.

THE COURT: You didn't shuffle them up on me?

MR. FLOYD: No, sir.

THE COURT: All right. 11-A, which depicts a picture of the victim's feet bound, any objection, Mr. Wilson?

MR. WILSON: Just foundation. No other objection.

THE COURT: All right. Any objection, Mr. Floyd?

MR. FLOYD: None, Your Honor.

THE COURT: All right. 11-A -- hold on a minute. Who is this coming in here?

LAW ENFORCEMENT OFFICER: The victim's family.

THE COURT: Okay.

MR. SALEEBY: Your Honor, is A in over objection?

THE COURT: 11-A is without objection.

MR. SALEEBY: All right.

THE COURT: Neither one of them object.

MR. SALEEBY: All right. Thank you, sir.

THE COURT: Yes, sir. All right. 11-B, which is a depiction of one of his pockets pulled out, any objection, Mr. Wilson?

MR. WILSON: Did you have G? No objection to that one. No, sir.

THE COURT: You want to see it?

MR. WILSON: No, sir. No objection.

THE COURT: You've already seen it; correct?

MR. WILSON: I've seen it.

THE COURT: All right. Any objection?

MR. WILSON: No objection.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: All right. All right. 11-C appears to be a picture of his other pocket pulled out --

MR. WILSON: No objections.

THE COURT: -- on the left-hand side. Any objection?

MR. FLOYD: No objection.

MR. WILSON: No, sir.

THE COURT: All right. 11-D is a back picture of his -- of the victim's hands bound. Any objection, Mr. Wilson?

MR. WILSON: No objections.

MR. FLOYD: No objection.

THE COURT: All right. 11-E is another picture of the back of the decedent's hands bound, as well as pockets pulled out. Any objection, Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: Your Honor, I would object to 11-E. I think it basically shows the same thing as D does and it's -- frankly, Your Honor, it's a lot more graphic than D and I feel that picture would enflame the jury. We object to it.

THE COURT: All right. I'll reserve my ruling on that.

MR. SALEEBY: E is to be determined, sir?

THE COURT: Yes, sir. All right. 11-F is a picture of the decedent gagged. Any objection, Mr. Wilson?

MR. WILSON: Yes, sir, Your Honor. I object. I think that that photograph is extremely inflammatory and unnecessary.

THE COURT: Mr. Floyd?

MR. FLOYD: I object, Your Honor, on the same grounds.

THE COURT: All right. I'll make a decision on that and reserve my ruling on that as well. 11-G, any objection, Mr.

Wilson?

MR. WILSON: Yes, sir. Same objection.

MR. FLOYD: Same objection, Your Honor.

THE COURT: All right. 11-G, I'm going to admit over defendants' -- each defendant's objection pending laying the foundation there. Based upon my observation of 11-G, I do not see where that particular photograph is calculated to arouse the sympathies or prejudices of the jury. They do show material facts, and it is not unduly prejudicial to the defendants in this case. I'm going to allow that in over defendants' objections. 11-H?

MR. WILSON: I would object, Your Honor, on the same grounds. I think that it's highly prejudicial.

THE COURT: Mr. Floyd?

MR. FLOYD: Your Honor, I would object as well on the same grounds as F and G.

THE COURT: All right. I'll reserve my ruling on that as well, on those two. So it's 11-E, F, and H. I'm going to reserve ruling on that. All others are admitted over the objection of defendants. As to 11-G, there was no objections to 11-A through D. All right.

MR. SALEEBY: Thank you, sir.

THE COURT: I'm going to hand all of these back to you at this time. Now, let me hold 10-C again, please. Well, that's okay. It went down. That was one that I reserved my ruling

of.

MR. SALEEBY: 10-C was a photograph of the den that I believe showed him from the knees down.

THE COURT: I am going to allow that photograph over defendants' objections. So the only thing I've reserved ruling on is 11-E, F, and H.

MR. SALEEBY: Your Honor, when I call the SLED agent who took these photographs, I'll try to say it at that part of her testimony so that we can deal with it at the right time without disrupting everything else.

THE COURT: All right. Anything else before we bring the jury up from the State?

MR. SALEEBY: No, sir.

THE COURT: Mr. Wilson, anything further before I bring the jury up?

MR. WILSON: No, sir.

THE COURT: All right. We'll stand down for about five minutes.

(Whereupon, there is a break in the proceedings from 9:54 a.m. until 10:05 a.m.)

THE COURT: All right. Anything from the State before I bring the jury up?

MR. CLEMENTS: Your Honor, I have the first witness in here.

THE COURT: Okay.

MR CLEMENTS: Is it fine if he stays?

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd, any objection.

MR. FLOYD: No, Your Honor, I have no objection.

THE COURT: All right. Anything before I bring the jury up?

MR. WILSON: Judge, two things I think I need to raise before we swear the jury. One, with the indictment in this case, there -- the indictment is signed by the foreperson of the grand jury, but it's not true billed.

THE COURT: Mr. Clements?

MR. CLEMENTS: It was given back to us as being true billed. When it goes back to the clerk, we don't see it, and I don't think I ever looked it seeing that was the report we were given. They're given back to the clerk and I don't question what they tell us.

THE COURT: Is true billed -- I mean is that something -- I mean I know what it is, but is that an administerial task done by the grand jury or the Clerk's Office once they give them back to the Clerk's Office?

MR. CLEMENTS: I think it's the grand jury. I can't speak for the clerk, but I think it's the grand jury. Am I correct?

THE CLERK OF COURT: Yes, sir. Yes, sir.

MR. WILSON: Your Honor, in regards to indictments, it's always been my understanding that the foreperson signs the indictment, whether or not it's no billed or whether it's true billed, and the only time that they don't sign it is when it's not acted upon. So the fact that it's signed is not necessarily evidence that it's a true bill. It could have been a no bill that was also signed, but it's not marked. It's not stamped so we don't know.

Now, I know that that's how it's done in Horry County. It has been done that way since 20 -- 30 years. Now, I don't know how it's done in Marion and whether it's done differently here, but that's my concern about this issue with -- with the indictment.

But I have a second issue that I also need to address. The second issue, Your Honor, is is that the defendant is charged with criminal conspiracy in this indictment. He was never charged with criminal conspiracy by warrant and, as a result of that, that would make it a direct indictment --

THE COURT: Correct.

MR. WILSON: -- which would have had to have been served upon the defendant, which has not been done.

THE COURT: Mr. Clements?

MR. CLEMENTS: Your Honor, I can honestly say that I'm not aware that we would have had him served on the --

THE COURT: Any case law, Mr. Wilson, on that issue?

MR. CLEMENTS: We did present them with copies of the indictment. I don't think that would be the same as service. He knows what -- he has notice and he's had notice for quite some time.

THE COURT: Mr. Floyd?

MR. FLOYD: Your Honor, we have Anderson v. State. It's a Court of Appeals case from 2000. It's at 338 S.C. 629. In that case, the appellate court remanded the case to the trial court for a determination of whether it was sufficient evidence before it to determine if the indictment was true billed, and I believe that Anderson was like this case where the indictment was not stamped true billed.

And we also have State v. Bruce, Your Honor, which is another Court of Appeals case from 2004. I'm quoting from the finding in the case, Your Honor. It says:

> When the action of the grand jury is not written on the indictment and the evidence does not exist within the records indicating the action of the grand jury, an appellate court must remand the case to the circuit court for a determination of whether the indictment was true billed.

Those are just a couple of the cases that we see and --

THE COURT: Give me that cite, Mr. Floyd.

MR. FLOYD: It's --

THE COURT: Please.

MR. FLOYD: Your Honor, the -- do you want Anderson v. State and -- or just --

THE COURT: I want both of them.

MR. FLOYD: Okay. Anderson v. State, the cite I have is the South Carolina Reporter. It's 338 S.C. 629. State v. Bruce, Your Honor -- Your Honor, I don't see a page number on it. I see it says -- let me see if I can find it on here, Your Honor. Your Honor, the State v. Bruce case cites State v. Grim, which is 341 S.C. 63. And I'm sorry, Your Honor. I don't have the cite for State v. Bruce.

THE COURT: B-R-U-C-E?

MR. FLOYD: Yes, sir, Your Honor. Your Honor, actually -- I do want to clarify. We didn't actually get a copy of the indictment until just a couple of days ago.

MR. CLEMENTS: Your Honor, we have the indictment if you want to look at it.

THE COURT: Right here.

MR. CLEMENTS: Your Honor, I don't know if we could check the -- all the other indictments for that time, May 2013, that the grand jury met and see what they did on the other indictments.

THE COURT: Is this individual still on the grand jury?

MR. CLEMENTS: Your Honor, I do not know. The clerk would know. That's 2013. We're at 2014. I'm not sure. If it was the foreperson, they probably did not rotate over to

the next group.

THE COURT: Well, it could have been a holdover. Probably that person would sign it as the foreperson was a holdover from 2012.

MR. CLEMENTS: Yes, sir. That's what I was thinking.

THE CLERK OF COURT: Nobody signs the indictments but the foreperson. Only the foreperson signs our indictments.

MR. CLEMENTS: I mean we just get a report from them. We don't actually see the indictments and what they've done with them and whether they stamped them or not. If they're no billed, we close the case. If they're not acted upon, we bring them back or either close the case. So I don't know what we -- what was reported to us from the grand jury was that this was true billed.

THE COURT: Well, where is -- Madam Clerk, can you pull the sheet? Because I know when cases are sent to the grand jury, a report is forwarded to me as chief administrative judge to sign as to what their actions were I believe. Is that right?

THE CLERK OF COURT: We have a list. Yes, sir.

THE COURT: Can you go pull that?

THE CLERK OF COURT: Yes, sir.

(Whereupon, there is a pause in the proceedings.)

THE COURT: Well, I'm looking at Anderson v. State, which cites State v. Bultron, B-U-L-T-R-O-N, 318 S.C. 323. In that

particular case, the indictment was signed by the grand jury foreman, but was not stamped or otherwise marked as a true bill or a no bill. The trial court held a hearing on the defendant's motion to quash the indictment because of this defect. At the hearing, the State produced testimony from the grand jury -- jury's docket coordinator that during the term in question, the grand jury considered and acted on all indictments presented and returned no no bills.

Because of this evidence that the grand jury had, in fact, true-billed the indictment, this court agreed with the trial court's assessment that the lack of a true bill stamp was merely a scrivener's error and found the conviction was obtained with subject matter jurisdiction.

That's what that -- Bultron stood for. Therefore, I'm going to wait and see what the Clerk's Office brings me back with regards to the report that was provided to -- to me at the time because I was chief administrative judge last year on that very issue. Then I'll make a determination.

MR. CLEMENTS: Your Honor, do you know if there's an easel in the courtroom? Is there an easel available here?

THE COURT: I have no idea.

(Whereupon, there is a pause in the proceedings.)

THE COURT: All right. I'm going to stand down for just a minute.

(Whereupon, there is a break in the proceedings from

10:24 a.m. until 10:38 a.m.)

THE COURT: All right. The issue was brought up a short period ago by Mr. Wilson concerning the indictment not having true bill either stamped or written on here by the foreperson. Pursuant to such matter being brought before the Court, I asked the clerk to go and locate their report from the indictments that were true billed during this period of time. I've given that report -- or the report was given to me. I met with the lawyers back in chambers, discussed what the finding of that report was, and gave the report to the solicitor. Mr. Clements, at this time I'm going to turn it over to you --

MR. CLEMENTS: Thank you, Your Honor.

THE COURT: -- concerning this issue.

MR. CLEMENTS: May it please the Court. I'd like to call our honorable clerk of court, Ms. Sherry Rhodes, to the witness stand.

THE COURT: All right. Do y'all mind if she just stands right here?

MR. WILSON: That's fine with the defendant.

THE DEPUTY CLERK: Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

THE CLERK OF COURT: I do.

SHERRY RHODES, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Would you please state your name for the record?

A: My name is Sherry R. Rhodes.

Q: And, Ms. Rhodes, you are the clerk of court for Marion County?

A: The clerk of court for Marion County. Yes, sir.

Q: And as a result of being clerk of court of Marion County, when the grand jury meets, do you receive reports from them?

A: Yes, sir, I do.

Q: And those reports -- do those reports have listed the indictment numbers that the grand jury has true billed for that term?

A: It's got on the top of the paper -- the report the date that the grand jury met and the following indictments are reported as true bills. Yes, sir.

Q: And does the whole grand jury sign that there or just the foreperson?

A: The whole grand jury has signed it.

Q: And the indictment we have in question here with Mr. Sanders and Mr. Woods, was it indicted in the May term in 2013?

A: Yes, sir, it was.

Q: What date did that grand jury meet?

A: It was signed on May the 9th, 2013.

Q: All right. And the indictment number is --

THE COURT: Right here, Mr. Clements.

MR. CLEMENTS: Thank you, Your Honor.

Q: The indictment number on State versus Marco S. Sanders and Tyrell Woods is 2013-GS-33-256?

A: That is correct.

Q: Is that Indictment 2013-GS-33-256 listed as one of the indictments that was true billed on the May 2013 term of court?

A: Yes, sir, it was.

Q: For the grand jury for Marion County?

A: Yes, sir, it was.

Q: And is that the report there?

A: Yes, sir. That's the report I'm holding in my hand. Yes, sir.

MR. CLEMENTS: Your Honor, I would ask that that -- a copy of this be made so that the clerk can maintain a copy for her records and that the other copy by made a Court's exhibit.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections to that.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: All right. Without objection, such is granted.

(Whereupon, a copy of the report is marked and entered as

Court's Exhibit Number 2.)

MR. CLEMENTS: Ms. Rhodes, thank you. That's all the questions I have. Please answer any questions that the defendant may have.

THE CLERK OF COURT: Thank you.

THE COURT: All right. Any cross examination?

MR. WILSON: Yes, ma'am.

CROSS EXAMINATION

BY MR. WILSON:

Q: Ms. Clerk, let me ask you in regards to direct indictments as opposed to noticed indictments, in regards to true bills and no bills, what is the different procedure you have the grand jury to notify you that something has been no billed as opposed to something that has been true billed?

A: The way it's on the report the grand jury turns back into the Clerk's Office, they have the indictments that are true billed listed and then on a separate page, it says the following indictments were found no bills.

Q: Okay.

A: There was none listed on that term of grand jury.

Q: Okay. Is it required for the grand jury to sign -- the foreman to also sign no billed indictments as well as true billed indictments?

A: I believe they mark it, but they don't sign it.

Q: Okay.

A: There are very few no bills.

Q: All right. And then there would be those cases that were not acted upon by the grand jury, and how would the grand jury indicate to you that?

A: I have one on this report where it says -- it gives me the indictment number and it says continued to next term. Evidently, there was not enough evidence or enough for them to go forward at that time so it was continued to next term.

Q: Okay. Now, the list that you just presented to the Court, who compiles that list?

A: The list is compiled in my office and it's given to the grand jury when they meet. They fill in the indictment numbers, sign it, and give it back to us.

Q: Okay. And now, in regards to this particular indictment not having been stamped, do you have a stamp --

A: No, sir.

Q: -- for a true bill?

A: We do not have a stamp. No, sir.

Q: You never --

A: We use this report.

Q: Okay. So you don't have a no bill stamp or a true bill stamp?

A: No.

Q: Okay.

MR. WILSON: I have no further questions. Thank you.

THE COURT: Mr. Floyd?

MR. FLOYD: I have no further questions, Your Honor.

THE COURT: All right. The document copy has been admitted into evidence without objection. Anything further from the State?

MR. CLEMENTS: No, Your Honor. Thank you.

THE COURT: All right. Anything by way of argument from the State?

MR. CLEMENTS: Your Honor, it's just we believe we have subject matter jurisdiction to go forward with this trial at this time.

THE COURT: All right. Anything by way of argument, Mr. Wilson?

MR. WILSON: No, sir. You mean regarding -- I apologize.

THE COURT: You objected to the indictment. The State presented evidence. I'm just asking whether or not you have any argument.

MR. WILSON: No, sir. I don't have anything in addition to what I've already offered.

THE COURT: All right. All right. Pursuant to State v. Bultron, which I cited for the lawyers previously, 318 S.C. 323, 457 S.E.2d 646, which is a 1995 Court of Appeals case, based upon the evidence which has been presented here and the testimony of the clerk of court, the Court hereby finds that this particular failure of the grand jury to either stamp --

which they do not have a stamp, but either write true bill or no bill on here is simply a scrivener's error. I do find that the State has subject matter jurisdiction to proceed at this time, and that's based upon the testimony of the clerk as well as the document that has been admitted into evidence without objection.

All right. Anything further at this time, Mr. Wilson?

MR. WILSON: Yes, sir, Your Honor. We still haven't addressed the issue regarding the conspiracy charge which is in the indictment and -- and it would be my understanding since the defendants were not indicted -- I'm sorry. I apologize. Since the defendants were not arrested by an arrest warrant, that would mean that the initial charge would have been -- it was a direct indictment.

If there's a direct indictment, the process is the same as is for a warrant, which means that it has to be served, bond has to be posted, and we have to go through the procedures that are required, and that's done to give the defendants notice, as well as follow the statute which requires that it be done that way.

So my position is is that that should be stricken from the -- from the indictment and the State should not be permitted to go forward on that charge.

THE COURT: Mr. Floyd?

MR. FLOYD: Your Honor, we would join in that.

THE COURT: You got any case law you want me to look at on that issue, Mr. Wilson or Mr. Floyd?

MR. WILSON: No, sir. I've been trying to find it for you. We've been searching diligently trying to find it, but I have not been able to. You know, what my paralegal was saying was that Rule 106, in her opinion, would apply, which is simply talking about the arrest process and the charging process and which is what I'm saying. This is a new charge. It was not done by arrest warrant so it's a new charge and it would follow the same process as any other new charge.

THE COURT: How long have you had the indictment?

MR. WILSON: I got it when we had the hearing after -- yeah. I think we got it from the clerk sometime in April because the reason we got it was because we were getting ready to do that state hospital order that we were trying to do.

THE COURT: Right.

MR. WILSON: And we had to get it for that. We did not have it before then. We never got it from the Solicitor's Office, but we did get it from the clerk.

THE COURT: All right. Mr. Clements, you got anything?

MR. CLEMENTS: Your Honor, I don't know of any statute or case law that would support Mr. Wilson's argument on this, and they had notice. The conspiracy charge is particularly a whole lot less than any of the other charges that the defendants are facing, and he did have notice of the facts

that there were two co-defendants agreeing to do this and entered into this house together. He has all that evidence. He did receive a copy of the indictment in April from the clerk. He has not been prejudiced in any way and I am not aware and I talked to Mr. Saleeby and he is not aware of any statute or case law that supports that proposition.

THE COURT: Well, I'll note Mr. Wilson' objection at this time, as well as Mr. Floyd's objection concerning that issue. I'm going to do some research on my own, but I'm not going to rule on it right now. I don't think it is necessary that I rule upon it right now before we start the trial of this case. All right? But I'll do some research on that issue myself. Anything else before I bring the jury up?

MR. WILSON: Nothing further, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing further.

THE COURT: Mr. Clements, anything further?

MR. CLEMENTS: Nothing further.

THE COURT: Please bring me a jury. We're going to put them in this box. I'm not putting them in that room. We're putting them in the box and starting the trial. Okay?

(Whereupon, the jury enters the courtroom at 10:52 a.m.)

THE COURT: All right. Madam Clerk, would you swear the jury, please?

THE CLERK OF COURT: Good morning.

THE JURY: Good morning.

THE CLERK: Please raise your right hand. I'm going to read you the oath and after I read you the oath, you will repeat "I will." Please stand and raise your right hand.

You shall well and truly try and a true deliverance make between the State of South Carolina and the prisoner at the bar whom you shall have in charge and a true verdict give according to the law and the evidence, so help you God.

THE JURY: I will.

THE CLERK OF COURT: Thank you. You may be seated.

THE COURT: Good morning, ladies and gentlemen. I appreciate your patience downstairs while we had to deal with some matters. Some things take a little bit longer than we anticipate, and we have not been up here just drinking coffee and talking. Okay? We've been up here working trying to do some things to streamline the case as we go forward here.

Now, we are about to try the case of the State of South Carolina versus Marco Siara Sanders and Tyrell Woods. Now, before we begin the trial of this case, I want to tell you that this trial will probably be different from what you might expect. Many people do not have the chance to attend actual court sessions as you are doing now and may think from watching television or movies or reading books that trials are always full of high drama, intense action, and riveting circumstances.

Now, while all of these things may be true at times, this trial, ladies and gentlemen, is not for entertainment. It is a fundamental part of our democracy, a search for the truth in an effort to make sure that justice is done between the parties before the Court. Searching for the truth and making sure that justice is done is often slow, deliberate, and repetitive, the opposite of what you may have seen on television or in movies or read in books.

This courtroom is a place of honor dedicated to the protection and preservation of citizens' rights through what many have called the greatest justice system ever created. Now, the attorneys appearing before you are advocates for the parties that they represent, but first and foremost, they are officers of the court sworn to uphold the integrity and fairness of our judicial system and to help you in the search for the truth. You should expect them to be professional, competent, and ethical in the representation of their clients' interest.

Now, what I will now say to you is intended to serve as an introduction to the trial of this case. These remarks are not a charge on the law in this case. I will instruct you on the law applicable to this case at the end of the trial before you retire to consider your verdict. This is merely an explanation of the procedure that we will follow in the trial of this case so that you may better understand what may be

happening.

Now, the defendants in this case are charged by an indictment in this court with the crimes of murder, armed robbery, burglary 1st, attempted murder, possession of a firearm in the commission of a violent crime, and conspiracy. The elements of each of those offenses will be explained to you later. Now, the indictment as I told you earlier, ladies and gentlemen, is simply the charge by which this case is brought into this court and it is not -- and I emphasize it is not, in any sense, evidence of any of the allegations that it contains.

The defendants have pled not guilty to this indictment. The State -- the State, therefore, has the burden of proving each of the elements of the indictment beyond a reasonable doubt, and it will be your duty, ladies and gentlemen, to decide whether the State has met that burden.

Your purpose as jurors is to find and determine the facts. You are the sole judge of the facts. If at any time I make any comment regarding the facts, you must disregard it. You are to determine the facts from the testimony you hear and the other evidence introduced in court. It is up to you to determine the inferences which you feel may properly be drawn from the evidence. It is especially important that you perform your duty of determining the facts diligently and conscientiously because ordinarily there is no way to correct

an erroneous determination of the facts by a jury.

Now, on the other hand and with equal emphasis, the same law that makes you the judge of the facts makes me the judge of the law. The law as given by the Court is the only law that you may consider. You must accept and follow it, even though you may disagree with it. I cannot, ladies and gentlemen, tell you what the facts are and you cannot disagree with me about what the law is or should be. Your job is to take the law as I give it to you and apply it to the facts as you find them from the testimony of the witnesses and any other evidence that is introduced. After doing that, you will render your verdict, a true and just verdict, under the solemn oath that you just took as jurors.

Now, until I tell you to begin your deliberations, you must not discuss this case with anyone, including your fellow jurors, friends, family members, and anyone involved in this case. The attorneys and parties in this case have been advised that they are not to talk to you at all. So if you see anyone involved in the case and they do not speak to you or say hello, they are not being unfriendly; they are simply following the instructions of this Court.

Now, during your deliberations, you may only discuss the case in the jury room with your fellow jurors because they have seen and heard the same evidence that you have heard. However, you must not discuss the case with anyone other than

your fellow jurors until you have returned a verdict and the case is at a -- is at an end.

I remind you that must decide this case, ladies and gentlemen, based solely on the evidence presented here in this courtroom. This means that during the trial, you must not conduct any independent research about this case, the facts of this case, the evidence presented in the case or the people or organizations involved, if any, in this case in any way.

Please do not try to find out information from any source outside of this courtroom. In other words, you must not look at dictionaries or other reference materials, search the internet, websites or blogs, or use any other electronic tools to get information about this case to help you decide the case. You may not use computers, telephones, cell phones, smart phones, tablets, the internet or other tools of technology with communication capabilities at any time while you are in the courtroom or during your deliberations.

Now, during your breaks for meals or overnight, if necessary, you may use these devices. However, you must not use these devices to communicate with anyone about the case until the case is over. This means you must not use phone calls, emails, text messages, instant messages, Twitter, or any blog, chat room or website, including Facebook, Google Plus, Myspace, Linked, YouTube, or any social media websites to send or receive information about this case. This includes

information about a party, a witness, an attorney or a court officer, news accounts about the case, research on topics raised, any topics you may think would be helpful in deciding the case, or any testimony presented by any witness.

During the trial, do not read, listen to, or watch any news reports about the case, if any. This includes anything that may be in the newspaper or on the internet, radio, or television. You must not consider anything that you may have read or heard about the case outside this courtroom, whether before or during the trial. Information on television, radio, the internet, or from other sources might be wrong or incomplete. In our judicial system, it is important that you are not influenced by anything or anyone outside of this courtroom. If you become aware of another juror's violation of these instructions, please inform the Court immediately.

It is important, ladies and gentlemen, that you keep an open mind and not decide any issue in the case until all of the evidence has been presented, the parties have made their closing arguments, and I have instructed you on the law applicable to this case. It is your solemn responsibility to determine the guilt or innocence of the defendants, and your verdict must be based solely on the evidence as it is presented to you in this trial and on the law as I instruct you during and at the close of the trial.

Now, in just a moment, the solicitor will make what is

called an opening statement in which he will explain to you the issues in this case or at least what he believes the issues are in this case. The attorneys for the defendants may also make an opening statement, although they are not required to do so.

Now, what the attorneys tell you during their opening statements is not evidence in this case. It is only their contention as to what the issues are. The evidence in this case will be presented to you by the testimony of sworn witnesses from this witness stand and/or by exhibits that may be introduced into evidence.

Now, from time to time during the trial, you may hear one the attorneys say something like, Your Honor, I believe that we have a question of law or a matter of law to discuss with you, or, Your Honor, may we approach the bench, or sometimes I myself might find it necessary to excuse you from the courtroom for a short while so the attorneys and I can discuss a matter of law. The reason for this is because you are the judge of the facts in this case, and sometimes when I am discussing matters of law with the attorneys, it may be necessary for me to make some comment as to the facts in connection with ruling whether or not a particular law applies. I am not supposed to tell you what I think the facts are so I will excuse you from the courtroom while these discussions take place so that in no way will you be

influenced by anything that I might say or do in connection with the facts.

Now, in determining what the true facts are in this case, you must decide whether or not the testimony of the witnesses is believable. It will be my responsibility to rule as a matter of law as to whether certain testimony is admissible at all or not, but once the testimony is admitted, whether or not you believe it is solely for you to determine. Now, in deciding whether to believe a witness, you have the right to consider the interest of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness to have seen the matters and things about which the witness may testify, and the way the witness acts on the witness stand.

You have the right to consider anything that is in the record that will help you evaluate the testimony of the witnesses. That means, ladies and gentlemen, that it is your duty to pay close attention to these witnesses, to observe the witnesses, to listen to the witnesses, and to pay close attention to the attorneys and to the Court. Please don't let your thoughts wander, but give strict attention to the testimony in this case so that at the end of all the testimony, after the arguments of counsel and the charge on the law by the Court, you will then be in a position to determine what the true facts are and to apply the law to

those facts and thus render a true and just verdict.

Now, later in this case, ladies and gentlemen, a foreperson will be selected to preside over deliberations in the jury room. It will be the foreperson's added responsibility and duty to preside in the jury room and be the jury's spokesperson here in court. It will also be the foreperson's duty to write the verdict, but I will give the foreperson further instructions about that at the conclusion of this case.

Now, in order to preserve everyone's rights, I will give the parties an opportunity to object to anything that I have said. Any exceptions to anything that I have said to the jury by the State?

MR. CLEMENTS: No, Your Honor.

THE COURT: Defense counsel, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: None, Your Honor.

THE COURT: Ladies and gentlemen, we will now begin the trial of this case. Mr. Clements, you're recognized for opening statement.

MR. CLEMENTS: May it please the Court.

THE COURT: Yes, sir.

OPENING STATEMENT BY THE STATE

MR. CLEMENTS: Good morning.

THE JURY: Good morning.

MR. CLEMENTS: I'm Ed Clements and I represent the State of South Carolina.

On July the 4th of 1776, Thomas Jefferson penned a document that is part of our history, part of our lives, part of the philosophy of our nation, and that document is called the Declaration of Independence, and it stated that all people are endowed by their creator with certain unalienable rights: life, liberty, and the pursuit of happiness. And on July the 4th, 2012, Sam Rowell got up that morning, went out to enjoy his God-given rights to life, liberty, and the pursuit and happiness, and sometime that evening around nine o'clock, Marco Sanders and Tyrell Woods took Sam Rowell's life, his liberty, and any chance he had to pursue happiness.

Phil Court, Marion, is where Sam lived on a dirt road, had friendly neighbors that he knew, and Sam was the type of man that helped everybody around him. He had a lot of businesses and property he dealt with, and he got up and he was enjoying his day and he drove off and he had security cameras on the front of his house. And he had a recording device that was situated at the foot of his bed and it showed him leaving early evening around 6:45 and he turned right towards Highway 9 and towards Sandy Land Road and he passed by his neighbors headed on to Marion.

And sometime around seven o'clock, his good friend, Eddie

Godbold, passed by him in Marion and tried to wave him down because Eddie was going to borrow one of Sam's deep fryers for a family reunion that was coming in a couple days, and just like Sam always did, he was helping his friends, helping people he knew, and he was going to help Eddie out and let him use that deep fryer.

But Eddie couldn't get his attention to stop him so Eddie went on about his business, went to SavWay, went to Walmart, and then went back sometime around 9:23 he thought as he entered Sandy Land Road to go to Sam's house, and Eddie pulls up to the house and sees Sam's white pickup truck there, goes to the front door and knocks and hollers out for Sam. No answer. He goes around to the back and knocks on the back. No answer. He couldn't figure out what was going on because Sam's truck was there.

And he's walking back down the side of the house and he hears Sam cry out to him, "Eddie, they're trying to rob me. They're trying to rob me." He goes over to the side door and it flies open and a gun starts shooting at him and he runs. It shot three or four times, and he had left his car running, but he didn't go to his car because it was where you could see it from the side door. He ran around the corner of the house and hid behind the steps and everything got quiet. And then he kind of squatted and made his way back to his car and got in his car and laid down halfway down and made a U-turn and

pulled on out of there.

Well, Lafayette Reed, who is a neighbor of Sam's, comes by and almost gets run off the road by a white SUV, and Eddie was flying by and he went to Francis Davis' house and got on the phone and called 9-1-1. He said there's a robbery, there's gunshots, they're shooting. And then he and some neighbors go back to wait on law enforcement and they see the door -- side door open and they call for Sam and there's no answer. They see his legs there, and they wait on law enforcement and law enforcement begins their investigation.

And as part of that investigation, they go in and they collect evidence. They collect shell casings from outside where Eddie was shot at, 9mm shell casings. And they go in and they see items, cigars liquor, other items stacked up to be taken out. They see the recording device that should have been at the foot of Sam's bed with the wires cut sitting on the couch, and common sense will tell you that nobody would have left that unless they had left in a hurry, if they were worried about being detected.

Well, they left in a hurry. When Eddie came out to the house and they shot at him and they were surprised by him, they had to act fast, and they left Sam Rowell there at his house with his hands and his feet taped up with duct tape and some of his underwear shoved in his mouth and his head taped up and shot in the head execution-style, laying there in his

living room dead, and they left the items they had stacked up they wanted to take with them, and they left the recorder, thank goodness.

But when they left Sam, they left him with his pockets pulled out in his britches on the side and the front and the back. They left one pocket unpulled out with $21 in it, but all his other pockets were pulled out and cleaned out, and the wallet that Sam always carried was missing. And just a couple miles down the road at the intersection of Wahee and Foxworth, you're going to hear somebody found a card with Sam's name on it and contacted Sam's brother, and they went out there and then they found his driver's license and all kind of cards that were in Sam's wallet scattered out there where his home invaders threw them because they weren't of any value to them, only the money.

Well, law enforcement came out on the scene and met the neighbors out there, and they heard about the white SUV and they started investigating. That's all they had to begin with was a white SUV. You're going to hear Levern Nichols. Most people call him JJ. He was working with law enforcement at that time and when the information went out that they were looking for a white SUV, he says the day before this happened, I was Marco Sanders driving a white SUV and Tyrell Woods was riding with him, and I believe he saw them over close to Martin's Station and saw them riding around other places and

knew they didn't own a white SUV. So they became persons of interest.

Well, that video that they left was submitted to SLED, and SLED couldn't get it to work. So James Lee goes to Harbor Freight over in Dillon and buys the same unit. So he goes back, so they get the piece that's broken replaced, and they are able to play it and they've got the video. And you're going to see that video, and you're going to see for yourself that you're going to see Marco Sanders go up to the door, but first you're going to see a white SUV go by in both directions, and then you're going to see Tyrell Woods walk up and knock on the door and then leave, and a few minutes later they come back with Marco and Tyrell, and Marco is holding a gun which appears to be a revolver and with a homemade silencer taped on it and a roll of duct tape in his hand. And you're going to see Tyrell Woods coming behind him with what looks to be a semi-automatic like a 9mm, and he's there ready to go in the door.

Marco tells him come on and they go up and they go in the door, and then in a very few minutes at 8:03:39 p.m. according to the time on the recorder, that recorder stops recording. Now, those wires are cut and it's stacked up on the couch to be taken away, and they begin to collect whatever loot they want to take, but then Sam comes home.

And from the appearances that you're going to hear

testified to by the law enforcement officers who went in and examined the crime scene, it appears that Sam goes in the back door where he always goes in, took his shoes off, and went and got himself a cup of coffee, and then evidently Marc and Tyrell jumped him, and he's left there by the side door between the couch and the wall with his ankles taped up, with his -- with no shoes on, with his hands taped up, with his head and mouth taped up. I'm sure after he called out to Eddie -- because Eddie had been calling out for him, he called out to Eddie, Eddie, they're trying to rob me, they stuffed that underwear in his mouth and wrapped his head up.

And we don't know what their ultimate plan was. Maybe they were going to tape up Sam and carry him away and kill him and dump him somewhere else. We don't know that, but why would they leave him when he could identify them? But then they got rushed. Maybe they didn't count on Sam coming home. They had the duct tape so they were ready for him, but when Eddie came up, they got in a real hurry then. They shot at Eddie, Eddie ran and hid, they lost sight of him, and the State believes that's when they executed Sam and grabbed what they could grab and hauled butt.

And Lafayette Reed, who is Sam's neighbor, is going to testify about pulling by his house and almost getting run by by a white SUV that came from a little bit down the road where there's a big tree and where there's a turnaround at on the

dirt road. And Lafayette had to go down there and turn around and come back and tried to chase them to find out who they were, but they turned and got away from him. So he went back to Francis Davis' house where Eddie was and where everybody else was and they went to check on Sam and found him dead and waited on law enforcement.

You're going to hear from the autopsy, the pathologist that -- that did the autopsy and explains exactly how Sam died. You're going to hear from the SLED experts that came and did the crime scene work. You're going to hear from the people that took that tape and examined it and found the fingerprints of Tyrell Woods. They found the fingerprints on the sticky side. And you're going to hear that Sam was killed with a .22, not a 9mm, which we know the 9mm is what shot at Eddie because the shell casings were outside.

And we know Tyrell's fingerprints are on the sticky part of the tape. He must have been the one taping up Sam, and Sam was shot with a .22 and we know that from the video Marco was carrying a revolver.

The other witnesses you're going to hear from, other people. One young man that rode up earlier on a dirt bike says he got scared away by Tyrell and Marco as he went up to the door, and you're going to hear from law enforcement officers who are going to tell you about how they proceeded and how they looked at other leads and determined those

suspects were not involved and how everything in the investigation led to Tyrell Woods and Marco Sanders, uncle and nephew.

And you're going to hear how Marco Sanders went to New York and they had to apprehend him there and bring him back to South Carolina to face justice, to face you, the judges of the facts in this case. And as Marco sits there, he's presumed innocent. Just like he's got that white shirt on and that black tie, he's clothed with innocence as all of us should be in our country and all of us are because of people like Thomas Jefferson and because of people like George Washington and because of the Declaration of Independence.

We have the legal system we have that allows him to be presumed to be innocent and allows Tyrell to be presumed to be innocent, and my job is to remove that cloak of innocence from them and to present to you the facts, the witnesses from this witness stand, and the evidence and the exhibits that we're going to present to you that you can look at and hold in your hand that prove to you that Phil Court was broken into by Marco Sanders and Tyrell Woods, and that Phil Court was burglarized by them and that they took items there and they were armed and they robbed Sam Rowell and they murdered him execution-style. And during the commission of those crimes of violence, they possessed weapons, and they agreed together to do this.

We have the duty, Mr. Saleeby and I, to present those facts to you beyond a reasonable doubt, and that's not a fanciful doubt. That's a doubt that would cause a reasonable person to hesitate to act. But we believe that once you hear from these witnesses and once you look at this evidence and you determine those fingerprints were there on the scene and had no other reason to be there of these two defendants and you see them yourself on the video entering his home armed and with duct tape, then you're not -- you're not going to have a reasonable doubt. You won't have any doubt and you will reach a verdict that tells the truth.

Veredicto is where we get that word verdict from. I think it's Latin and it means to speak the truth. Well, we're asking you to listen to all the evidence fairly, with an open mind, and to not make your decisions until you've heard everything, until Judge Brown has given you the law so that you can apply the law to the facts that you hear and see in this courtroom, and then you speak the truth.

And the truth is Marco Sanders and Tyrell Woods are guilty of the murder of Sam Rowell, are guilty of the armed robbery of Sam Rowell, the burglary of his home, that they used a weapon to do it, and they agreed together to do it. And then not only that, but they attempted the murder of Eddie Godbold, Jr., and he was able to get away. Those are the charges, that's what the evidence is going to show to you, and

we believe you'll return verdicts of guilty. Thank you.

THE COURT: Mr. Wilson?

OPENING STATEMENT ON BEHALF OF THE DEFENDANT SANDERS

MR. WILSON: Ladies and gentlemen, I know that when you got your subpoenas to come to court, you could probably think of a hundred other things that you would rather do than to come here and spend the week with us and hear a bunch of lawyers going at it, but let me say this to you. Your presence here today is extremely important. It's important to the State of South Carolina; it's important to these defendants who are on trial here today.

Our jury system is not perfect. It's not, but I don't know another system anywhere which is even close to being as good as ours is. And I tell you that our court system in this country would not work without the jury. You are the backbone of our judicial system. You are what makes it work. You are what separates Mr. Sanders from the State of South Carolina so the State of South Carolina can't just impose their will on an individual. They can arrest you, they can charge you, they can put you in jail, but then you have the right to have a trial so that your side of the story can be heard so that the truth can come forth.

Every defendant enjoys that right. I don't care how serious a crime might be. In this country, you are entitled to a trial of your peers, and that's you. You are the judges

of the facts in this case. His Honor is the judge of the law. He will tell you what the law is and you must follow the law as he gives it to you, but you, the twelve of you collectively, will decide what the facts are in this case and that's an awesome responsibility.

Because if you were listening when His Honor was telling you, he was saying that if the jury makes an erroneous finding of fact, there's really no way to correct that. That's why it's so important that you pay close attention to the facts that will come into this trial, and the only evidence that you're to consider is going to be evidence that comes from the witnesses who testify in this case and the exhibits that might be introduced during the course of this trial, not from what somebody on the street has heard, but from what happens in this courtroom.

Now, let me say this. Marco Sanders is not guilty. He has pled not guilty and the law of the state of South Carolina and every state in this union so far as I know says that a defendant is presumed to be innocent until and unless the State can prove to your satisfaction -- that being the twelve of you collectively -- that he is guilty beyond a reasonable doubt.

Now, what does that mean? Reasonable doubt. Well, you can have a doubt about anything. You can doubt whether or not you'll ever grow tobacco in Marion again. That's a foolish

doubt. That's not a reasonable doubt. You could doubt whether the ocean still exists in Myrtle Beach. Well, it does, and that's a foolish doubt. That's a whimsical kind of doubt. Nobody has to prove beyond that kind of doubt, but of any doubt where you have a reason to question it, to hesitate.

Now, you've heard the solicitor give you this long scenario, and let me say at the outset here, the set of facts we know are tragic. They are tragic. Anytime there is a loss of life unnecessarily, that is tragic. What happened to Mr. Rowell is tragic. Nobody, and certainly not the defendants, is claiming that these things didn't happen to Mr. Rowell.

What we're saying about it is it was not Marco Sanders who did it. Nobody is questioning whether or not Mr. Rowell was killed. Nobody is questioning whether somebody shot at him. Nobody is questioning any of those things. The issue here is did Marco Sanders kill him. That's the issue. And I submit to you, ladies and gentlemen, that as we go forward you will see that there are a lot of reasons to believe that Marco Sanders is, in fact, innocent of these charges.

They're going to bring you a video and I invite you -- in fact, I encourage you or urge you to look at it, which is unusual because usually you don't have a video, but you're going to have a video according to the State that they're going to produce to show you who the perpetrators were. It can't be much better than that. Right? Well, there's a

problem and you will see that when you get the video.

There's a problem. There will be testimony in this trial about Marco Sanders and whether he has tattoos or don't have tattoos. You're going to have video so you can look to see if the man in the video has tattoos or he doesn't. What you will find, I submit to you, ladies and gentlemen, is that the video is so -- of such poor quality, it is so grainy, that the only thing that you can possibly determine is that there are two black men on that video.

The other thing that I want to bring to your attention is the solicitor says, oh, well, you know, we found some fingerprints in the house. Well, part of the problem is this was also kind of a business, a nightclub if you will, a juke joint, or whatever you want to call it. I don't know. People were in and out of there all the time, lots of people, and you will see that as we go through this process.

Lastly, the indictment that was read to you is not evidence of anything. It's just the manner in which the charges are brought forward. You have to tell a person what you are being charged with, and the best way to do that is write it down and give it to them and say, well, this is what you're charged with, and that's what an indictment is. Now, the tough part for the State is they've got to prove it and not only must they prove it, but they must prove it beyond a reasonable doubt.

Now, what I ask you to do is to listen to the witnesses. I don't know how long this trial will last and I know you've been here two days already and we may be here for a little while longer, but I ask you to be patient and to listen.

Listen to the witnesses because over the years I've learned that sometimes it's not so much what a witness says, it's what he doesn't say or how he's saying it that makes all the difference in the world. And listen to whether or not the witness testifies and contradicts him or herself as they testify. And did the witness really have an opportunity to see or know what was going on?

If you do those things, then at the end of this trial you are going to be in a position to render a verdict that speaks the truth. You've agreed and been sworn to truly try the issues between the State of South Carolina and these defendants. You have no friends to reward. You have no enemies to punish. Your job is to find the truth, whatever that truth might be.

And if the State fails to prove their case beyond a reasonable doubt -- because the burden is on the State. It's not on the defendant. The defendant has no burden whatsoever. He doesn't have to do anything. It's upon the State, if they can, to try and prove these things.

I simply ask you to listen and be patient as we go through this process, and if I say something or do something

during the course of the trial that bothers you, I ask you not to hold that against the defendant. Hold it against me, that's fine, but I ask you not to hold that against the defendant. I'm his lawyer and my job is to do my job and sometimes that's not always easy, but it's still my job and I still need to do my job. So I ask you not to -- to use that or hold that in any way against him. It's not him, but I thank you.

THE COURT: Mr. Floyd?

MR. FLOYD: Thank you, Your Honor.

THE COURT: Yes, sir.

OPENING STATEMENT ON BEHALF OF THE DEFENDANT WOODS

MR. FLOYD: Good morning. I represent Tyrell Woods, who is seated at the table directly in front of you along with Mr. Vick Meetze. Tyrell is a twenty-one-year-old resident of Marion County. He's lived here most of his life and you've heard a series of allegations that have been made against Mr. Woods. And sometimes, unfortunately, just accusations themselves have a lot of power because I think it's human nature oftentimes when we hear something negative about somebody, you know, through gossip or either read something negative in a news article or something of that nature, we sometimes just tend to believe that just because we heard it, and that's the power that just an accusation has.

But that power of accusation doesn't have any place in

this courtroom today, and you've heard the Court and the other counsel discuss presumption of innocence and, of course, Mr. Woods, just like Mr. Sanders, is presumed to be innocent, and they're entitled to that presumption throughout the course of this trial. Mr. Woods doesn't have any legal obligation to take this witness stand during this trial. He doesn't have an obligation to testify. He doesn't have the obligation to bring any witnesses up here to testify for him. He doesn't have to do anything, if he chooses not to, but just sit in court and be here. That's really his only obligation.

And, of course, the reason for that is is because the State of South Carolina has the burden of proof in this case, just like they do in any criminal trial, and they've got to prove to you each and every element of each and every offense that's charged in this indictment. They're going to try and do that by witness testimony or videos or photographs or whatever kind of evidence they decide they're going to use to try and sway you in this case, but as jurors, of course, it's your province and your obligation to decide what the facts really are.

And I submit to you that the facts are not as they were stated by Mr. Clements earlier, but the only thing we ask you to do is just keep an open mind throughout this case and evaluate the evidence carefully and consider very carefully what you hear and what you see, and just remember that just

because you hear something doesn't mean it's true. Thank you.

THE COURT: Call your first witness.

MR. CLEMENTS: Your Honor, we'd call Eddie Godbold Jr.

THE CLERK: Mr. Godbold, if you'll come here, let me swear you in, please, sir. Place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm that the testimony you shall give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You may take the witness stand.

EDDIE GODBOLD JR., being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Good morning, Mr. Godbold.

A: Good morning.

Q: It's almost good afternoon.

A: Yes, sir.

Q: If you would, please, can you please tell this jury your name, how old you are, and where you live?

A: Yes.

Q: And I'm going to ask you, if you would -- you speak kind of softly. I'm going to ask you, if you would, speak up loudly so this court reporter can take down everything in here

and so that we can all hear you.

A: All right. Good morning. My name is Eddie Godbold, Jr. I live out by Sam on his road -- on the corner where Sam Rowell lived at. On July the 4th, I left my home and went to Marion. I passed Sam going home.

Q: About what time of day was that, Mr. Godbold?

A: It must have been about seven o'clock.

Q: In the evening?

A: In the evening. I passed him.

Q: Okay.

A: So I tried to sign him down, but he must not have been paying attention. So I -- I said, well, I'll go over to Marion and coming back, you know, go by his house. He had promised to let me use a deep fryer for our anniversary. Anniversary? Not anniversary. Family reunion, that's what it was.

Q: So where -- when you went to Marion, where did you go in Marion?

A: Went to IGA.

Q: All right.

A: So on the way back, we left there about seven o'clock -- seven thirty. So I stopped at another store in the car and then I came on down. Like I pulled -- I was turning in on Sandy Hill Road around -- around about nine something. So anyway --

Q: About nine something you said?

A: Yeah.

Q: Okay.

A: So by the time I got to the house, I walked around. I see his truck was in the back there. I said he must be here. So I left my car running.

Q: Where did you park at?

A: Right at the entrance.

Q: Okay.

A: So I walked up to his front door and I knocked on the door. So I called and I said, Sam, but I didn't get no answer so I said, well, I'll go around to the back door. So I went around to the back door and I knocked on the door. I didn't get no answer then.

Q: You called his name out again?

A: Yeah. So I came back around. As I was passing the side door, that's when he called out. He said, "Eddie." He says, "They're trying to rob me." He said, "Open the door." So when I went to reach for the door, that's when I hear the gun went off. I said, oh, Lord.

Q: Did you see anyone?

A: I didn't see anyone because it was dark.

Q: Okay.

A: So no lights on. So I ran around in front of the house and hid behind the steps.

Q: How -- how fast did you move?

A: I moved pretty fast. So anyway, I seen that things quiet down a little bit.

Q: All right. You said you -- where were you hiding at?

A: Behind the steps.

Q: Behind the steps?

A: Right. So I sit there until things cool down a little bit.

Q: How long do you think you sat there?

A: About -- about three or four minutes I sit there because I didn't want to be too hasty.

Q: Let me ask you this. About how many gunshots did you hear? Do you know?

A: About five.

Q: Okay.

A: Well, anyway, I -- I walked out to the road.

Q: How did you walk out to the road?

A: I bent down like I was bent over and I walked out to the road.

Q: Trying to hide sort of?

A: Right. And I walked up the road a piece and came behind my car and walked up side the car because my door was open like and I pulled the door open and I got in there. I leaned in like this here over the seat.

Q: Why did you do that?

A: I made a U-turn.

Q: Okay. Why were you leaning down in the seat?

A: To keep from anybody seeing me.

Q: Okay. From the side where you were when you saw the shots, could you see your car from there?

A: I could see my car, yeah.

Q: From that door?

A: Right.

Q: Whoever was shooting at you, could they have seen your car?

A: Oh, yeah.

Q: Is that why you didn't run to your car to begin with?

A: I didn't go to the car. I didn't even attempt to go there at all.

Q: Okay.

A: So I went down. I said I'll go down and make a phone call.

Q: Where did you go?

A: I went down to -- what do you call her? Bay-Bay. I went down to her house.

Q: Okay. About how far was that?

A: I'd say about -- about three-quarters of a mile.

Q: Okay.

A: Anyway, I told her -- I said, you mind if I use your phone? I said, I want to call the cops -- the highway -- the

cops. So she said, go ahead. So I finally got them. I couldn't dial I was so nervous. So she said, give me the phone, I'll call them. I'll talk to them. So I give her the phone and I said I want to go back up there and see what happens. So I went back up there.

Q: Did you go by yourself or was there other people?

A: I went by myself.

Q: Okay.

A: I went by the house and I made a U-turn and came back. I'd say I parked about two- or three-tenths from her house.

Q: Okay.

A: And I stayed there until the cops came. So when the cops came, we went and we stood over there. So I thought can you go over and see the -- you know, can you do that thing for them, you know? He said, no, I'll go over there. He didn't like believe it, you know. So then the cops came anyway and they investigated it.

Q: All right. And do you know Lafayette Reed?

A: Yeah, I know him. Yeah.

Q: And where does he live?

A: He live right above Sam.

Q: Okay. And was he out there that evening?

A: He was out there.

Q: Okay.

A: He told me -- he says --

Q: Well, you can't tell me what he said.

A: Okay.

Q: Did you talk with the police officers that evening?

A: Yeah. I talked to them, yeah.

Q: Did you tell them what all happened?

A: Yeah. I told them what happened.

Q: Okay. Did they talk to other folks as well?

A: Yeah.

Q: Were there other people out there?

A: Right.

Q: Where did those people come from?

A: Well, they came up, you know, as we stood there talking, you know. They kept coming up, you know.

Q: Okay. All right. So word got out pretty quick it was him?

A: Right. Real quick.

Q: Okay. Now, what kind of road is that Phil Court?

A: Sandy road.

Q: Sandy road? Dirt road?

A: Right.

Q: Okay. All right. And is that -- is there a lot of houses out there or are the houses scattered out a little bit?

A: It's kind of scattered out.

Q: Okay. All right. Sam -- did he have something there in his house other than just where he lived? Was it also

something else?

A: Well, like -- like a little club like for birthday parties and things like that.

Q: Okay.

A: That's what he had.

Q: And were you over there a lot?

A: Well, we visited each other quite a bit.

Q: Okay. Was -- do you know what kind of business was that? Was that a cash business or a credit business or what? Do you know? The little club?

A: It wasn't really like that.

Q: What else did he have out there on his property? Did he have any animals?

A: Yeah. He got animals out there and that's about it.

Q: Did he have any kind of water out there?

A: Yeah. He had water, yeah.

Q: A fish pond?

A: A fish pond, yeah. He had all that, yeah.

Q: All right. And you say you were out there a lot?

A: We visited each other quite a bit.

Q: Okay. Did you know Marco Sanders before now -- before this happened?

A: Not really.

Q: All right. Not really?

A: No.

Q: Did you know who he was?

A: Well, I seen guys be out there to help him work, you know. That's about it.

Q: Okay. And where at? With the horses or with the fish pond or what?

A: Well, cutting grass and stuff like that.

Q: All right. Had you ever seen Marco out there?

A: I never knew him.

Q: Okay. How about Tyrell?

A: I seen him, but I didn't know him really.

Q: Okay. Okay. All right. So you can't say if they were ever out there or not?

A: No. I can't say it because I see guys out there working.

Q: Okay. All right.

MR. CLEMENTS: I beg the Court's indulgence a moment.

Q: Now, again I want to be sure. About how many shots did you hear fired at you?

A: At me?

Q: Yeah.

A: Three I believe.

Q: Three at you? Did you hear any other shots other than those three?

A: One more.

Q: One more?

A: One more.

Q: Okay. All right. And you didn't see anybody else on the property that you recognized or saw?

A: No one else.

Q: Okay. Thank you. Please answer any questions that the defense may have for you.

THE COURT: Cross examination, Mr. Wilson.

MR. WILSON: Thank you very much.

CROSS EXAMINATION

BY MR. WILSON:

Q: Mr. Godbold, you said that you had been friends with Mr. Rowell for a long time?

A: Right.

Q: And you visited his place fairly regularly?

A: Right.

Q: Okay. And -- and you said that you had seen people working for him on the farm and out there and around --

A: Right.

Q: -- from time to time?

A: Right.

Q: Okay. Did you ever see Marco Sanders working out there that you know of?

A: If I seen him, I didn't know him.

Q: You don't know him?

A: Right.

Q: Okay. And did the police ever show you a video or a

picture of the person and ask you if that was Marco Sanders?
A: They showed me a picture, but I told them I ain't know who it was.
Q: Okay. So they showed you a picture and you told them that you didn't know who the person was?
A: No. I couldn't tell, you know, the way it was taken.
Q: Okay. And, in fact, that night that you were there, you never saw any faces of whoever it was that was inside the house with Mr. Rowell?
A: No. I ain't never see them.
Q: Okay. And even when the guy, whoever it was, guy, girl, whatever who came to the door and was shooting at you, you don't even know who that was?
A: I couldn't say.
Q: Okay. And you didn't see what they were wearing?
A: No. I didn't take a chance to look to see that.
Q: Okay. You were just trying to get from around there?
A: Right.
Q: All right. And you said you ran then and hid around the side of the house --
A: Right.
Q: -- so that they couldn't see you?
A: Right.
Q: And because when you entered, you had entered from the side door. Is that where you were at when the shots were

fired at you?

A: I came from around in the back. I first went to the front door.

Q: Okay.

A: Knocked on the door. He didn't answer so what I did was I went around to the back door and knocked on that door. I didn't get no answer there.

Q: Okay.

A: So as I was coming back around the house, the side door there, that's when he called out.

Q: All right.

A: But the door was closed.

Q: All right.

A: And when he told me to open the door, I went to reach for it and that's when I hear the shots go off.

Q: Okay.

A: That's when I taken off.

Q: Okay. Now, let me ask you about the -- the residence or the little building there. Now, this was kind of like -- and I think the solicitor asked you whether it was a cash kind of club or -- this was a small, little club where people would come, drink beer, whatever, hang out; is that right?

A: Yeah. Something like that.

Q: Okay. Did he sell liquor in there, too?

A: I never seen him selling liquor.

Q: Okay. You never saw them sell liquor in there?
A: Not no more. No. Like parties and they had parties there.
Q: Okay. And they would have parties there and there would be people who would -- well, when they have parties, would people like rent the place out and have a party there? Is that what would happen? Or would they just have like a party and you'd come and pay a fee and come in?
A: It was like that, yeah.
Q: Yeah. You'd pay a fee and you'd come in and you can participate?
A: Right.
Q: And now, during the time that -- that -- well, let me ask you this way I guess. Had you ever gone to the club when people -- other people were there?
A: Yeah. I been there.
Q: How many people? What's the most number of people that you've ever seen in the club at any one time?
A: Well, most I seen there is about twenty or thirty.
Q: Twenty or thirty? All right. And they would be basically sitting at tables or playing pool or --
A: Something like that.
Q: Things like that and drinking?
A: Yeah.
Q: Okay. All right. And -- and -- now, was that an

everyday thing or just on weekends or how -- how did that work?

A: It wasn't an everyday thing.

Q: Okay.

A: No.

Q: All right. Do you know whether or not there was a party or whether or not the club was open on July the 4th, which is the day that this happened?

A: Well, I wouldn't know.

Q: I'm sorry?

A: On July the 4th, I wouldn't know.

Q: But you --

A: I was away.

Q: No. July 4th of 2012, the day that this incident occurred.

A: Oh. There wasn't nobody there.

Q: There wasn't nobody there?

A: No.

Q: Okay. So you don't know whether the club was open earlier in the day?

A: No.

Q: All right. Because when you get there, it's like -- what -- nine? Nine thirty?

A: About nine.

Q: Or something like that?

A: Nine, yeah.

Q: Okay. And so when you got there, you didn't see any other cars?

A: No. No other, just his truck.

Q: Just the truck?

A: Yeah.

Q: All right. Now, did you -- did you tell the police that you also saw what you thought was a white Escalade SUV?

A: Yeah, I seen one. Yeah, but that -- that was down by -- by Lafayette's corner.

Q: You saw a white Escalade down by Lafayette Reed's house?

A: Right.

Q: Okay.

A: I didn't see the other one.

Q: And Lafayette Reed's house is how far from Mr. Rowell's house?

A: About --

Q: Is that in-between where Ms. Bay-Bay's house is and where --

A: Yeah.

Q: -- where Mr. Rowell's house is?

A: Yeah.

Q: And -- and you said earlier that Ms. Bay-Bay's house was like -- what did you say? A quarter of a mile?

A: A little bit more than a quarter. A little more than a

quarter mile.

Q: Okay. And -- and so Mr. Lafayette Reed's would be closer to Mr. Rowell's house than that?

A: Right. Right.

Q: Okay. And you say you saw this white SUV Cadillac Escalade near Mr. -- now, where was that coming -- was that when you were going to Mr. Rowell's house or were you coming from Mr. Rowell's house when you saw the white Escalade?

A: I was going back toward Bay-Bay's house.

Q: Okay. You were on your way back to Bay-Bay's house?

A: Right.

Q: Was that when you were going to make a 9-1-1 call?

A: Right.

Q: Okay. All right. And so this car was meeting you or was it behind you?

A: It was parked. It was backed up in a driveway.

Q: Backed up in the driveway where?

A: Just before you get to Lafayette's house.

Q: Okay. So it wasn't in the driveway or in the yard of Mr. Rowell?

A: No.

Q: Okay. When you came to Mr. Rowell's house that evening at the time that they fired the shots at you, somebody fired some shots at you, was there any other vehicle other than Mr. Rowell's white pickup truck in Mr. Rowell's yard?

A: I didn't see any.

Q: You didn't see any other vehicles?

A: No.

Q: Other than Mr. Rowell's pickup truck?

A: Right.

Q: Is that right? Okay. All right. No other questions. Thank you, sir.

THE COURT: Mr. Floyd, cross examination.

CROSS EXAMINATION

BY MR. FLOYD:

Q: Mr. Godbold, how are you today?

A: Pretty good.

Q: Good. When you tried to enter Mr. Rowell's house immediately before you heard the gunshots, now which door was it you tried to go into?

A: The front door.

Q: The front door?

A: Right.

Q: Okay. Did you get the door all the way open? Did you open the door or did somebody else?

A: Which one?

Q: The front door that you were trying to enter the house.

A: I couldn't get in there.

Q: Okay. Did you open the door or did somebody else open it?

A: Nobody opened it.

Q: Nobody opened it?

A: No.

Q: So when you heard the gunshots, the door was closed?

A: That wasn't the front door.

Q: Okay.

A: That was the side door.

Q: Okay. The side door?

A: Right.

Q: Okay. And that's what I was trying to get at.

A: Oh, okay.

Q: Immediately before you heard the gunshots, you were at the side door; is that correct?

A: Right.

Q: Okay. Did -- did you actually open the door or did someone else open it?

A: No, no, no, no. I didn't open the door. I say when I went to reach for the door, I hear the shots.

Q: Okay.

A: That when I ran.

Q: And you ran?

A: Right.

Q: When you reached for the door?

A: Yeah. I hear the shots.

Q: Okay.

A: I didn't never open the door.

Q: All right. Did you actually -- were you aware of a bullet coming through the door?

A: No.

Q: Okay. And then you ran and you heard two or three more; is that correct?

A: Right.

Q: Okay. All right. Thank you very much.

A: Mm-hmm.

THE COURT: All right. Any redirect?

MR. CLEMENTS: No, Your Honor. We ask that Mr. Godbold be released from his subpoena.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: No objections.

THE COURT: All right. Sir, you may step down and you're free to go. You have no further responsibilities under your subpoena. Thank you for being here.

THE WITNESS: All right. Thank you.

(Whereupon, a bench conference is held with the clerk off the record.)

THE COURT: All right. Call your next witness.

MR. CLEMENTS: Your Honor, we'd call Ms. Alicia McGirt. Would you step up and be sworn, Ms. McGirt?

THE CLERK: Ms. McGirt, if you would, come and let me swear you in, please, ma'am. Do you solemnly swear or affirm the testimony you are about to give in the trial of this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You may take a seat in the witness box.

ALICIA MCGIRT, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Good morning, Ms. McGirt.

A: Good morning.

Q: Could you please tell this jury -- I'm going to stand over here so you can be kind of focused towards them. Can you please tell this jury where you work and what the nature of your job is?

A: Marion County 9-1-1. We answer emergency and non-emergency calls, which are recorded automatically when we answer the phone.

Q: Okay. Now, are you a little nervous here? Have you ever testified in court before?

A: No, sir.

Q: Okay. I'm going to ask you, if you will, to speak slowly

and speak up so that court reporter can get every word you say and so everybody can hear you. Okay? So let me repeat and make sure I got what you said. All right. You work for 9-1-1 and they take emergency calls and they're all automatically recorded?

A: Yes, sir.

Q: Is that what you said?

A: Yes, sir.

Q: Okay. Were you working on the evening of July 4th, 2012?

A: Yes, sir.

Q: All right. Do you recall getting a phone call from the lower part of the county?

A: Yes, sir.

Q: Regarding a shooting?

A: Yes, sir.

Q: Okay. And can you please tell this jury exactly how it works with what you do and describe where you sit at while you're working and what kind of machine are you guys working?

A: We have our CAD system, our phone system, and our map system. When the phone rings, we answer it and then we CAD our call and we dispatch who needs to go, law or EMS or the fire department.

Q: Okay.

THE COURT: Hold on a minute. Does this lady need to leave the courtroom? Does she need to leave the courtroom?

THE BAILIFF: She needs to go to the restroom.

THE COURT: All right. Let her go, please. Somebody escort her out. Okay?

(Whereupon, there is a pause in the proceedings.)

THE COURT: All right. Mr. Clements, you may continue.

MR. CLEMENTS: Thank you, Your Honor.

THE COURT: I'm sorry.

Q: All right. Can you please tell the jury now one more time how -- how it's set up with the phone and the map?

A: We have our phone system, our CAD, and our map, and when we answer the call -- the call comes in, we answer it, and we CAD the call in our CAD system, and then we dispatch who needs to go.

Q: All right. And when -- when the phone call comes in, does it automatically light up on your map where it's coming from?

A: If it's working properly, it does.

Q: Okay.

A: Yes, sir.

Q: And -- and then when you take the call, does the recorder automatically cut on?

A: Automatically.

Q: Okay. And when you got a call out to Phil Court, what was that call about?

A: The caller stated that he went to visit his friend and he

went up to the door. Two guys or one guy came out and started shooting at him and he ran.

Q: Okay. All right. And was all that recorded?

A: Yes, sir.

Q: Okay. And y'all maintain that in case law enforcement or someone needs it later?

A: Yes, sir.

Q: Okay. Now, does that get reduced to like a CD or something --

A: Yes, sir.

Q: -- on all of your system?

A: You have to request it.

Q: Yeah.

A: And they'll put it on a disk for you.

Q: Okay. And was it requested by law enforcement this time?

A: As far as I know, it was. Yes, sir.

Q: Okay. All right. I'm going to show you State's Exhibit Number 4. Would this be what would be produced as a result of law enforcement request?

A: Yes, sir.

Q: Okay. All right.

MR. CLEMENTS: Your Honor, at this time, we would ask permission to publish this to the jury. I believe it's been moved in evidence without objection by the defense.

THE COURT: All right. Anything?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No objections.

THE COURT: All right. Permission granted.

(Whereupon, the CD marked as State's Exhibit Number 4 is played in open court. NOT TRANSCRIBED HEREIN.)

Q: All right. Ms. McGirt, was that you on the line there?

A: Yes, sir.

Q: Okay. All right. Please answer any questions Mr. Wilson or Mr. Floyd may have.

THE COURT: Mr. Wilson, cross examination?

MR. WILSON: I don't have any questions.

THE COURT: Mr. Floyd?

MR. FLOYD: Your Honor, I don't either. Thank you.

THE COURT: Ma'am, you may step down. Thank you.

MR. CLEMENTS: Your Honor, we ask that she be released from her subpoena.

THE COURT: Any objection?

MR. WILSON: No objections.

MR. FLOYD: No objection.

THE COURT: All right. Without objection, ma'am, you're excused. You have no further responsibilities under your subpoena. You're free to go. Thank you for being here. Call you next witness, please.

MR. CLEMENTS: Your Honor, we'd call Officer Pike or

Officer Legette, whichever one is closest to the door. Your Honor, we'd call Sergeant Pike.

THE COURT: All right.

THE CLERK: If you will, come here and let me swear you in, please, sir. Place your left hand on the Bible and raise your right. Do you solemnly swear or affirm that the testimony you shall give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. Have a seat in the witness box.

GREGORY PIKE, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Can you please state your name and where you work and in what capacity to the jury?

A: My name is Greg Pike. I'm a sergeant with the Marion County Sheriff's Office.

Q: And how long have you worked with the Marion County Sheriff's Office?

A: Since February of 2012.

Q: And how much experience beyond that do you have in law enforcement?

A: I worked for the Mullins Police Department for six years prior to that.

Q: Okay. Any other prior service in law enforcement with the military or civilian life?

A: Military. I was 20 years military as a military policeman.

Q: Okay. Did you have an occasion to be called out onto Phil Court on the night of July 4th, 2012?

A: Yes, sir.

Q: And where did you receive the call from?

A: Central dispatch.

Q: Okay. And what was the nature of that call?

A: There was a possible home invasion. Somebody thought that somebody had been shot inside his house.

Q: Okay. When you got to the scene there, do you recall approximately about what time it was?

A: We got the call around 9:40 I believe and it probably took me ten minutes to get there.

Q: Okay. All right. Were you the first one on the scene?

A: Yes, sir.

Q: Law enforcement? Who -- what did you find there when you got there?

A: As soon as I stopped my car at the residence -- I was in the road -- Mr. Godbold came running out to me and he said that they were inside and they had just shot at him.

Q: Okay. All right. And were there any other folks there with Mr. Godbold?

A: There was a couple of other people. I don't know who they were. There was a couple other people there at that time.

Q: Okay. Neighbors?

A: Yeah.

Q: Now, after Mr. Godbold told you that, what did you do? How did you proceed?

A: He told me they were -- he came from the door on one of the side of the houses and I went to that door and identified myself as a sheriff's deputy and, you know, I was kind of waiting. I advised my supervisor of what was going on.

Q: By radio?

A: Yes, sir, by radio.

Q: Okay.

A: And he said he was en route and I just -- I was waiting for him.

Q: All right.

A: And then -- go ahead.

Q: And you said you advised who you were. Who did you advise?

A: Well, I thought there was people in the house. I was told there was two people in the house still.

Q: And so you just -- to whoever was there to hear you?

A: Yes.

Q: You didn't actually go in at that time?

A: No, sir.
Q: Okay. All right. So what did you do? Just remain outside that side door?
A: Yes, sir. I stayed at the side door. I waited for my backup to come.
Q: What could you observe there?
A: I could tell that the first room was a -- a narrow room and right off the first room was another room and the door -- the doors were straight with each other. I could see into a second room, but I couldn't see much into it.
Q: Okay. Did you notice anything on the outside of the doors?
A: After a few minutes, I observed a shell casing laying on the ground, and I threw my hat down just so I wouldn't forget it and lose track of it. And then I found a second one near the door of the house and I found a third one later on after that.
Q: Okay. All right. Could you see anyone or anything in the inside of the door?
A: Not -- not at the beginning. Then I started moving left and right of the door to get a better view of inside the room and at one time when I looked to my right, I saw the socked feet by the doorway.
Q: Okay. Was there any lights on in the house?
A: No. I had a flashlight, but no, there was no lights on.

Q: No lights on on the inside?

A: No, sir.

Q: Any lights on the outside of the house?

A: I'm sure there was some street lights and stuff like that, but I don't -- there was nothing that made it real bright outside. So --

Q: Nothing close by to illuminate anything?

A: Just my flashlight.

Q: Okay. And that's how you found the shell casings with your flashlight?

A: Yes, sir.

Q: Okay. So what did you do after you observed those and marked where the shell casings were? What happened next?

A: Well, after that was when I saw the feet and I called out again, you know, Marion County Sheriff's Office. They didn't move or anything so I eventually eased my way up to the doorway. I didn't cross the threshold except with my head and I did a quick peek to my left and to my right, and that's when I saw Mr. Rowell laying on the ground.

Q: So you like leaned in the door?

A: Yes, sir.

Q: Like this and looked --

A: Just my head.

Q: -- left and right?

A: Real quick.

Q: Yeah. Okay. And no response from Mr. Rowell?

A: No, sir.

Q: Okay. All right. So what did you do? Did you maintain your position outside of the home?

A: I backed back up and advised dispatch to send EMS and that was it. I just backed up and waited.

Q: Who -- who was the next officer on the scene?

A: That would be Sergeant Legette.

Q: Okay. All right. And did y'all begin to take any statements or talk to people that were there at that time? Did you?

A: I didn't take any statements. No, sir. He did, but I did not.

Q: Okay. All right. And after Sergeant Legette came, who else came?

A: Corporal Marion Richardson.

Q: Okay. And y'all were all on patrol duty that night?

A: That was the whole shift. Yes, sir.

Q: All three of you?

A: Yes, sir.

Q: Okay. And then from that point, who did you call? Who else in law enforcement showed up after the three of you?

A: Sergeant Legette, him being the supervisor, he called dispatch and had them call the on-call investigator and the whole command staff came down.

Q: The whole command staff?

A: Yes, sir.

Q: Because of the seriousness of the crime?

A: Yes, sir.

Q: Okay. All right. Other than that, did you perform any other duties of an investigative nature?

A: No, sir. We cleared the house, but that was about it.

Q: Okay. And when you say you cleared the house, can you explain to the jury what you mean when you clear a house?

A: Once the other two deputies got down there, like I said, I was told that there were some people still in the house so we went into the residence to make sure there was nobody else in there, and there was not so we backed out. We didn't touch anything. We just backed out and waited for the investigators to come in.

Q: Okay. Did you find anyone else in the house?

A: No, sir.

Q: Okay.

A: There was no one else in the house.

Q: Did you disturb anything?

A: No, sir. We didn't touch anything. Just, you know, looked in closets, under beds, stuff like that.

Q: All right. After clearing the house, then did you do anything? Do you carry a camera with you or anything of that nature?

A: No, sir. I just -- I was protecting the crime scene to make sure nobody went in.

Q: Did you put up any of that yellow crime scene tape?

A: No. Corporal Richardson did that.

Q: Okay. But y'all kept all the neighbors and --

A: Yes, sir.

Q: -- curious folks away?

A: No one got in the house.

Q: Okay. No one got -- did anybody go on the front porch or anything like that?

A: No, sir.

Q: Okay. So y'all maintained the integrity of that scene?

A: Yes, sir.

Q: All right. And you, yourself, you didn't take any photographs or anything?

A: No, sir.

Q: Okay. All right. Was that the end of your duties?

A: Pretty much.

Q: Regarding this?

A: Pretty much it was done.

Q: How long did you stay out there? You said you got there around 9:40, something like that. Ten o'clock?

A: I was probably out there maybe an hour and a half -- two hours. I mean I'm not really -- I -- it was kind of a long night, but I -- once the command staff got down there, I had

to stay and show the coroner where the road was.

Q: Yeah.

A: Because it wasn't marked.

Q: Yeah.

A: And after he got there, I went back up and, you know, resumed patrolling.

Q: And what kind of road was this?

A: A dirt road.

Q: Okay. I'm going to set up something and I'm going to ask you if you can with the Court's permission step down from the witness stand?

(Whereupon, State's Exhibit Number 2 is placed on an easel in front of the jury.)

(Whereupon, the witness steps down from the witness stand.)

THE COURT: Mr. Wilson and Mr. Floyd, feel free to get up if you need to --

MR. FLOYD: Thank you, Your Honor.

THE COURT: -- while he's soliciting testimony from Officer Pike.

MR. WILSON: Thank you, sir.

THE COURT: Yes, sir. Please identify the exhibit, Mr. Clements.

MR. CLEMENTS: I will, Your Honor.

Q: Sergeant Pike, I'm showing you what's marked as State's

Exhibit Number 2, and I guess you can use this pen to point with. Can you identify for this jury the two roads here in this area?

A: This is -- this is Phil Court. This is the road I came down. And this is Sandy Land Road. I know I was never on that road that night.

THE COURT: Officer Pike, I think you're blocking the view --

THE WITNESS: Oh.

THE COURT: -- of these jurors to my far right and your far right.

MR. CLEMENTS: You can stand on this side.

A: This is Phil Court. That's the only road I was on that night. This is Sandy -- Sandy Land Road. It kind of runs parallel to Phil Court, but I was never on that road. I was only on Phil Court.

Q: And you can see this direction. Where does this go?

A: Highway 9.

Q: Highway 9? Okay. And do you know about where Mr. Rowell's house was?

A: It's right here.

Q: Right there?

A: Yes, sir.

Q: Okay. All right. Did you go to any other residence that night? Any of the neighbors at all?

A: I slowed down at this residence and someone told me it was farther down.

Q: Okay. All right. And you don't know who that would have been, do you?

A: No, sir.

Q: Okay. All right. But that was Mr. Rowell's residence right there?

A: Yes, sir.

Q: Okay. All right. Did you do anything around the outskirts of the building or property at all?

A: No, sir.

Q: Okay. That was somebody else's job?

A: Yes, sir.

Q: Okay. All right. You can have a seat back there.

(Whereupon, the witness complies.)

Q: All right. I'm actually going to put one more exhibit up while I got you.

(Whereupon, State's Exhibit Number 1 is placed on the easel in front of the jury and the witness steps down from the witness stand again.)

THE COURT: Watch your step.

Q: I'm showing you what's been marked State's Exhibit Number 1 and I'm going to ask if you can step down on this side. Can you identify this area and these roads, like Highway 9 and Phil Court and Sandy Land on this exhibit?

A: This would be Phil Court right here.

Q: Okay.

A: That's the way I came in and took a right on Phil Court and that's how I got to the residence.

Q: All right.

THE COURT: Hold on a minute. Officer Pike, I know you're not used to this, but you've got jurors that are seated right there behind you. I want to make sure that everybody can see. Okay?

Q: All right. And again, show us where Phil Court is?

A: This is Phil Court right here.

Q: All right.

A: I came down this way.

Q: Along here?

A: Yes, sir.

Q: Okay. Now, Sandy Land, does it --

A: Yes, sir.

Q: It dead-ends on Phil Court on one end and where on the other end?

A: Highway 9.

Q: Highway 9? Okay. All right. Can you tell me where the corner of Foxworth and Wahee would be on this map?

A: It would be -- there is Foxworth, and Wahee would be right in here and there's the intersection.

Q: That's where they intersect right there?

A: Yes, sir.

Q: Okay. So if you were to leave off of Phil Court, if you could, please trace for me with that pen where -- what route you would take and how you would get to the intersection of Wahee and Foxworth?

A: You would just come back to Highway 9 and take a left.

Q: Could you go down Phil Court or Sandy Land either way?

A: Either one. Either one would get you out to Highway 9 and then you go up there to Foxworth Road.

Q: And it runs into Wahee right there?

A: Right there.

Q: Can you tell us approximately how long that is in miles?

A: Maybe ten, maybe fifteen. I've driven it many times, but --

Q: You're not sure exactly how far it is? Okay. All right. Thank you. So you don't know? That's just a pure guess as far as distance?

A: Yes, sir.

Q: All right.

(Whereupon, the witness resumes the witness stand.)

MR. CLEMENTS: Sergeant Pike, please answer any questions that Mr. Wilson or Mr. Floyd have.

THE COURT: Cross examination.

MR. WILSON: Thank you.

THE COURT: Mr. Wilson.

CROSS EXAMINATION

BY MR. WILSON:

Q: Sergeant Pike, you were the first officer there as far as you know; correct?

A: Yes, sir.

Q: All right. And when you got there, as I understand it, there were already at least two or more people there?

A: Yes, sir.

Q: All right. We know that Mr. Godbold was there, and do you know who the other individuals were that were there?

A: No, sir.

Q: Okay. Well, did you ask any of them if they had gone into the house or disturbed the scene in any way?

A: No, sir, I did not.

Q: Okay. To your knowledge, did any of the other officers ask them that once they arrived?

A: I couldn't tell you. Not to my knowledge, no, sir.

Q: Okay. Now, as I understand it, when you arrived the door was -- to the side door -- I mean I think we're referring to the side door as being the door kind of to your right as you're facing the house?

A: Yes, sir.

Q: And that door was already open --

A: Yes, sir.

Q: -- when you arrived?

A: Yes, sir.

Q: Okay. And was there some type of black metal frame to that door?

A: Yes, sir. Like a gate -- gated door to it.

Q: Okay. And was that unhinged?

A: Partially.

Q: Okay. And it was like that when you arrived?

A: Yes, sir.

Q: And then inside the door -- was the door a wooden door or a glass door that's inside that metal thing? Was that -- was that wood or glass or what?

A: I believe it was wood. I don't believe there was like glass that was like see-through or anything.

Q: Okay. Now, was that door damaged or broken to your knowledge?

A: I don't recall.

Q: Okay. Now, when -- when -- you said at some point that you were -- you were talking to someone and they said there were two people in the house? Who said that?

A: Mr. Godbold. He said --

Q: Mr. Godbold?

A: Yes. Mr. Godbold.

Q: He told you that -- that there were two people in the house?

A: He said -- yes, sir, there was two people in there and

they were shooting at him.

Q: Okay.

A: Or that they had just shot at him.

Q: And did he say who the two people were who was in the house that was supposedly shooting at him?

A: No, sir.

Q: Okay. All right. And did he say two people were shooting at him or that there was a person and -- and the victim, Mr. Rowell, in the house?

A: He said there were two people in there shooting. There were two people in there shooting and they just shot at him.

Q: Right. And there's no doubt in your mind he specifically used the word two? That he said to you that there was two people?

A: The best I can recall, yes. I mean -- yes.

Q: Okay. Did he ever tell you that he saw any person who was in the house?

A: No. I didn't talk to him after that. My job -- I went to the door to secure the crime scene.

Q: Okay. All right. Now, let's go back and talk for a minute about the crime scene. Do you know who had been into the house before you arrived? You said that it took you about ten minutes. Once you got the call at 9:40 -- 9:41 from dispatch, it took you probably ten minutes to get there and when you arrived, as I understand it, Mr. Godbold was there

and at least one other person. Do you know whether or not it was just one other person or whether or not there was more than one other person in addition to Mr. Godbold present when you arrived?

A: I believe there was two.

Q: Okay. So you think it was Mr. Godbold and two additional people?

A: Yes, sir.

Q: Okay. But we don't know who those people were?

A: I do not know. No.

Q: Okay. And then -- and did you ask either of those people if they saw anybody come or go from the house?

A: I did not. No.

Q: Okay. Did you get any indication from them as to whether or not they had gone into the house to check on Mr. Rowell at any point in time?

A: I did not ask them. Like I said, I went to the door to try to secure the crime scene.

Q: Okay. Now, let me ask you this. Normally when you arrive at a crime scene and you're the first officer, do you put up a tape to try to keep people from going or do you wait for the other officers to come before you do that?

A: We wait for other officers.

Q: Okay. And so how long after you arrived was it before an additional officer or additional officers arrived?

A: It was eighteen minutes.

Q: Okay. So some twenty-eight minutes after you got the call, you had help there?

A: Yes, sir.

Q: All right. And at that point in time, y'all cordoned off the area with the tape?

A: Yes, sir.

Q: All right. Now, you said that you found three bullet casings somewhere on the ground and you put your hat on one of them to help you remember that that's where it was at?

A: Yes, sir.

Q: And then you found -- later found the other two?

A: Yes, sir.

Q: Okay. And -- and you -- did you retrieve those shells or did you just show them to whoever was doing the collection?

A: I just showed them to my supervisor and that was it.

Q: Okay.

A: I picked up my hat.

Q: All right.

MR. WILSON: I don't think I have any other questions. Thank you so much.

THE COURT: Mr. Floyd, cross examination.

MR. FLOYD: Your Honor, I don't have any questions for Sergeant Pike.

THE COURT: Any redirect, Mr. Clements?

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: You didn't see anyone go into the house at all; did you?

A: No, sir.

Q: All right.

MR. CLEMENTS: No further questions.

THE COURT: Mr. Wilson, anything else?

MR. WILSON: No, Your Honor.

THE COURT: Sir, you may step down. Thank you.

MR. CLEMENTS: We ask that he be relieved from his subpoena.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections, Your Honor.

MR. FLOYD: No objection.

THE COURT: Without objection, sir, you're free to go. You have no further responsibilities under your subpoena. Thank you for being here. Yes, sir?

MR. CLEMENTS: Our next witness will be Sergeant Clemson Legette.

THE COURT: All right. Ladies and gentlemen, as he's -- as the next witness is coming up, is everybody in the jury okay? I told you we would go about an hour and a half to two hours and we've been going about an hour and a half. Anybody need a break? Okay. Go ahead and swear him.

THE CLERK: Place your left hand on the Bible and raise

your right hand. Do you solemnly swear or affirm the testimony you are about to give shall be the truth, the whole, truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You may have a seat in the witness box.

CLEMSON LEGETTE, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Can you please state your name?

A: Yes. Sergeant Clemson Legette II.

Q: Okay. Clemson like the university?

A: Yes, sir.

Q: Okay. And can you please tell the jury where you work and what you do exactly?

A: I work for the Marion County Sheriff's Office. I'm a shift supervisor and patrol sergeant. I check with my men to get the jobs done.

Q: Now, can you explain exactly what a shift supervisor does and over what period of time of the day and how many people work with you on the shift?

A: I currently have two deputies under me, but I do insure that they do their job. Like I said, make sure we do our jobs of patrolling the area, answer calls, pass out paperwork,

serve warrants.

Q: Okay. And y'all are out during a particular time period? How many shifts are there in a day?

A: We have two shifts, twelve-hour shifts. Day shift from 7 a.m. to 7 p.m. The night shift is from 7 p.m. to 7 a.m.

Q: So the three of y'all have to cover the whole county during that time period?

A: Yes, sir.

Q: That keeps you hopping, doesn't it?

A: Yes, sir.

Q: All right. Were you working the evening of July the 4th, 2012?

A: Yes, sir, I was.

Q: Did you have an occasion to be called out to the scene of a home invasion?

A: We had a call of a home invasion. Yes, sir.

Q: And where did you go?

A: Well, at the time I was processing -- someone had turned themself in on a warrant so I was processing them, you know.

Q: At the jail?

A: Yes, sir. I was at the detention center.

Q: Okay. And that's when the call went out?

A: Yes, sir.

Q: Okay. And your shift went to it? Now, who was on your shift that night?

A: We had PFC Gregory Pike and Corporal Marion Richardson.

Q: Okay. All right. And who was the first one on the scene?

A: It was PFC Gregory Pike.

Q: Okay. And then who -- who was next on the scene?

A: I came next.

Q: Okay. And then who came next?

A: Corporal Richardson right after I did.

Q: Okay. All right. And after y'all got on scene and get it secured, who do you alert or call in?

A: I advised central dispatch to notify the command staff, which is our administrative staff, and advise what had happened.

Q: Okay. Due to the seriousness of the crime?

A: Yes, sir.

Q: All right. Now, when you arrived on the scene, Pike was first and you were second, how many civilian people were there when you got there, if you know?

A: As I recall, it was possibly -- I would say three -- excuse me -- four or five I would say at least.

Q: And where were they when you came up? Were they close to the house, in the house or away from the house?

A: They was away from the house.

Q: Okay. All right. To your knowledge, while you were there when you arrived on the scene after Pike and you stayed

approximately how long?

A: At the scene, approximately -- I'd say possibly an hour, an hour and a half, two hours.

Q: During that time period, did anybody go in and out of that crime scene?

A: Other than the officers and investigators, other than that, nobody else.

Q: Okay. So no civilian personnel?

A: No, sir.

Q: All right. Now, when you got there to provide backup to Pike, tell this jury exactly what you did?

A: We got in. As I recall, we cleared the house. We checked the house for any -- to see if anyone else was in there. Possibly the suspects was in there. Once we cleared it, I had the officers -- I had Corporal Richardson do what we call a crime scene log for everybody that comes in and out, and we took pictures of Mr. Rowell.

Q: Okay. And did you put up crime scene tape?

A: Yes, sir.

Q: Okay. You took pictures of Mr. Rowell?

A: Yes, sir.

Q: Okay. Now, did you talk to anybody out there on the scene that night?

A: I talked to Mr. Eddie Godbold.

Q: Okay. All right. And did you talk to anyone else?

A: That was the only one.

Q: That was the only one you talked to?

A: Yes, sir.

Q: Okay. Did you take a written statement from him?

A: Yes, sir.

Q: Okay. Did you take a written statement from anyone else?

A: No, sir. Only Mr. Godbold.

Q: Okay. All right. Now, after you took a statement from him and you got pictures of Mr. Rowell and cleared the house, what did y'all do as patrol officers? What was your duty on the crime scene?

A: We stayed at the scene until the command staff got there and investigators.

Q: Okay. And about how long did it take the investigators to arrive on scene?

A: Within twenty -- thirty minutes I would say.

Q: All right. And did the whole command staff come out?

A: Yes, sir.

Q: Okay. And after they got there, what did you do as far as controlling the scene or commandeering the scene? Did you relinquish that to someone else or did you continue to take care of that?

A: I was asked by one of my supervisors to just go to the end of the road to make sure nobody goes in and out the road at the time.

Q: And that was the end of which road?

A: Phil Court.

Q: What about Sandy Land Road?

A: Sandy Land and Phil Court at the intersection of that.

Q: At that intersection?

A: Yes, sir.

Q: And that was approximately how far from Mr. Rowell's house?

A: I would say to my estimation it was less than a mile.

Q: Less than a mile?

A: Yes, sir.

Q: So it was a short distance?

A: Yes, sir.

Q: Okay. So you didn't go all the way out to Highway 9; you just went just to the intersection?

A: The intersection, yes, sir.

Q: Okay. All right. And as you controlled vehicle traffic in and out of there, was there a lot of vehicle traffic then?

A: No, sir.

Q: Okay. Just law enforcement?

A: Law enforcement.

Q: EMS?

A: Yes, sir.

Q: Okay. All right. I'm going to ask you, if you would, please step down.

(Whereupon, the witness complies.)

(Whereupon, State's Exhibit Number 1 is placed on an easel in front of the jury.)

Q: What area of the county do you live in?

A: I stay in what we call the Zone 3 area. That's midway to the lower part of the county.

Q: All right. And what -- what area is -- where Mr. Rowell lived, this neighborhood, what area was that in?

A: That would be called classified Zone 3 and that would be the Friendship area.

Q: I'm going to ask you, if you would, to stand on this side over here so all these jurors can see and not be blocked. Can you -- I guess you can use that. That's the longest thing I got.

(Whereupon, the witness is handed a pen.)

Q: Can you point out to this jury whereabouts the crime scene was?

A: (Indicating)

THE COURT: What exhibit is that, Mr. Clements? What exhibit is that?

MR. CLEMENTS: That's Exhibit Number 1, Your Honor.

THE COURT: Thank you.

Q: In that area?

A: Yes, sir.

Q: And where is the intersection of Sandy Land Road and Phil

Court?

A: (Indicating)

Q: Right there? Okay. Are you familiar with the intersection of Wahee and Foxworth?

A: This is Foxworth and right there is Wahee.

Q: So right there?

A: That's Wahee and Foxworth.

Q: Okay. Do you know about how far that is? If you don't, that's fine, but your closest guess?

A: My closest guess, that would be in -- I think I would say about five miles.

Q: About five miles?

A: Right.

Q: All right. Is this an area of the county you live in?

A: Well, actually I stay about around this area.

Q: Okay. All right. So you're pretty close to that area?

A: Yes, sir.

Q: Okay. So you say that's approximately five miles?

A: Yes, sir.

Q: Okay. All right. You can have a seat.

(Whereupon, the witness resumes the witness stand.)

Q: Sergeant Legette, that evening did you go to any other locations along Phil Court or anywhere else?

A: That was it. On Phil Court, that was it and the intersection there.

Q: And the intersection right there?

A: Yes, sir.

Q: And Mr. Rowell's house?

A: Yes, sir.

Q: Okay. All right. You didn't talk to anyone else other than Mr. Godbold?

A: Mr. Godbold was the only one, like I said.

Q: All right. That would have been somebody else's job at that scene rather than you as patrol supervisor?

A: No. At the time, that was the other deputies who talked to them.

Q: Okay. All right. Please answer any questions Mr. Wilson or Mr. Floyd may have for you.

THE COURT: Cross examination, Mr. Wilson.

MR. WILSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:

Q: Sergeant, that night you were the second officer to arrive or third?

A: Second.

Q: Second?

A: Yes, sir.

Q: And when you arrived, then you would have been the senior officer present at that point?

A: Yes, sir.

Q: All right. And it would have then been your responsibility to secure the scene, kind of make sure that everything was going the way that it's supposed to go, make sure that the crime scene doesn't get contaminated any further, and that kind of thing; right?

A: Well, usually we have the officers on the scene be the ones to --

Q: Well, you were the senior officer there at that time?

A: I was the sergeant, but he was the first officer on the scene.

Q: So that would have been Sergeant Pike? Would that have been his responsibility? Is that what you're saying?

A: He was the first officer. Yes, sir.

Q: Okay. So when -- so if it wasn't done when you got there, then what? If it hadn't been secured and the tape hadn't been put up and Sergeant Pike was there, I mean what happens then?

A: Then I guess I'll be the one to make sure it gets done.

Q: Okay. Well, that's what I'm asking.

A: Yes, sir.

Q: Once you arrived, you would have been the senior person present and you would have been in charge at that point?

A: Yes, sir.

Q: Fair?

A: Yes, sir.

Q: All right. And so when you got there, you said that you spoke to Mr. Godbold at some point; right?

A: Yes, sir.

Q: And -- and you were speaking to him to try to find out as best you could what had occurred -- what had transpired prior to your arrival?

A: Yes, sir.

Q: Fair? All right. And in the process, he told you that somebody had shot at him; right?

A: Yes, sir.

Q: Did he ever tell you that there were two people inside the house?

A: I can't recall for sure or not because I guess when the shooting happened, he just --

Q: Ran?

A: -- ran for cover.

Q: Let me ask you this. Did you do some kind of report? An incident report? Did you do one?

A: Yes, sir.

Q: All right. And would that help you remember what he told you that night if you looked at it perhaps?

A: Yes, sir.

Q: Okay.

MR. WILSON: May I?

THE COURT: Yes, sir.

Q: And before you read anything off of it, I just want you to look at it, and I'm going to show it to the solicitor.
A: Yes, sir.
Q: And I need to ask you can you identify that as being your report first?
A: Yes, sir.
Q: All right.
(Whereupon, there is a pause in the proceedings as counsel confer.)
Q: And let me hand this back to you. I'm just asking you to look at that to refresh your memory about what he told you. Is there anywhere in there where you indicated he told you that there were two people inside the house?
A: No, sir.
Q: Okay. And, in fact, you also took a written statement from Mr. Godbold; correct?
A: Yes, sir.
Q: Where you had him sign it. Let me show you that and ask you to take a look at that and don't tell me other than can you identify what that is.
A: Yes, sir.
Q: Okay. Let me show it to the solicitor, please.
MR. CLEMENTS: No objection, Your Honor. If he wants that submitted into evidence, we don't have any objection.
MR. WILSON: I don't want to introduce it. I just want

him to refresh his memory.

THE COURT: Go ahead.

Q: Have you seen that before or have you not?

A: Yes, sir.

Q: All right. And that was a statement you took from Mr. Godbold?

A: Yes, sir.

Q: All right. Now, just all I need to ask you is is there anywhere in there where he tells you that there were two people in the house?

A: No, sir.

Q: And based on everything that you know at that time or knew at that time, did you know how many people were in the house?

A: No, sir.

Q: I'm talking about back on -- on the night of July the 4th.

A: No, sir.

Q: All right. And let's talk for a minute about the crime scene itself. Now once you arrived, you said that there were four or five other people present. Now, I assume that includes Mr. Godbold; correct?

A: Yes, sir.

Q: And those four or five people -- did you talk with those people to find out if any of the four or five of them had been inside that house at any point in time before you arrived?

A: I think if I recall, Sergeant Pike had talked -- maybe talked with Mr. Godbold, and Mr. Godbold was the one on the scene when it occurred.

Q: Okay.

A: So I think with the other four, I'm not sure about them.

Q: Okay. Now once you arrived, did you then put up the -- the crime scene tape in order to keep people from going into the house?

A: After we cleared the house, we took pictures of what had occurred inside the house. A crime scene was set up. I think that was with Corporal Richardson.

Q: Okay. Now, did you ever have a conversation with Mr. Lafayette Reed?

A: I may have spoke to him briefly.

Q: Okay. Did you ask him whether or not he had gone into the house before you arrived?

A: I don't recall asking him that.

Q: Okay. Well, let me ask you this. Would it be important during -- when you come to secure the crime scene, would it be important to know who has been in or out of the house since the time the offense or crime or whatever it was was committed?

A: Yes, sir.

Q: All right. And if someone had been in that house before you arrived other than the perpetrators, you would want to

know that?

A: Yes, sir.

Q: Okay. And the reason that you would want to know that is because then those people's prints or shoe prints or footprints or whatever might be there even though they had nothing to do with it?

A: Correct.

Q: All right. And so you would want to talk to those people to find out about those things?

A: Yes, sir.

Q: All right. Now, what I'm asking you is in your conversations with Mr. Reed, did he indicate to you that he had been into the house?

A: I don't recall him saying he had been in the house. I don't recall him being in there.

Q: Okay. All right. Now, do you recall any talk from Mr. Reed or from Mr. Godbold about a white Cadillac?

A: Yes, sir.

Q: Okay. And did you ever find a white Cadillac or did you have any part in looking for a white Cadillac?

A: Well, at the time we was at the scene so we didn't leave the scene. So I was just at the scene.

Q: Let me ask you in regards to Mr. Rowell's house, had you ever been there prior to on a call or whatever or just knowing him? Had you ever been there prior to July the 4th?

A: No, sir. It was my first time.

Q: Did you know where it was at?

A: Yes, sir.

Q: All right. Did you know that there was a club or a business or a juke joint or whatever you want to call it that was at that location?

A: No, sir. I just know --

Q: You didn't know that?

A: -- from the call it just was a house.

Q: Okay.

A: Just from going past it.

Q: All right. So the first you knew that it was that kind of an establishment was when you went there to do the crime scene?

A: Yes, sir.

Q: Okay. And -- and there's no question the way -- well, let me ask you this way first. Did you actually go into the house at some point?

A: Yes, sir.

Q: All right. And so did you get a chance to survey and look around the rooms in the house?

A: Yes, sir.

Q: Okay. And is there any question in your mind that this was, in fact, some kind of a business, a juke joint or a club or whatever you want to call it? People call them different

names, but all the same thing pretty much.

A: Pretty much it was.

Q: Okay. There were tables and chairs and -- and liquor and beer and cigarettes and all those kinds of stuff?

A: Yes, sir.

Q: Okay. All right. And you said that you stayed about an hour or an hour and a half at this -- at this location?

A: An hour and a half -- two hours.

Q: Okay. An hour and a half to two hours and then you said that the command staff showed up at that point?

A: Yes, sir.

Q: Is that right?

A: Yes, sir.

Q: Now, when -- once y'all set up and the command staff -- and how large is the command staff?

A: We have the sheriff, the chief deputy, the captain, our lieutenants.

Q: Okay. So several people?

A: Yes, sir.

Q: And there were already three officers there prior to the command staff coming?

A: Yes, sir.

Q: Fair?

A: Yes, sir.

Q: And then the command staff comes and they bring what?

Four or five more so now you've got seven or eight officers at least?

A: At least.

Q: At least there. And this is before SLED actually arrives?

A: Yes, sir.

Q: All right. Now, did y'all have a crime scene log so that you knew who was coming in and out of the house and whether or not they were tracking or leaving tracks or leaving stuff? Do you have any kind of a system or did you have any kind of a system in place so that you knew who came in and when they came in and when they left and what they did while they were there?

A: Yes, sir.

Q: Okay. And where is that? Where is that log?

A: I had Corporal Richardson to do with that log.

Q: Corporal Richardson would have that?

A: Yes, sir.

Q: All right. And -- and so how many of -- those seven or eight or nine officers that we just talked about, how many of those officers actually went into that house and went through the house?

A: You had the three of us as the patrol officers. I would say you had at least three of the command staff. As far as the SLED agents, I'm not sure.

Q: Okay. So you're saying at least six --

A: Yes.

Q: -- local law enforcement officers --

A: At least.

Q: -- went through there and then in addition to that, how many other SLED officers there were there?

A: I'm not sure on the SLED officers.

Q: Okay. All right. Did -- did y'all find some footprints either in the house or in the yard adjacent to the house? Do you recall?

A: I don't recall about the footprints off the top of my head.

MR. WILSON: No other questions. Thank you, sir.

THE WITNESS: Yes, sir.

THE COURT: Mr. Floyd, any questions?

CROSS EXAMINATION

BY MR. FLOYD:

Q: Sergeant Legette, in the incident report Mr. Wilson just showed you dated July the 5th, 2012, is that the only report -- written report that you prepared --

A: Yes, sir.

Q: -- in regards to this investigation?

A: Yes, sir.

Q: Okay. After you spent the time there immediately after the incident was reported, did you do any further

investigation on this particular case?

A: No, sir, Your Honor. Oh, no, sir. I just -- I said we left it to the investigators.

Q: That was it?

A: Yes, sir.

Q: Okay. And you prepared this on the 5th of July; is that correct?

A: Yes, sir. At the office. Yes, sir.

Q: Which would have been the day after the incident?

A: It was after midnight when I made it back to the office. Yes, sir.

Q: Okay. Did -- did you make notes while you were on the scene that you used to prepare this or did you just prepare it from memory?

A: With the statement that what we -- and our findings, stuff like that.

Q: All right. So you didn't make notes; you just did it when you got back to the office?

A: Well, wrote down what was found. Then I said go with the statement from Mr. Godbold.

Q: Okay. All right. Thank you very much.

A: Yes, sir.

THE COURT: Any redirect?

MR. CLEMENTS: Just a little.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Wilson was asking you about a written statement you took from Mr. Godbold?

A: Yes, sir.

Q: Is that it?

A: Yes, sir.

Q: And Mr. Wilson was asking about it being a Cadillac Escalade?

A: Yes. Escalade.

Q: That wasn't exactly what was said; was it?

A: It said what appeared to be.

Q: Appeared?

A: Yeah.

Q: Appeared like?

A: Yes, sir.

Q: Okay. But nobody ever said it was?

A: Nobody said it. Nobody was sure.

Q: All right. And Mr. Wilson kept asking you about two people being in the house. If Mr. Rowell was in the house shot and the person that shot him is in the house, how many people is that?

A: Two.

Q: Okay. And if I was -- if you would come up to my house and I was to holler out at you, Clemson, open the door, he's robbing me, how many people would that be?

A: Just two.

Q: If I said he's robbing me, how many people?

A: You and him. That would be two, yes.

Q: But only how many robbing?

A: Just one is robbing him.

Q: Okay. But if I was to say to you, they're robbing me, how many people would that be?

A: That's more than one.

Q: More than one; right?

A: Yes, sir.

Q: Okay. I just wanted to clear that up.

MR. CLEMENTS: I don't have any further questions.

THE COURT: Mr. Wilson?

MR. WILSON: I don't have any questions.

MR. FLOYD: Nothing further.

THE COURT: All right. Sir, you may step down.

THE WITNESS: Thank you.

THE COURT: Can the lawyers approach for just a minute while he's stepping down?

(Whereupon, a bench conference is held off the record.)

THE COURT: All right. Ladies and gentlemen, it is now about one o'clock. We're going to stop for lunch. I have asked the clerk and she has gone and done what I asked her to do and that is order lunch for you all. I've been advised that it is here. I am going to ask you to step to the jury

room. Do not discuss the case during your lunch break. Do not discuss the case. I'll give you sufficient time to eat and we're going to resume the trial of this case. Okay? Do not discuss the case. You can step to the jury room right now.

(Whereupon, the jury exits the courtroom at 12:54 p.m.)

THE COURT: All right. Anything from the State before we break?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson, anything before we break?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No, Your Honor.

THE COURT: All right. At 1:45, we'll resume the trial of this case.

(Whereupon, there is a break in the proceedings from 12:55 p.m. until 1:55 p.m.)

THE COURT: Anything from the State before I bring the jury out?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: No, sir.

MR. FLOYD: No, sir.

THE COURT: Okay.

(Whereupon, the jury enters the courtroom at 1:55 p.m.)

THE COURT: All right. Mr. Clements? Mr. Saleeby?

MR. SALEEBY: May we proceed, Your Honor?

THE COURT: Yes, sir. Call your next witness.

MR. SALEEBY: The State would call Dr. Lee Marie Tormos to the stand. Doctor, please come around and be sworn.

THE CLERK: Place your left hand on the Bible and raise your right. Do you solemnly swear or affirm that the testimony you are about to give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. Have a seat in the jury box.

DR. LEE MARIE TORMOS, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. SALEEBY:

Q: Would you tell us your name, please?

A: My name is Dr. Lee, L-E-E, Marie, M-A-R-I-E, last name Tormos, T-O-R-M-O-S.

Q: We may need you to speak up a little bit or to turn the volume up a little bit.

A: How do I do that? I'll speak up.

Q: All right. Okay. Well, I think your voice carries pretty well. Doctor, if you would, just tell the ladies and gentlemen of the jury where you work and what kind of work you

do?

A: Sure. I am a forensic pathologist in the autopsy division of the Medical University of South Carolina.

Q: And are you also on the faculty of the Medical University?

A: I am a -- I am an assistant professor at the Medical University of South Carolina.

Q: I would like you, please, to tell the jury about your education and your training in the field of pathology.

A: Absolutely. I became a doctor in 2003 at the University of Puerto Rico in San Juan, Puerto Rico, and then I did my specialty training, which is an additional four years in pathology. Now, pathology is the area that studies disease and how the aging process and diseases affect the body and causes death. Afterwards, after graduation I worked as a medical examiner in Puerto Rico for two years before relocating to the -- to Charleston, South Carolina, where I pursued my sub-specialty degree in forensic pathology. I became board certified in that sub-specialty degree in 2011 and have been on staff at the Medical University ever since.

Q: Board certified in 2011?

A: Mm-hmm. And board certified in forensic -- in regular pathology and anatomic pathology in 2009.

Q: How many autopsies have you performed over your career, Doctor?

A: Over a thousand.

Q: And have you been qualified to testify in courts such as the one that you're appearing in today?

A: Yes, sir.

MR. SALEEBY: Your Honor, we would submit for the Court that Dr. Tormos would be well-qualified to testify in the field of forensic pathology.

THE COURT: Mr. Wilson?

MR. WILSON: I just have a couple of questions.

THE COURT: All right. Go ahead.

THE WITNESS: Sure.

DIRECT EXAMINATION RE: EXPERT QUALIFICATION

BY MR. WILSON:

Q: Doctor, have you ever testified in a trial before?

A: Yes, sir.

Q: Okay. How many times have you testified?

A: About ten.

Q: Okay. And were those in the state of South Carolina?

A: Yes, sir.

Q: Okay. And those times that you were -- that you testified, were you qualified as an expert in the field of forensic pathology?

A: Yes, sir.

Q: All ten times?

A: All ten times.

MR. WILSON: I don't have any other questions.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing further.

THE COURT: Anything further, Mr. Saleeby?

MR. SALEEBY: No, sir. I'd just like to continue.

THE COURT: All right. Let me give them an instruction on --

MR. SALEEBY: Yes, sir.

THE COURT: -- those qualifications. Ladies and gentlemen, normally a person cannot give opinion testimony. Normally, when a person testifies, they must testify as to what they either saw, heard or sensed by smell or something of that nature. However, there is an exception when someone is qualified because of education or experience. They are permitted to give their opinion in certain areas if the Court qualifies them that way.

This particular witness will be qualified in the area of forensic pathology to give opinion testimony in that area. That does not mean that you must accept the opinion, but it is evidence for you to use in any way that you see fit and give it the weight and credibility that you believe is appropriate.

Mr. Saleeby?

CONTINUED DIRECT EXAMINATION

BY MR. SALEEBY:

Q: Dr. Tormos, the first thing I'd like you to explain to us

is what the field of pathology, generically speaking, is all about.

A: General pathology?

Q: Yes.

A: Okay. General pathology is a specialty within the medical field, and we study diseases. We help doctors interpret laboratory tests and how they can affect the prognosis of a particular illness, and we also use other special training -- sorry -- special testing such as DNA testing and molecular testing to study the effects of illness on the body and how these may lead to death.

Q: Would you now tell us about the thing that you're board certified as a specialist in, forensic pathology?

A: Okay. Forensic pathology takes that study of illness and how it affects the body and eventually causes disease and takes it one step further, and we are actually able to interpret injuries to the body, poisonings and things of that nature, that also lead to death and specifically taking into consideration that most of the cases that we see as a forensic pathologist have some sort of medical legal ramification and will possibly eventually end up in court.

Q: You mentioned before that you have conducted over a thousand autopsies.

A: Mm-hmm.

Q: I'd like you to tell us generally speaking how you go

about conducting an autopsy.

A: Okay. An autopsy in general -- it starts with an external -- well, first the case is referred to us. In South Carolina, the case is referred to us by the coroner. Once the body arrives, we establish identification of the body. Usually, the coroner provides the identification and then we take the body for a -- to the autopsy room for examination.

We perform the detailed external examination, documenting everything from birthmarks to scars to injuries to the external aspect of the body. We document things such as hair color, eye color, and anything of significance on the body, and then we proceed with the internal examination.

The internal examination is a surgical procedure that we undertake to examine the body from the inside, and we evaluate each organ, we weigh, we take microscopic sections if necessary. We also do ancillary testing such as blood cultures or take vitriol samples for electrolyte testing. We take samples for DNA, and we may even do fingerprinting and things like that.

Q: Now specifically speaking, did you have the occasion to perform an autopsy on Samuel Rowell on Thursday, July the 5th, 2012?

A: Yes, sir.

Q: And where did that take place?

A: That took place in the autopsy room at the Medical

University of South Carolina in Charleston.

Q: And was a SLED agent present at the time that you conducted that autopsy?

A: Yes.

Q: And do you have in your notes a record of who that person was?

A: I will tell you in a second. Kukila N. Stanley.

Q: Kukila Stanley?

A: Mm-hmm.

Q: And I will -- I will ask you this question later, but if you collected certain items at the autopsy for future testing, what did -- what did you do with regard to giving those to Ms. Stanley?

A: Ms. Stanley observed as I took all the collected items off of the body, packaged them in individual containers, and then she immediately took possession and signed and I was able to sign over with chain of custody to Kukila Stanley.

Q: You took the items off the body?

A: I personally took the items off the body.

Q: And you packaged the items?

A: I packaged the items myself.

Q: And then you handed them to her?

A: Yes.

Q: All right.

A: And she was observing the entire procedure in the autopsy

room.

Q: Let's talk about Mr. Sam Rowell. Can you tell us what your external examination showed us in terms of his -- his race, his age, his height, his weight?

A: Okay. Okay. His external examination -- he was a normally developed adult black male, which appeared consistent with the stated age of approximately 70 years. He measured 72 inches in length so he was six feet tall and weighed 238 pounds. The body was relatively well-preserved with only postmortem changes due to the heat of the summer and there was some skin slippage, which is a sign of early decomposition.

Q: Can you tell us how he was dressed?

A: He was dressed in a light blue polo shirt, navy blue pants with a black leather-like belt. He had on white brief underwear and a white undershirt and he was wearing a pair of white socks.

Q: Was a hat sent with him?

A: A grey cap inscribed with "The Eclectic." It was with the body inside the body bag, but not on his head.

Q: And he was wearing a blue polo shirt?

A: Yes, sir.

Q: Did he have any shoes on his feet?

A: He did not have any shoes on.

Q: Did he have anything on this feet?

A: He had a pair of white socks.

Q: And can you tell us what the condition of those socks was?

A: The socks were dirty on the bottom, but they were not significantly stained.

Q: Dirty, but not -- but not stained?

A: Yes. Nor -- nor torn.

Q: Did he have a wallet or any ID on his person?

A: No, he did not. Personal effects on the body were $22.19 in cash that were in the front left pocket of the pants, and there was a penny adhered to the forearm on the skin.

Q: $22 in the front left pocket?

A: Yes.

Q: No shoes, some socks, dirty but not stained?

A: Yeah.

Q: All right. How about telling us what the condition of his body was, external examination, in terms of being bound or restrained?

A: Okay. His hands were bound behind his back. The way I found them is his left forearm was all the way across his waist on the back and his right arm was extended and both wrists were tied together with brown fiber rope and abundant duct tape wound around the wrists. There was a bit of rope in-between so he did have a little bit of motion. They were not bound together tightly, but both wrists were individually bound.

Q: Behind his back?

A: Behind his back.

Q: Tell us about his legs, please?

A: His legs were tightly bound together with duct tape right -- right above the ankles, and there was a distance of about yay high where there were about seven loops of duct tape on the lower legs.

Q: What about his -- above his neck?

A: Above his neck, he had a gag. He had --

Q: A gag?

A: A gag, yes. He had --

Q: And how was that bound? How was that secured?

A: White brief underwear were partially stuffed inside the mouth. It was an ineffective gag, and then that brief underwear had duct tape across the brief underwear and behind his neck.

Q: You -- you said it was an ineffective gag. Please explain what you mean by that.

A: The -- it was ineffective because the gag was not fully inserted into the mouth and it was just overlying the teeth; so he was able to probably open his mouth, but it -- it was not bunched up inside his mouth significantly.

Q: He would have been able to open his mouth to some extent?

A: To some extent, yes.

Q: Did he have any wounds?

A: On the body, he had a 1 ¾ by 1 inch triangular abraded contusion on the left forehead right above the left eyebrow.

Q: Okay. Let's -- let's slow down a little bit with that and give me those dimensions again?

A: It's 1 ¾ by 1 inch.

Q: And you said it was abraded?

A: It's abraded.

Q: What's that mean?

A: That means it's scraped.

Q: It's what?

A: It's a scrape.

Q: A scrape?

A: Yeah.

Q: And you said it was a contusion, and what's that mean?

A: That means it's a bruise. So it's -- it's scraped on the skin, but it's also a bruise.

Q: So a bruise and a scrape on his right forehead?

A: On his left forehead.

Q: Left forehead. And what would that be consistent with?

A: That would be consistent with being hit with a triangular or rectangular object such as the corner of a two-by-four, the butt of a pistol, the edge of a table, things of that nature.

Q: And would this have been a blow that would have been inflicted before the fatal shot?

A: Very likely. The injury had evidence of pre-mortem

hemorrhage and the bleeding in the soft tissues can only happen if the heart is beating. Therefore, he had a -- he sustained that blow to the forehead before he was shot.

Q: So pre-mortem would be before death?

A: Before death, yes.

Q: All right. Did he have any other wounds?

A: He had three punctures to the right antecubital fossa. So right here, right where you would have a blood draw, he had three punctures, skin punctures, sort of like an injection site or a blood draw site.

Q: How about injuries to his head?

A: Just the -- the subgaleal contusion which is really the bruise that's underlying the forehead abrasion.

Q: All right. And were there any gunshot wounds? I guess I should have asked you that before.

A: Oh, yes.

Q: All right. Please tell us about that?

A: Okay. This person had a gunshot wound right to the crown of the head, to the top of the head, right half an inch to the right of midline. It was a contact or a soft contact gunshot wound, relatively small, and the gun -- the projectile traveled in a downward position and ended up near his brain stem, and it caused all sorts of hemorrhage and destruction along the bullet pathway. It was a single gunshot wound to the top of the head.

Q: Based on what you observed, could you draw a conclusion as to the proximity of the barrel of the weapon that fired that fatal shot to the top of Mr. Rowell's head?

A: Yes. The -- the wound characteristics, that being that there is abundant soot around the entrance of the gunshot wound and on the soft tissues -- the superficial soft tissues of the head, tell me that the gun was very close or touching the scalp.

Q: How about explain to the jury, first of all, what you mean by contact and soft contact?

A: Contact or soft contact means that the gun is being held to the skin or less than half an inch from the skin, but it is not being pressed hard into the skin. When you press hard, what happens is not only does the -- does the projectile come out of the barrel of a gun, but you also have burning gunpowder and you also have soot, and when it is a hard contact, then that hot air that is being expelled along with the projectile travels under the tissues and it would lacerate the edges.

When it's a soft contact, meaning that the gun is very, very close or touching -- lightly touching the scalp, what happens is the soot is deposited right on the surface, but it has an area to escape between the muzzle of the gun and the -- and the skin surface and, therefore, those lacerations do not occur.

Q: Now, you've talked about soot --

A: Mm-hmm.

Q: -- being on the outside of the wound in the bullet pathway.

A: Mm-hmm.

Q: What is soot?

A: Soot is the smoke that comes from the combustion inside the chamber. That is the combustion that expels the -- the projectile and makes it go out of the barrel.

Q: And you described the pathway of the bullet being what again?

A: The pathway of the bullet is downwards, slightly left and slightly backwards.

Q: Did you take any x-rays during the course of your autopsy that would help you show us the path of that projectile a little bit better?

A: Absolutely. It is part of the autopsy examination.

Q: I'm going to show you State's Exhibit Number 29 for identification and just ask you if that's an x-ray that you made and if you can use it to illustrate your testimony?

A: This is an x-ray I ordered, yes.

MR. SALEEBY: We move this introduction at this time, Your Honor.

THE COURT: Any objection?

MR. WILSON: I have no objection, Judge.

MR. FLOYD: No objection.

THE COURT: Without objection. What's the exhibit number, Mr. Saleeby?

MR. SALEEBY: Your Honor, it is Number 29, sir.

THE COURT: 29 admitted without objection.

Q: Doctor, I'm going to hold this up.

A: Mm-hmm.

Q: And if you can, perhaps you can point or if you need to step down and get closer to the jury, you determine it. Can you show us what's on -- what this shows you in terms of projectile path?

A: Okay. This is a lateral x-ray of the head. You can see that his nose would be right around here. This is his mouth. That is a dental implant that he had on the lower jaw. This would be his -- the bones in his neck. These are his shoulders. What you see up here, that's a slight defect of the crown of the head that I'm telling you about. That's the entrance through the skull, that fracture, and you see all those teeny-tiny projectiles that are being cast off by the metal bullet. These delineate the bullet pathway. So you see it is going downward and into the base of the neck, and that white irregular object right there, that's the projectile at the base of the skull.

Q: Did you recover that projectile?

A: Yes, I did.

Q: I'm going to show you what's been marked for identification as State's Exhibit Number 30 and ask you if you will take a look at this and tell us if you can identify it. Do you need any gloves?

A: I have gloves here.

Q: Okay.

A: Okay. This is the pack -- the packaging that I put the projectile in, and that is my handwriting that says projectile on the identification label.

Q: Go ahead, if you can, and take it out.

(Whereupon, the witness complies.)

A: Mm-hmm. Yes.

Q: Dr. Tormos, what can you identify that as being?

A: This is a gray metal projectile.

Q: And where did it come from?

A: It came from the decedent's skull.

Q: And is this substantially in the same condition as when you removed it?

A: Yes.

MR. SALEEBY: Your Honor, at this time, we move for the introduction into evidence of State's Exhibit Number 30.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: Without objection, State's Exhibit Number 30 admitted into evidence.

Q: Doctor, if you keep your gloves on, I've got a couple other things I'm going to show you, but I'd like you to tell the jury what kind of damage that bullet did to Mr. Rowell's brain.

A: Okay. When the bullet -- first, the bullet perforates the scalp and it creates bleeding around the entrance. Then is fractures the skull at the top of the head, and then it goes right through the brain with destruction and hemorrhage along the bullet pathway. Now, because it was half an inch to the right of midline, basically what happened is it went through the right hemisphere of the brain, crossed over at the midline, and ended up near the brain stem.

When you receive a bullet in a soft tissue such as the brain, which has the consistency of Jell-o, what happens is the energy displacement forms a cavity and it gives a whole lot of hemorrhage to those tissues. There was hemorrhage inside the brain and there was destruction near the brain stem. So this would likely have been an immediately incapacitating gunshot wound.

Q: And by immediately incapacitating, do you mean death or a time -- a time before death?

A: I mean that once he sustained this gunshot wound, he was very likely immediately dead.

Q: And so, Doctor, I know you've answered this in one way, but I have to ask this question. Based upon your autopsy, do you have a medical opinion satisfactory to yourself as to what caused the death of Mr. Sam Rowell?

A: Mr. Sam Rowell died of a gunshot wound to the head.

Q: Now, as part of your standard operating procedure, did you run toxicology tests to determine if there were any foreign substances in Mr. Rowell?

A: Yes. Mr. Rowell had two substances in his blood. He had caffeine --

Q: Caffeine?

A: -- and --

Q: Like comes in Coke and coffee?

A: Coca-Cola, coffee. If they test, most of us would probably give positive for caffeine, too. And he had cotinine, and cotinine is a derivative of nicotine.

Q: Nicotine?

A: So he had a -- he had a cigarette that day, but not immediately before he was shot. Otherwise, we would see nicotine and we're only seeing the -- the metabolite.

Q You said Ms. Stanley was there during the course of your -- through the course of your autopsy?

A: Mm-hmm.

Q: And you removed and bagged things and then handed them to her?

A: Mm-hmm.

Q: I'm going to show you State's Exhibit Number 31 and ask you if you can identify this as the duct tape that came off of Mr. Rowell's head?

A: Given the chain of custody, this is probably the duct tape that was removed from his head. I see that it has been processed for fingerprints, which is why there's this black substance on the duct tape.

Q: Let me show you State's Exhibit Number 36 for identification and ask you if you can identify that as the gag used on Mr. Rowell?

A: That's my chuck. It has been written on and processed, but I do believe these are the brief underwear that were being used as a gag.

Q: Can you identify those as the ones that you took and handed to SLED?

A: I'm sorry?

Q: Are those the ones that you took and handed to SLED?

A: Very probably.

Q: Very probably?

A: Yes.

Q: We'd have to talk with SLED about that. Okay.

A: Yeah. They -- they processed them.

Q: So is it --

A: But this is the packaging from our autopsy room so -- the

package on the outside is different.

Q: It looks different now that's it been treated for fingerprints?

A: It's been treated for lots of things.

Q: All right. Let's put it in here. 31 you gave to Ms. Stanley? 36 you gave to Ms. Stanley?

A: Mm-hmm.

Q: All right. I'll show you State's Exhibit Number 35 and ask you if this is consistent with the duct tape you took off of the hands of Mr. Rowell?

A: Yes. This would -- this messy one would be the one that came from around his wrists. He had the hands tied with rope first and then the duct tape was wound around the wrists and around the -- and around the rope so it was stuck up on itself like that, very thin folds and messy.

Q: So that's a little distinctive?

A: It -- this one is distinctive, yes.

Q: That is the one you took off his hands?

A: Yeah.

MR. SALEEBY: Your Honor, we'd move for the introduction of State's Exhibit Number 35.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: Without objection, State's Exhibit Number 35 admitted into evidence.

Q: And finally, Doctor, I will show you State's Exhibit Number 33 --

A: Mm-hmm.

Q: -- which I ask you if that's the tape you took off of his legs?

A: Let's see. Again, it's been processed, but you can see the -- this one is more orderly and this is the section that was wound around the legs, and it was wound about seven times over -- overlapping the one before, but not necessarily all the way. So this is the one that was around the -- the lower legs.

Q: And you can identify it as being the one that you removed?

A: Yes. It has been processed.

MR. SALEEBY: Your Honor, we would move to enter that as State's Exhibit Number 33.

THE COURT: Any objection?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: Without objection, State's Exhibit 33 admitted into evidence.

Q: So, Doctor, if I understand you correctly, the ones

you've identified are because they were distinctive the way they were packaged as to each enough to identify, but the other -- the thing that came off of his head and the gag, because of processing SLED would have to tell us about the processing?

A: Yes. It -- while the gag was stained with body fluids, that yellow discoloration is likely from processing by law enforcement.

Q: It wasn't yellow when you --

A: It was not yellow when I --

MR. SALEEBY: Thank you, Doctor. Please answer any questions that counsel has for you.

THE COURT: Cross examination, Mr. Wilson.

CROSS EXAMINATION

BY MR. WILSON:

Q: Doctor, I have a couple of questions. You -- your testimony today is essentially that you received the body of Mr. Rowell and you performed an autopsy?

A: That is correct. I received the body and I performed an autopsy.

Q: And as a result of that autopsy, you determined that the cause of death was a gunshot wound to the head?

A: That is correct.

Q: Now, do you have any information, any at all, as to who killed Mr. Rowell?

A: No, sir, I do not.

Q: Do you have any evidence or any idea as to whether or not Mr. Marco Sanders is the person who shot Mr. Rowell?

A: I have no idea.

Q: Okay. And were you sent any information indicating to you that Mr. Sanders was the person who shot Mr. Rowell?

A: No, sir.

MR. WILSON: I don't have any other questions. Thank you.

THE COURT: Mr. Floyd?

MR. FLOYD: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FLOYD:

Q: Dr. Tormos --

A: Yes.

Q: How are you today?

A: Good.

Q: Good. You identified the bullet you retrieved in the autopsy as a small caliber bullet in your opinion?

A: Yes.

Q: Is that correct?

A: Yes.

Q: What do you consider a small caliber?

A: About a .22 or a .25 or less.

Q: .22, .25 or less?

A: Yes.

Q: Okay. All right. And also, you mentioned I believe some rope binding; is that correct? You found some rope binding --

A: Yes.

Q: -- around the wrists?

A: Yes.

Q: Is that correct?

A: Yes.

Q: Did you put that into evidence?

A: It was in evidence with the duct tape.

Q: Okay. Was that presented to you here?

A: It was not presented to me.

MR. FLOYD: Thank you very much.

MR. SALEEBY: I have one more question. Ms. Stanley? Ms. Stanley?

(Whereupon, Ms. Stanley stands.)

REDIRECT EXAMINATION

BY MR. SALEEBY:

Q: Is this Kukila Stanley, the SLED agent that was there during your autopsy, if you recall?

A: I do believe.

Q: All right. Thank you.

A: She's dressed differently.

THE COURT: Anything else, Mr. Saleeby?

MR. SALEEBY: No, sir.

THE COURT: Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No, Your Honor.

THE COURT: You may step down, Doctor.

THE WITNESS: Thank you.

MR. SALEEBY: Your Honor, next is Ms. Stanley. Can she be excused?

THE COURT: Any objection, Mr. Wilson, to this lady doctor being excused?

MR. WILSON: We may want to call her later, but I don't have any objection to her leaving today.

THE COURT: All right. I'm going to allow you to leave today, but you still may be recalled in the trial of this case. Okay?

THE WITNESS: Okay.

THE COURT: Thank you for being here.

THE WITNESS: Thank you.

MR. SALEEBY: Your Honor, the State would call Kukila Stanley.

THE COURT: All right.

THE CLERK: Place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm the testimony you are about to give shall be the truth, the whole,

truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You may have a seat in the witness box.

KUKILA STANLEY, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. SALEEBY:

Q: Tell us your name, please, ma'am?

A: My name is Kukila Nicole Stanley.

Q: And who do you work with?

A: I work with the South Carolina Law Enforcement Division, also known as SLED.

Q: How long have you worked with them?

A: I've worked with SLED almost nine years.

Q: And you've worked in different parts of SLED I believe?

A: Yes, I have.

Q: Please tell us what different divisions of SLED you worked in?

A: For the first five years of my career at SLED, I worked in the drug analysis department where I analyzed evidence for the identification of controlled substances. Currently, I am employed with the crime scene unit. I also worked as a latent print examiner in the crime scene unit.

Q: Now, did you have -- did you respond in July of 2012 to

Phil Court in Marion County?

A: No, I did not.

Q: All right. What was your participation in this particular investigation limited to?

A: I responded to the autopsy of the victim at MUSC in Charleston.

Q: Were -- did you see the lady who left -- just left here?

A: Yes, I did.

Q: And was Dr. Tormos the one who conducted the autopsy?

A: Yes.

Q: All right. Did she remove the items from Mr. Rowell?

A: Yes, she did.

Q: All right. What did you do? Did you take prints or do anything with him?

A: Yes. I collected major case prints from him and I also collected a GSR, which is a gunshot residue kit, from the victim.

Q: You took prints from Mr. Rowell?

A: Yes, I did.

Q: All right. This has been admitted into evidence as State's Exhibit Number 40, and just to confirm, would you take a look at these and tell us if these are the prints that you took at the autopsy?

A: Yes.

Q: And what did you do with all of the items that you got at

the autopsy?

A: All of the items that I took from autopsy, I took it back to SLED, and then I did a chain of custody with the case agent to transfer the evidence into her custody.

Q: And who was the case agent?

A: Sabrina Fellers.

Q: Among those items was there State's Exhibit Number 30, which has been admitted into evidence, a projectile?

A: Yes.

Q: State's Exhibit Number 36, which was identified as a gag, is this an item that you received from the doctor?

A: Yes, it was.

Q: Okay. How can you tell us that? What helped you tell us?

A: I can tell based on the lab number and also the way that the item is packaged. That's how I received it from autopsy.

Q: Did you receive any duct tape during the autopsy?

A: Yes, I did.

Q: I'm going to show those to you and make sure we have the State's exhibit numbers. State's Exhibit Number 33 I think which is identified as being duct tape from the feet -- can you identify that as something you received?

A: Yes.

Q: And how could you -- how can you be sure that that's the one that you got there?

A: This is the lab -- it has the lab number associated with this case.

Q: And I believe Number 33 is in evidence. And State's Exhibit Number 35, which was identified as duct tape from the hands, can you identify that as being something you received at the autopsy?

A: Yes.

Q: And what helps you identify that?

A: It also has the lab number associated with this case.

Q: And finally, State's Exhibit Number 31?

A: Yes. And it also has the lab number associated with this case.

MR. SALEEBY: Your Honor, at this point in time, we would move for the introductions of 31 and 36, duct tape that came from the head and the gag.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

MR. FLOYD: No objection.

THE COURT: Without objection, State's Exhibit 31 and 36 are admitted into evidence.

MR. SALEEBY: Ms. Stanley, that's all the questions I've got. Please answer any questions counsel has for you.

THE COURT: Cross examination, Mr. Wilson.

CROSS EXAMINATION

BY MR. WILSON:

Q: Let me ask you now, did you get some fingernail clippings from the autopsy?

A: Yes, I did.

Q: Okay. And were they fingernail clippings from the -- the body of Mr. Rowell?

A: Yes.

Q: Okay. And --

MR. SALEEBY: Let me get that out of your way.

Q: Did you -- did you take those fingernail clippings of Mr. Rowell to SLED and request that they be analyzed?

A: I did take them to SLED, but I was not the one that issued a request for analysis.

Q: Okay. Do you know who issued the request for the actual analysis of those fingerprint -- of those fingernail clippings?

A: If one was made, it would have been the case agent, Sabrina Fellers.

Q: Okay. And Ms. Fellers is the person that you turned these items over to once you received them from the autopsy?

A: Yes.

Q: Okay. Now, to your knowledge, were the fingernail clippings of the -- of Mr. Rowell ever examined or ever analyzed to see what was underneath?

A: I'm not sure.

Q: All right. Now, you said at some point that you were a

crime scene person; is that correct?

A: I'm currently a crime scene investigator, yes.

Q: All right. And tell us kind of what a crime scene investigator or specialist does. What -- what is the role of the crime scene investigator?

A: Our responsibility is to respond to scenes as we are requested by local, state, and federal agencies. We process the crime scene to identify any evidence related to the scene. We photograph the evidence, and we are also responsible for attending autopsies as needed.

Q: Okay. And -- and -- and in accord with that, you actually did attend the autopsy of Mr. Rowell?

A: Yes, I did.

Q: All right. Now, I noticed you said that the tape that you saw was packaged, and I think they were items 31, 33, and I think 35. And now, did you have any markings on those packaging other than the fact that it was in a SLED envelope or a SLED package? Did you have any special markings like your initials or anything on the packaging before it was sealed?

A: I personally didn't package any of the evidence. Upon leaving autopsy, all of the evidence is packaged individually and it's labelled by the pathologist.

Q: Okay. All right. Have you met Mr. Sanders before?

A: No, I have not.

Q: All right. And you're not here telling us that Mr. Sanders had anything to do with this as far as you know?

A: No, I am not.

Q: All right.

MR. WILSON: I don't think I have any other questions. Thank you.

THE COURT: Mr. Floyd?

MR. FLOYD: Your Honor, I don't have any questions.

THE COURT: Any redirect?

MR. SALEEBY: No, sir. Your Honor, I'd ask that she be excused.

THE COURT: You may step down. Thank you.

MR. SALEEBY: Your Honor, at this time, we'd call Sabrina Fellers to the stand.

THE COURT: Hold on. Any objection to her being excused?

MR. WILSON: No, sir.

MR. FLOYD: No, no objections.

THE COURT: Ma'am, you're free to go. You have no further responsibilities under your subpoena. Thank you for being here today.

(Whereupon, a bench conference is held in the presence of the jury but out of the hearing of the jury as follows.)

MR. SALEEBY: This next witness is going to be lengthy. I don't know if they need a break or not.

(Whereupon, the bench conference ends.)

THE COURT: All right. Ladies and gentlemen on the jury, I've been advised -- Mr. Saleeby just advised me this is going to be a lengthy witness. Anybody -- everybody okay? Anybody need a break? All right. Go ahead.

MR. SALEEBY: Your Honor, we'd call Sabrina Fellers to the stand. Ms. Fellers, please come around and be sworn.

THE CLERK: Place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm the testimony you are about to give shall be the truth, the whole, truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You may have a seat in the witness box.

SABRINA FELLERS, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. SALEEBY:

Q: Tell us your name, please, ma'am?

A: Sabrina Fellers.

Q: And what part of this state do you live in?

A: The low country.

Q: And how long have you lived in South Carolina?

A: Five and a half years.

Q: Who do you work for?

A: I work for the South Carolina Law Enforcement Division,

commonly referred to as SLED.

Q: And how long have you worked with SLED?

A: Five and a half years.

Q: All right. What kind of work have you done for SLED?

A: Prior to March of this year, I was employed as a crime scene investigator in the forensic laboratory, as a crime scene --

Q: And since March?

A: Since March, I've been assigned to the special victims unit and vulnerable adult investigations.

Q: All right. And do you do that work on a regional basis? The crime scene?

A: Yes. It's concentrated closer to the low country.

Q: And how long did you work in the crime scene unit at SLED?

A: Just over five years.

Q: And do you have any other prior experience in law enforcement working on crime scenes?

A: Yes. Prior to being employed at SLED, I was employed by the Charlotte-Mecklenburg Police Department as a crime scene investigator there for just under two years.

Q: And -- and you did crime scene there; so a total of seven years in crime scene investigation?

A: Approximately, yes.

Q: Until March of this year?

A: Yes.

Q: What type of training did you receive in Charlotte and did you receive at SLED to help you perform your duties?

A: I have a bachelor's degree from Youngstown State University where I majored in forensic science. At Charlotte-Mecklenburg, I completed on-the-job training, as well as at SLED. Between the two agencies, I have completed approximately 500 hours of continuing education courses in numerous areas of forensic science and crime scene investigation.

Q: How many crime scenes have you conducted or participated in in processing?

A: Approximately 5- to 600.

Q: Do you regularly testify in General Sessions and other courts as to your activities?

A: Yes.

Q: Now, help us to understand what crime scene processing is as opposed to what we see in 60 minutes on TV. Tell us what crime scene processing consists of?

A: As a crime scene investigator for SLED, we respond to requests for assistance from local, state, and federal agencies throughout the state of South Carolina. We receive the call, speak with the investigator. We arrive to the scene, make sure the scene is secure, and address any issues as far as if we need to put extra barriers or any weather

issues that might arise.

We process the scene, and part of processing it is documenting it with photographs, notes, and sketches. We look for and search area for any evidence that needs to be collected or documented. We document and collect the evidence in a way that we can preserve it and transport it to the laboratory, where we log it in for additional analysis.

Q: So your -- you observe, you preserve, and record. You collect and you send to testing?

A: Yes.

Q: That's a short way of saying a large job. Did you have the occasion on Wednesday, July the 4th of 2012, to respond to a crime scene here in Marion County?

A: Yes, I did.

Q: And approximately what time were you summoned and what time did you arrive?

A: The call came in at approximately 11:24 at night, and I arrived at approximately 1:26 a.m. It would have been on the 5th.

Q: Now, what was your responsibility in terms of the crime scene unit and SLED?

A: I was assigned to process the scene. I have a partner, another crime scene agent, with me and we worked in a team. I was the lead investigator on this case, which means I handled more of the documentation as far as paperwork, sketching, and

he assisted with the processing and the photographs.

Q: And who was that individual?

A: Special Agent Carl Kinley.

Q: And he was working under your direction?

A: Yes.

Q: Did the two of you work together?

A: We did.

Q: As opposed to independent in different places and different times? You worked together?

A: Yes. We communicated throughout the scene and worked it together.

Q: At the same time, same place, same focus?

A: Yes.

Q: When you first arrived on the scene shortly after midnight, 1 p.m., 1:26 p.m., what did you observe at Phil Court?

A: The scene was secured with yellow crime scene tape around the perimeter of the yard area and there were law enforcement personnel standing by.

Q: What could you -- once you got there, what did you -- what were your first steps with regard to the Marion County Sheriff's Department?

A: I was briefed by a Marion County Sheriff's representative about what the scene entailed, and the search warrant was reviewed and executed, and then we went on into the scene.

Q: And this was -- this was a rural location, was it?

A: Yes, it was.

Q: All right. I have a diagram that I'm going to put up. Generally orient us to this area, and then I'll take it down and we will have you testify about it and we'll show us some photographs later. Sorry to bother y'all. Can you see this?

A: Yes, I can.

Q: All right. I'm going to use this laser pointer just to help you orient us to the premises.

THE COURT: Hold on a minute. What's the exhibit number?

MR. SALEEBY: Excuse me, sir?

THE COURT: What's the exhibit number?

MR. SALEEBY: Number 3, Your Honor.

THE COURT: Okay.

MR. SALEEBY: My apologies.

THE COURT: That's okay. I want to make the record clear. Thank you.

MR. SALEEBY: Yes, sir.

Q: Phil Court. This is a not-to-scale diagram, is it not?

A: It is not to scale.

Q: All right. Was this prepared by you and Mr. Kinley?

A: Yes.

Q: All right. If you would, orient us on what we're seeing here?

A: Those are the steps to the front porch of the residence.

Q: And is this the front porch?

A: Yes, it is.

Q: What is this?

A: A table.

Q: All right. Now, what is this -- this -- this part of the area? Sort of -- this is the second rectangular area just inside the front porch?

A: That would be the residence, a single-wide mobile home.

Q: A single-wide?

A: Yes.

Q: And then we see a third rectangular area at the back. What is that?

A: That is an extension on the residence, and there were numerous tables and a bar area in there and a couple separate rooms.

Q: Okay. Well, let's just work from left to right. What is this area that I'm showing you now?

A: That was the master bedroom of the residence.

Q: All right. And were there any windows in the master bedroom that led out to the porch?

A: Yes, there were.

Q: All right. What's the second room to the right?

A: That is the kitchen area.

Q: The third room?

A: Living room.

Q: This is the fourth room?

A: A bedroom/storage room area.

Q: Next?

A: A bathroom.

Q: And the final room to the right?

A: A bedroom.

Q: So sort of a classic single-wide layout?

A: Yes.

Q: All right. Let's go to the add-on section. The far left?

A: That is a room that had some pool tables in it and restrooms off the rear of it.

Q: And the middle section?

A: There were tables and chairs in there with a bar area.

Q: And the far right area?

A: That was kind of like a living room/den area. There were some sofas in there.

Q: In the front or the front porch right here is -- what is that?

A: That is the front door of the residence.

Q: And is there a back door?

A: Yes, there is.

Q: All right. And that's on the add-on?

A: Yes.

Q: And is this a side door?

A: Yes, it is.

Q: And what's out back?

A: A sitting area.

Q: Okay. And this is the area that you and Mr. Kinley went through?

A: Yes, it is.

Q: All right. I think it might be easier to keep this up and I'll ask you about the areas and then we'll show some photographs later of that. But I'm going to start, if you would, on the right-hand side, the right rear, what you referred to as the den area.

A: Yes.

Q: Tell us what you reserved -- what you observed in the area of this door?

A: Outside of the door area in the grassy area, there were three fired cartridge cases laying on the grass, and those were marked prior to our arrival. We then marked them with evidence markers as 1, 2, and 3. The door had a metal security gate-type door on the exterior. That appeared to be damaged and partially removed from the vinyl siding. The wooden door inside of the metal security gate door was cracked where the lock mechanism would be, and a screw from that was found on the floor inside the doorway.

Q: All right. You said the cartridge cases were found in

this area?

A: They were in the grassy area.

Q: And you have some photographs that you can show us later?

A: Yes, I do.

Q: Can you tell us what caliber those -- those cartridge cases were?

A: Those were 9mm.

Q: If you would, please tell us where you found the body of Sam Rowell?

A: He was placed on the floor. Yes, right in that area between the couch and the wall kind of forward of the door.

Q: Just to the -- as you walk in this door, just to your left?

A: Yes.

Q: All right. You were there at about 1:30. This would have been a good twelve hours before the autopsy. Tell us what you observed there about Mr. Rowell's body?

A: He was clothed. He did not have shoes on, but he had socks on. The ankle area was bound with duct tape. His hands were behind his back and there was duct tape wrapped around those. And he had a white undergarment stuffed in his mouth with duct tape around his head. There was a blood pool around the head area, and a hat was on the floor kind of towards the front of the residence from his head.

Q: Feet towards the door and head away from the door?

A: Yes.
Q: What can you tell us about the condition of his pants?
A: The pockets on his pants appeared to have been partially pulled out. The left rear, the right front, and the right rear pockets.
Q: All right. Left rear; right?
A: Yes.
Q: And which one? Right rear?
A: Right rear.
Q: And right front?
A: Partially, yes.
Q: But not the left front?
A: Not that I observed.
Q: All right. And you weren't at the autopsy; were you?
A: I was not.
Q: You said that there was a blood pool or stain at his head?
A: Yes.
Q: He had no shoes?
A: Yes.
Q: Did you find shoes anywhere else in the house?
A: We did. We found a pair of shoes in the, like, bar/club area along the left side near the pool table room.
Q: This room? This area?
A: Yes.

Q: All right. You have some photographs so you at least can show us this area?

A: Yes, I do.

Q: All right. Now, you found cartridge cases here, three of them?

A: Yes.

Q: Like the sorts that would be ejected from a semi-automatic. What did you do to try to find out if there were any cartridge cases at or near the body of Mr. Rowell?

A: We searched that room. We moved the furniture. We took the couch cushions apart. The room didn't have a lot on the floor so we looked thoroughly throughout the room.

Q: Did you ever find a cartridge case there close to Mr. Rowell?

A: We did not.

Q: All right. I'll ask you now -- I'll move you to the front porch area. Does this face the road of the Phil Court area?

A: Yes, it does.

Q: Is this a screened porch?

A: It was enclosed, yes.

Q: All right. Did you notice -- and I hesitate to ask and I didn't ask you this before -- whether or not there were any surveillance cameras at this house?

A: Yes, there were.

Q: Please tell me where?

A: One was to the right portion of the front porch kind of in front of where that table is and --

Q: About where I am?

A: Yes.

Q: And where's the other?

A: The other one was behind the metal screen -- metal grate door on the side of the residence.

Q: Back at that?

A: Yes.

Q: What did you collect from the front porch area?

A: The front porch area -- we collected some papers off of the table, and we swabbed the -- there was a pair of glasses on the table and we swabbed those for any possible DNA. We processed the front door for any latents evidence and we processed the window into the master bedroom for any evidence.

Q: All right. And when you say you processed them, how did you go about processing them? What does processing mean?

A: Well, the glasses were swabbed using water and a sterile swab to collect any possible DNA, and the door and the window were processed using black powder for any latent fingerprint evidence.

Q: Were you able to lift any -- any identifiable or usable prints from the area that you tested?

A: I lifted one print from the door, and I submitted it to

the lab for analysis.

Q: All right. And you don't know whether that was identifiable or not?

A: No.

Q: All right. Tell me the condition of the windows of the master bedroom here at the left of the -- of the house?

A: They were both partially open.

Q: And what could you tell me about the area around the window?

A: There appeared to be a void on the left portion of the window.

Q: A void meaning what?

A: A void as in there had been some movement there and the dust might have been displaced. You could tell that there was -- the best way to say it would be like a cleaner area of the window than the rest of the window.

Q: The windows were open?

A: They were both partially open, yes.

Q: And what about inside the house? Inside this room, what did you see that might indicate there had been some activity?

A: The curtains were kind of tied back and the blinds were crooked.

Q: Were there pillows on the bed?

A: There were pillows on the bed.

Q: Were there pillowcases on the bed?

A: There were no pillowcases on the pillows.

Q: And what -- did you notice whether or not there was a television or a monitor in that room?

A: There was a television in the corner on the dresser.

Q: And what condition was it in?

A: To my best recollection, it appeared okay.

Q: All right. And was there anything coming out of it to disturb it? Were there any cords in that area?

A: Not that I'm aware of.

Q: All right. Maybe I'm asking the wrong way. Was there a monitor in that room and signs it had been cut?

A: May I refer to my case file, please?

Q: Sure. This has been admitted into evidence as State's Exhibit Number 12-A. I think I may have asked that the wrong way.

A: Yes. There was a monitor on the stand near the foot of the bed.

Q: It's a monitor, not a TV?

A: It might have been a TV, but -- and that was near the foot of the bed near the windows.

Q: All right. And were there any signs of any cords or anything cut outside of that?

A: Yes. There were some yellow cut pieces on top of that.

Q: All right. We'll show that photograph at closer detail later. What did you find in the kitchen? Or what kind of

door leads from the bedroom into the kitchen area?

A: It was a double door.

Q: And what did you find in the kitchen area that was noteworthy to you?

A: There were three cases of -- labelled Crown Royal, three cases of liquor boxes.

Q: Where were they?

A: They were near the steps that lead down into the bar area and they were near the island in the kitchen.

Q: What did you find in the living room area?

A: The living room area -- there were two pillowcases on --

Q: Two pillowcases?

A: Yes. On the couch along the rear wall that contained -- one pillowcase contained a Crown Royal box and ten boxes of cigars, and the other pillowcase contained numerous toiletry items and prescription bottles and medicine bottles.

Q: What else did you find in the living room area?

A: There was a digital DVR recorder on the sofa or loveseat near the front wall.

Q: I did not ask you this before. Was there any sign of forcible entry on this door that leads from the front porch into the house?

A: Not that I observed.

Q: Or from the back door?

A: Not that I observed.

Q: All right. Fine. I'll move you down the hallway to this thing that's called a storage room. It might have been a bedroom at one time. What was the condition of this door and what did you find in that storage room?

A: The door was damaged, and the storage room contained tobacco items and liquor alcohol items.

Q: Were any of those items similar to the Crown Royal and the other items that you found out in this area?

A: I do not recall. I know there were cases of beer in there.

Q: Okay. Alcohol of some sort?

A: Yes.

Q: What did you find in this dining/living room/club area?

A: In the club room area, the steps that are kind of between the island -- there was steps that led down into the clubroom area and at the bottom of the steps, there was what appeared to be a spilled liquid and a cup was there and there was also a lid in the vicinity and there were footwear impressions that were in the liquid that were photographed, and the shoes were along the left wall of that room.

Q: This room?

A: Yes.

Q: Did you find anything of significance in the area of these pool tables or the restrooms?

A: No.

Q: So in the process of what you did, you took photographs?

A: Yes, I did.

Q: You tried your best you can to find prints that could be done? Prints that could be perhaps identified?

A: Yes.

Q: Whether they were or not, you're not sure. You and Mr. Kinley collected items?

A: Yes.

Q: And once they were secured, were they transported to the State Law Enforcement Division in Columbia?

A: Yes, they were.

Q: Were they secured there?

A: Yes, they were.

Q: All right. Did you receive items from the lady who just testified, Ms. Kukila Stanley, that she got from Dr. Tormos at the autopsy?

A: Yes, I did.

Q: Did you also see that those were left at SLED to be processed?

A: Yes. I walked those items in.

Q: Did you actually assist the man in the latent division, Mr. Darnell, in going over some of these items to try to see if there might be possible lifts?

A: Yes. I assisted with some of the processing.

Q: All right. What I want to do now with the assistance of

Mr. Godbolt is show you some photographs.

MR. SALEEBY: And it will take us a minute, Your Honor, with the permission of the Court, to set up your TV, their TV, and the TV for the jury.

THE COURT: Feel free to move. As they're doing that, Mr. Saleeby, can you all approach up here a second?

(Whereupon, a bench conference is held in the presence of the jury but out of the hearing of the jury as follows.)

THE COURT: I ruled on -- have I ruled on all the photographs? Have I ruled on all the photographs?

MR. SALEEBY: Oh, you want to rule on the photographs?

THE COURT: Have you ruled -- have I ruled on all the ones you anticipate showing right now is my question.

MR. SALEEBY: You have not ruled on the body photographs. I think you ruled on all the rest of them.

MR. CLEMENTS: That's my recollection.

MR. WILSON: That's correct.

THE COURT: Get those and let me -- I'm going to do it right here in this mic.

MR. CLEMENTS: You want me to go get the -- those?

THE COURT: Get those photographs, please. I don't want them thrown up there.

MR. WILSON: Yes, sir. I agree.

THE COURT: You got the photographs?

MR. SALEEBY: We've got them. Excuse me, Judge. I can't

do these things without my notes.

THE COURT: Do you have -- do you have the photographs right there?

MR. SALEEBY: It's D, F, and H. Do you need them? I mean I've got them separated out.

THE COURT: Let me see the photographs, please, E, F, and H.

MR. SALEEBY: All right.

(Whereupon, there is a pause in the bench conference.)

THE COURT: B, C, D, E, F, and G. All right.

MR. SALEEBY: From what I show, you ruled on everything, including over objections, except E, F, and H. Is that your correct --

MR. WILSON: That's correct.

THE COURT: All right. I am not going to allow photograph 11-H. I'm not going to allow photograph 11-H. And I'm just going to --

MR. SALEEBY: I'm going to do them last.

THE COURT: Well, let me say this.

MR. SALEEBY: And I was going to make sure that I -- that that's the last thing I did and I did them slow.

THE COURT: I do believe, one, that the photographs are relevant. They're all relevant. I mean they show material facts or conditions that's been corroborated -- corroborative testimony that's already been in -- that's already been

elicited from that stand. Okay?

Now, the next issue is whether or not the prejudice outweighs the probative value. When you initially introduced or tried to introduce these photographs when we were going through all of this, your statement was that the photographs were there to show how he was bound, how he was gagged, and his pockets --

MR. SALEEBY: And his pockets.

THE COURT: -- were pulled.

MR. SALEEBY: That's correct, sir.

THE COURT: All right. A, B, C, D, and G certainly show that. Now, just because photograph F and E show the very things from a different perspective than --

MR. SALEEBY: Have they got all three pockets? That's one of them.

THE COURT: I'm going to allow this photograph here because it -- from photograph D, which shows a bounding, it is not clear from this photograph where the bounding is, whether it be in front or whether it be in back. All right? Photograph E is a clear picture as to where the binding took place.

MR. SALEEBY: Yes, sir.

THE COURT: Photograph F is a farther back picture of photograph G, which shows some bounding around the head and the gagging. Without further explanation, this is not clear

what it is, what is taking place there. Therefore, I'm going to allow photograph F, which is a farther off picture of exactly what that is.

MR. WILSON: Yes, sir.

THE COURT: I do not believe -- all evidence I understand is prejudicial to some extent, but it is corroborated testimony that's been elicited from this witness stand and I do not believe that the prejudicial effect outweighs the probative value of it at this stage.

MR. WILSON: Judge, just for the record, we would argue also that it's cumulative and that some of these pictures are cumulative and that it's already in some of the pictures, and I know the Court is saying that -- that it appears that --

THE COURT: I certainly understand your concern about cumulative, but those are cumulative to some extent, if at all, which I understand is your concern, but they are not gruesome-type photos or any kind of photos that would tend to arouse the sympathies or prejudice of this jury in basing their decision, but I want to --

MR. WILSON: We just take -- we just take exception for the record.

THE COURT: So noted.

MR. WILSON: Thank you.

THE COURT: But H is not admissible.

MR. SALEEBY: I was going to leave H up here with you.

THE COURT: Okay.

MR. SALEEBY: To prevent me from -- and I will tell Keith right now we're not showing H.

THE COURT: Okay.

MR. SALEEBY: I think all the other photographs we're showing.

THE COURT: Did you get all that?

MR. FLOYD: And, Your Honor, just -- just for the record, I mean our objections are noted.

THE COURT: Absolutely. Both defendants' objections are so noted for the record.

MR. WILSON: Thank you very much, Your Honor.

MR. CLEMENTS: I just want to be sure. So the prejudicial outweighs the probative value on H; is that what you said?

THE COURT: Yeah.

MR. CLEMENTS: All right.

(Whereupon, the bench conference ends.)

THE COURT: Mr. Keith, all I have to do is just pull this thing up?

MR. GODBOLT: Yes. It should be ready to go.

MR. SALEEBY: Your Honor, if you would, inquire of the jury once we put a photograph up if it's at the right distance. And if you would bear with me just a moment here, we'll be ready to roll. Mr. Godbolt, are you ready?

MR. GODBOLT: Yes, sir.

BY MR. SALEEBY:

Q: Now, Ms. Fellers, did you get your --

A: Mm-hmm.

Q: All right. Good. You were showing us the diagram which now is at a distance. I'm going to ask you -- I'm going to mention the diagram and then ask you to tell what the photos represent, and we're going to start with photographs from the outside. This would be Number 5-A. Can you see that?

A: Yes, I can.

Q: All right.

MR. SALEEBY: Your Honor, the jurors? Check and see if that's going to be the right focus for them?

THE COURT: Anybody have any problem seeing that in the jury box? All right.

MR. SALEEBY: All right.

Q: What have we got there?

A: That is the front of the residence, the enclosed screened porch area.

Q: All right. And what are these two things I'm pointing to right there?

A: That is the stairways leading into the porch area.

Q: All right. And over here?

A: The other stairway leading into the porch area.

Q: B -- 5-B?

A: That is the left side of the porch area.

Q: I think this must be shooting through the TV. There it is. All right. And where is the front windows there? If you could, show us the windows.

A: They are inside the porch area kind of to the left of the stairway in the middle.

Q: Okay.

MR. SALEEBY: (To Keith Godbolt) Can you zoom in?

Q: Is that what he's showing you?

A: Yes.

Q: And 5-C? And what is that?

A: That is the right side of the residence.

Q: And show us where the security camera was?

A: The security camera is in the upper portion along the roof. Yes, right up -- yep.

Q: All right. That's fine. Thank you very much. Now, you took some pictures of the back as well I believe?

A: Yes, I have.

MR. SALEEBY: Let's go to 6-A.

Q: And what are we looking at there?

A: That is the rear of the residence with the seating area outside.

Q: And this is the seating area over to the right of the nose of the truck?

A: Yes.

Q: And B?

MR. SALEEBY: If you could, show us B -- 6-B.

Q: What's that showing us?

A: The rear door into the dining/clubroom area from the seating area.

Q: All right.

MR. SALEEBY: Let's go photograph Number 7 -- 7-A.

Q: What is that?

A: That is the front porch area.

Q: All right. And where are the two sets of steps?

A: They are -- the one is where that mat is going out that doorway and the other one is on up also on the right side.

Q: All right.

MR. SALEEBY: And show us to the left the windows, if you would, come in and zoom in over here.

Q: And show us the windows to the master bedroom?

A: Those are the windows that were partially open.

MR. SALEEBY: And if you would, please show us now C -- 7-C.

Q: What is that?

A: Those are the coffee cups and the papers and the glasses on the table that were in the patio area.

Q: What did you do with those papers?

A: I collected the papers.

Q: And they were sent to SLED?

A: They were.

Q: All right.

MR. SALEEBY: Let's shift now to -- if we would, to photographs 8.

MR. GODBOLT: 8-A?

MR. SALEEBY: 8 -- 8-A. Excuse me.

Q: What are we looking at there?

A: That is the door along the right side of the extension on the back with the metal security-type door.

Q: And where was the security camera in -- in -- in proximity to that? It may or may not be shown in that photograph, but where was it?

A: It was closer to the rear.

Q: Closer to the back?

A: Yes.

Q: All right.

MR. SALEEBY: Let's go to 8-B.

Q: Same view, different angle?

A: Yes.

Q: And this is the condition of the door when you got there?

A: Yes.

Q: And you don't know at what point in time from your own knowledge either one of those doors was the condition they were in?

A: No.

Q: All right.

MR. SALEEBY: 8-C.

Q: What's that showing us?

A: That is showing where the door was partially loosened from the wall.

Q: All right.

A: On the side.

MR. SALEEBY: 8-D.

Q: What have we got there?

A: Those are the markers 1 through 3 for the 9mm cartridge cases.

Q: And I see two things there. I see numbers and flags, and who did what when?

A: The flags were there prior to my arrival and I -- we placed the numbers there.

MR. SALEEBY: I think the next number is 8-E; is it?

MR. GODBOLT: Mm-hmm.

Q: All right. What have we got there?

A: That is one of the cartridge cases that is on the exterior of the residence on the cement.

Q: That's close to that side door?

A: Yes, it is.

MR. SALEEBY: 8-F. Zoom in there. And 8-G. And let's just go back to 8-D which shows the proximity of these three to the door. There we go. There we go. Can you back out or

is that --

Q: That's where you found them?

A: Yes.

Q: All right. Did you then walk in the door and take pictures in the interior of that den area?

A: The interior was photographed, yes.

MR. SALEEBY: Let's go to 9-A.

Q: Okay. What are we looking at there?

A: That is the interior of the room where the metal door was with the wooden door on the inside. There is damage on the wall to the left of the door frame from this angle and you -- the victim is on the floor to the right of the door.

Q: And that's Mr. -- as you found Mr. Rowell, that's where he was?

A: Yes.

MR. SALEEBY: Let's go to 9-B.

Q: Same door?

A: That is the wooden interior door.

MR. SALEEBY: 9-C.

Q: That's part of the door frame?

A: Yes.

MR. SALEEBY: 9-D.

Q: What are we --

MR. SALEEBY: Can we zoom in there a little bit?

Q: What are we seeing there on the floor?

A: That is the drywall that is damaged, and that is the drywall debris on the floor below it.

MR. SALEEBY: 9-E.

Q: What are we looking at there?

MR. SALEEBY: Can you zoom in on the item? Yes.

Q: What's that?

A: That is a screw that is on the floor inside the doorway along the wall.

MR. SALEEBY: And zoom out.

Q: And is that Mr. Rowell there?

A: Yes.

MR. SALEEBY: And is that 9-E?

MR. GODBOLT: Yes, sir.

MR. SALEEBY: All right. Let's go to 10 in the den. All right. Let's focus this.

Q: That's a view we haven't seen before. Where are you standing in that photograph? Where's the door we've been looking at? And where would Mr. Rowell be?

A: The photographer would be in the front left corner of the room. The door that we were looking at is the opening on the right side of the photo, and Mr. Rowell would have been on the floor between the love -- or the couch and the wall.

MR. SALEEBY: Let's go to 10-B.

A: This --

Q: Tell us what view we're looking at there?

A: This view shows the entrance into the dining club area.

MR. SALEEBY: And 10-C.

A: That is a photograph of Mr. Rowell on the floor along the wall between the wall and the couch.

MR. SALEEBY: All right. We'll skip 11 and go to 12 -- 12-A.

Q: All right. First of all, let's start on the left and let's talk about the blinds over the windows there. What are we looking at there?

A: That is the curtain area that was kind of tied back, and those are the blinds that were somewhat crooked.

Q: And the window was open?

A: Yes, partially.

Q: And that's the monitor on the right?

A: Yes, it is.

MR. SALEEBY: Let's go to 12-B. Okay. Zoom in on the cords, please.

Q: What are we looking at there?

A: Those are the cut ends of the cords.

MR. SALEEBY: So let's see if we've got a 10-C that shows that a little better. That's 10-C.

Q: What is that?

MR. GODBOLT: That's 12-C.

MR. SALEEBY: 12-C. I beg your pardon.

A: That is the dresser that is along the front wall of the

bedroom.

Q: Is that drawer open?

A: Partially, yes.

MR. SALEEBY: If you could, show us that.

A: The drawer is partially open.

MR. SALEEBY: 12-D.

Q: Same drawer from another perspective?

A: Yes.

MR. SALEEBY: 12-E.

Q: What is that?

A: Clothing items on top of the dresser.

Q: And could you describe what those items might have consisted of? And the photograph might not show it as well as you would call it being. What are those items of clothing?

A: White brief underwear.

Q: White brief underwear?

A: Yes.

Q: Could you --

A: There were other items of clothing there also.

Q: Did those brief underwear -- did you observe the underwear that was in Mr. Rowell's mouth?

A: I did.

Q: All right. Were they similar to these underwear?

A: They were also white brief underwear, yes.

MR. SALEEBY: Is it 12-F?

Q: And what is that?

A: That is the doorway leading from the kitchen into that master bedroom area.

Q: So you come out of the master bedroom and you come into the kitchen?

A: Yes.

MR. SALEEBY: Let's go into the kitchen and the living room, the central part of the mobile home. 13-A.

Q: What are we looking at there?

A: Those are two Crown Royal boxes, and that is between the island and a kind of built-in bar area in the kitchen area.

Q: That's how you found them? Stacked up there?

A: Yes.

MR. SALEEBY: Let's look at 12-B -- 13-B. I beg your pardon.

Q: What's that?

A: That is another Crown Royal box, and that is near the door leading to the dining club area.

Q: Are those represented on your diagram of the areas just past the stove? Is that what that might be or is that too -- too nebulous to say?

A: Those are -- those might represent the chair that it was on.

Q: All right.

A: Yes.

MR. SALEEBY: Let's go to the next. I think it is 13-D, is it?

Q: All right. That's the sofa. Which side? The back side or the front side?

A: That is the back side of the sofa.

Q: And what are we looking at?

A: Two pillowcases on it.

MR. SALEEBY: Let's go to the next, 13-E.

Q: You opened up the pillowcases?

A: We did.

Q: And there were no pillowcases on the pillows in Mr. Rowell's bed?

A: Correct.

Q: What are we looking at in that pillowcase?

A: That is a Crown Royal box and cigar boxes inside the pillowcase.

Q: Crown Royal box and cigar boxes?

A: Yes.

Q: In a pillowcase?

A: Yes.

MR. SALEEBY: 13-F.

Q: What is that?

A: That is a toiletry set inside of the other pillowcase.

Q: Both on the sofa on the back wall of that room?

A: Yes.

MR. SALEEBY: 13-G.

Q: What do we have there?

A: That is the recorder that was on the sofa along the front wall.

MR. SALEEBY: And 13-H.

Q: Is this how you found it?

A: Yes.

Q: With those cords cut?

A: They appeared to be cut, yes.

MR. SALEEBY: Let's go to 14-A.

Q: The storage room?

A: That is the door leading into the storage room from the hallway.

MR. SALEEBY: Can you zoom in on that handle?

Q: What condition was that door in?

A: Damaged.

MR. SALEEBY: Let's look at 14-B. Same thing, zoom in on it a lot. And 14-C.

Q: That's the contents of that room?

A: Yes.

Q: All right.

MR. SALEEBY: Let's go to the back area to the dining club area, 15.

Q: What are we looking at? It is the back area. What -- what -- where is that? What's our viewpoint here? Can you

see that?

A: Yes. That is the bar area along the -- that is the bar area to the right side of the photograph and the door leading into the area where Mr. Rowell was is that doorway that the cursor is on and those are the tables in that bar area. Yes.

MR. SALEEBY: Let's look at B. Can you zoom in? Can you zoom in right in here?

Q: And can you tell us what we're looking at there, Ms. Fellers?

A: Those are the footwear impressions that were in the spilled liquid on the floor, and if he zooms out just a little bit --

MR. SALEEBY: Zoom out.

A: That is the lid for the paper cup and then on back on the carpeted area is where the paper cup was.

MR. SALEEBY: If you would, go then to 16. I beg your pardon. 15-C and just zoom in on that.

Q: This is in the back of the dining club area?

A: Towards the back, yes.

Q: And the shoes that you found, which I don't think I have a photograph of, were closer to the side, were they?

A: They were. There was a chair along the left wall of the dining club area near the door that leads into the room where the pool tables are, and the shoes were on the floor in that area.

MR. SALEEBY: Okay. We will go to 11 next, but first I need to show Ms. Fellers some items of property and have her identify them. Bear with me one moment. There are a number of items over here to one side.

Q: Do you need gloves to look at these things?

A: If I'm going to open them. I have some with me if I need them.

Q: All right. And I think that's the safest thing to do. Just take a second and do that. All right. I'm going to show you three items which have been marked for identification as 20-A, B, and C. I'd like you to take a look at these items and the contents and tell us if you can identify them?

A: What item numbers were they?

Q: I think State's Exhibits -- it should be 20-A, B, and C.

A: Okay.

Q: It would be marked here.

A: Those weren't my item numbers then.

Q: No, no, no. They're not your item numbers. They're exhibit numbers.

A: Okay. Yes. These are the packaging for the cartridge cases that I collected at the exterior of the residence.

Q: Can you take a look at the cartridge cases for me while we're there?

A: Yes.

Q: You've looked at them?

A: Yes.

Q: Are those the cartridge cases you collected from Phil Court that evening?

A: Yes, they are.

Q: And are they in substantially the same condition as when you collected them?

A: Yes, they are.

MR. SALEEBY: Your Honor, we would move for the introduction of State's Exhibits 20-A, B, and C.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objection, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection, Your Honor.

THE COURT: Without objection, State's Exhibits 20-A, B, and C are admitted into evidence.

Q: You next mentioned that you -- and I'll get this out of your way. You said in one of those pillowcases there were some cigar boxes?

A: Yes.

Q: I'm going to show you State's Exhibits 21, 22, 23, and 24, and ask you to take a look at them.

A: Yes.

Q: Did you seize those from the scene that night?

A: Yes, I did.

Q: Did you mark them in a way that you would be able to

identify them later?

A: Yes, they were.

Q: And you see your markings on them?

A: Yes, I do.

Q: Are they substantially the same way as when you collected them then?

A: Yes.

MR. SALEEBY: Your Honor, we'd move for the introduction of the evidence of those items 21, 22, 23, and 24.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: Without objection, State's Exhibits 21, 22, 23, and 24 are admitted into evidence.

Q: One of those bags had a Crown Royal bottle in it, did it not?

A: One of the pillowcases. Yes, sir.

Q: One of the pillowcases. My bad. This is State's Exhibit Number 25 for identification. Take a look at that.

A: Yes.

Q: Is that an item you seized that night?

A: Yes, it is.

Q: And did it you mark it so you could identify it?

A: Yes.

Q: And is it substantially unchanged from when you got it?

A: Yes.

MR. SALEEBY: We move for its introduction, Your Honor.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No objections.

THE COURT: Without objection, that is State's Exhibit Number 25 admitted into evidence.

Q: There was a big case of Crown Royal on the floor. I'll show you State's Exhibit Number 26 and ask you if you seized that that evening?

A: Yes, I did.

Q: Did it you mark it in a way you could identify it?

A: Yes, I did.

Q: Is it substantially unchanged from when you got it?

A: Yes.

MR. SALEEBY: Your Honor, we'd move for the introduction of State's Exhibit Number 26.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No objections.

THE COURT: Without objection, State's Exhibit Number 26 admitted into evidence.

Q: There was a DVR recorder that was in that kitchen/dining area with cords coming out of the back of it. I'm showing you State's Exhibit Number 28 for identification. I ask you if you can identify that?

A: Yes, I can.

Q: Did you mark it in a way so you would be able to tell?

A: Yes, I did.

Q: And is that in substantially the same condition as when you seized it?

A: Yes.

MR. SALEEBY: Your Honor, we'd move for the introduction of State's Exhibit Number 28.

THE COURT: Mr. Wilson?

MR. WILSON: No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection, Your Honor.

THE COURT: Without objection, admitted into evidence as State's Exhibit 28.

Q: With regards to the items that are in evidence that we're pulling right now, the fragment recovered from the autopsy is State's Exhibit Number 30. The duct tape from Mr. Rowell's head is State's Exhibit 31 and 32. The duct tape from his feet is State's Exhibit 33 and 34 -- and the duct tape from his hands, 35, and the underwear. Were all of those items transferred to you by Kukila Stanley?

A: Yes, they were.

Q: And what did you do with them?

A: I packaged them and logged them into the laboratory for additional analysis.

MR. SALEEBY: Your Honor, does this witness need to identify those items since they're in evidence?

THE COURT: Depends on -- any objection, Mr. Wilson?

MR. WILSON: I have no objection to that.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection, Your Honor.

THE COURT: No, sir.

Q: 36 and 37. You said you seized --

THE COURT: Hold on a minute. Hold on a minute.

MR. SALEEBY: What was that? Did I miss one?

THE COURT: 32 and 34 were not admitted into evidence yet. Did you just move them to be entered into evidence?

MR. SALEEBY: 32 and 33?

THE COURT: 32 and 34 have not been admitted into evidence yet.

MR. SALEEBY: If I mentioned those, I mentioned those in error. I'm not ready for those.

THE COURT: They are not -- 32 and 34 have not been moved into evidence yet. Okay?

MR. SALEEBY: Thank you.

Q: I'm showing you two items, State's Exhibit Number 37 --

I'm sorry. Yeah, State's Exhibit Number 37 and State's Exhibit Number 38.

MR. SALEEBY: (To Mr. Clements) This is 37. I need 38.

Q: This is 36. Do you need to open these to identify them or are you satisfied with what you've got there?

A: I wrote on the exterior packaging for each one.

Q: And what are those?

A: These are the pillowcases.

MR. SALEEBY: We would move for the introduction of those, Your Honor.

THE COURT: Mr. Wilson, any objection?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No objections.

THE COURT: All right. Without objection, State's Exhibit 37 and 38 admitted into evidence.

MR. SALEEBY: Mr. Clements, let me have that list for my questions. Your Honor, that is 32 and 34, was it not?

THE COURT: No, sir. Yeah, the ones you have not, 32 and 34 --

MR. SALEEBY: Thank you, sir.

THE COURT: -- have not been admitted as of yet.

MR. SALEEBY: All right. Mr. Godbolt, I'd like now to go to photographs and just ask the Court again is it everything but H?

THE COURT: Correct.

MR. SALEEBY: All right.

Q: You took some pictures of Samuel Rowell as you found him that evening?

A: Yes, I did.

MR. SALEEBY: Let's go to State's Exhibit Number 11-A.

Q: All right. Where is he positioned? What's on his feet?

A: That is inside the residence -- inside the residence in that living room area and that is the door that has the metal grate that was damaged near his feet. He has socks on his feet, and there's duct tape around his ankle area.

MR. SALEEBY: Let's look at another closer angle, State's Exhibit 11-B.

Q: All right. Is this taken with him face up?

A: Yes, it is.

Q: What are we looking at right there?

A: That is the pocket that is partially pulled out on his right side.

MR. SALEEBY: Can you zoom in on that, please, sir?

Q: Right front pocket?

A: It appears to be, yes.

MR. SALEEBY: Let's go to 11-C. Zoom in, please.

Q: What are we looking at there?

A: Rear left pocket.

Q: Rear left?

A: Yes.

Q: Rear left, front left?

A: Yes.

Q: Front left not pulled out?

A: No. It does not appear to be.

Q: Rear left?

A: Yes.

MR. SALEEBY: State's Exhibit 11-D.

Q: Tell us what we see there?

A: Those are his hands, which were behind his back, and that was once we moved him, and that is the rope and the tape around his wrist area.

MR. SALEEBY: State's Exhibit 11-E.

Q: What are we -- you've moved his -- moved him at this time, have you?

A: Yes.

MR. SALEEBY: All right. Let's zoom in on his right rear pocket and his right front pocket.

Q: Tell us what we see there?

A: The pockets are both partially pulled out.

MR. SALEEBY: State's Exhibit 11-F.

Q: Can you see that?

A: Yes, I can.

Q: What are we looking at?

A: That is the white material in his mouth area and the tape

wrapped around it.

MR. SALEEBY: And let's look at State's Exhibit 11-G.

Q: I'll ask you if this is a close-up?

A: Yes, it is.

Q: Thank you, Ms. Fellers. Please answer any questions counsel has for you.

A: Thank you.

MR. WILSON: Can we move this?

THE COURT: Yeah. Can y'all take these videos down, please?

(Whereupon, there is a pause in the proceedings.)

THE COURT: All right. Mr. Wilson, cross examination.

MR. WILSON: Thank you very much, Your Honor.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. WILSON:

Q: Ms. Fellers or Agent Fellers, you said that you've been doing this for how long? Crime scene investigation? Prior to July of 2012, how long had you been a crime scene investigator?

A: Prior to July 2012, approximately five years.

Q: Okay. And you would have worked then probably hundreds, if not more, of different crime scenes by that time?

A: That is correct, yes.

Q: And when you come out to a crime scene as a crime scene

investigator or specialist, part of what you want to do is find any items of evidence that might be preserved so that you can preserve it, bring it to court, and show it?

A: That is correct.

Q: Okay. And one of the things that you would be concerned about during your investigation is making sure that the crime scene is not contaminated; right?

A: That is correct.

Q: And that -- that would mean that you don't want other people walking through the crime scene or being in and out of the house touching things, picking things up, putting them back, that kind of thing, or moving things around?

A: Yes.

Q: All right. And that's very important because sometimes if that happens, you don't always know that someone went in and touched something before you got there; right?

A: That is correct.

Q: Okay. And when you got there, you actually got there -- what? A couple of hours after the call -- the 9-1-1 call was made?

A: I'm not sure exactly when the 9-1-1 call came in, but I got there approximately two hours after I was called.

Q: Okay. What time were you called?

A: I was called at approximately 11:24 in the evening.

Q: Okay. So if the 9-1-1 call was at 9:41 and you got there

at 11 -- what?

A: I got there at about 1:26 a.m.

Q: So three and a half, give or take?

A: Yes.

Q: Okay. And did you make a determination when you arrived as to how many people, including law enforcement people, had been in and out of that house before you got there?

A: No, I did not.

Q: Okay. Did you make any attempt then to determine how many civilians had been in and out of that house before you got there?

A: No, I did not.

Q: Did you talk to the law enforcement who was present on the scene when you arrived to ask them what their protocol was? That is, what did -- what is it that they had done before you got there so that you would make sure that you didn't have to cover the same things they had already done?

A: Not that I recall.

Q: Okay. Now, is it fairly typical for EMS to come and attempt to resuscitate an individual once they find a body that is supposed to be either dead or severely injured?

A: Yes, that happens.

Q: Okay. And is that something that you take into account in your protocol or in your processing of the scene?

A: Yes.

Q: Okay. And was there EMS? Did EMS come to the house on that particular night?

A: I am not aware, but I did not observe any of the typical EMS debris that they leave behind.

Q: Well, would you be surprised to know that EMS did come?

A: No, I would not.

Q: Okay. And do you know if they -- do you know what they did while they were there, if anything?

A: No, I do not.

Q: Did you talk to EMS to find out from them what, if anything, they did in regards to the body before you got there?

A: No, I did not.

Q: You said during the photographs that a number of the pockets were turned inside out; right?

A: Yes, they were.

Q: Okay. Now, do you know whether EMS did that?

A: No, I do not.

Q: Okay. In fact, we don't know how those pockets got turned out, do we? Or at least as crime scene specialist, you don't know?

A: No, I do not.

Q: All right. But now, in all fairness, there was money found in his -- was it right front pocket? $22.19?

A: There was money found in a pocket. I would have to look

at my case file to tell you exactly which one.

Q: Okay. But there's no question about the fact that there was money found in one of the pockets; right? Cash money?

A: Yes, there was.

Q: And there's no question that a cell phone was found in the other pocket?

A: That is correct.

Q: Okay. And so even though you're saying the pockets were turned out, do you know or did you know back on July the 5th what, if anything, was ever taken from his pockets?

A: I do not know that.

Q: Okay. And in fact, you don't know whether he had a wallet or he didn't have a wallet on July the 4th in his pocket; do you?

A: I do not.

Q: Okay. Now, let's talk for a minute about what you submitted to SLED. Now, the whole idea of submitting stuff to SLED is to help determine if -- one, if there's DNA on some items --

A: Yes.

Q: -- such as maybe a coffee cup if somebody is drinking out of it?

A: Yes.

Q: Or maybe say a cigarette butt. That would be important if a -- if a person is smoking a cigarette and they -- you

find the butt of that cigarette, there may be a chance that there'd be that person's DNA on the cigarette butt?

A: Yes, it could be.

Q: Now, let me ask you -- you -- have you seen a video in this case of -- of anything?

A: No, I have not.

Q: Okay. Did you find a cigarette butt out in front of the house on the left-hand side of the steps?

A: Not to my recollection, no.

Q: Do you know whether or not y'all looked for a cigarette butt on the left side of the steps as you approach the front of the house?

A: We looked in the area, yes, but I did not recall seeing a cigarette butt.

Q: Okay. Well, would it surprise you if there was a cigarette butt thrown to the left side of the house as the people approached the house?

A: There could have been.

Q: Okay.

A: It would not surprise me.

Q: All right. But you didn't find that. Now, you say that you found this recording device, and this recording device that you say was on the couch and with the wires cut from it; correct?

A: They appeared to be cut, yes.

Q: Appeared to be cut, but we don't know who cut them; right?

A: I do not.

Q: In fact, we don't even know when they were cut?

A: No.

Q: Okay. But what we do know is is that there were multiple, multiple prints -- fingerprints or latents on that machine, weren't there?

A: There were latents recovered from that machine, correct.

Q: In fact, you recovered -- what? -- nineteen? Twenty-seven? How many? How many latents did you recover from that one machine?

A: I did not do all of the processing on it; so I can't answer exactly how many.

Q: Okay. So someone else processed it in addition to you and -- but you know you recovered multiple latent prints. Now, explain to the jury -- when we say recovered multiple latent prints, explain to them exactly what that means. What does it that we recovered when we recovered these latent prints?

A: That is the -- if you look at your fingertips and you see the ridges, a latent print is the impression that is left from the oils and moisture on your hand from those ridges on the item.

Q: Okay.

A: It just -- it's ridge detail pretty much.
Q: Okay. And then what you want to do is you want -- as a crime scene specialist or agent, you want to get -- make a copy of that or take that lift or lift that lift, if you will, and then you want to send it or sometimes you may process it yourself. Do you do actual processing --
A: I did --
Q: -- of the prints?
A: -- limited processing, yes.
Q: Okay. And you take that and then you process it and you want to match it against an individual. Is that fair?
A: I collect any ridge detail that I see on scenes, and I assisted in the processing of these items, and then a latent examiner would look at the latents that are recovered or photographed on the items and determine the value and any analysis from that point on.
Q: Of the -- of the multiple latents that you took from this video recording machine? Because as I understand it, your testimony is that the video recording machine was found on the couch on the living room area?
A: Yes, it was.
Q: Is that right?
A: Yes, it is.
Q: And you're saying that it was in a -- a pillowcase?
A: No, it was not.

Q: It was not in the pillowcase?

A: No, it was not.

Q: It was just laying on the couch?

A: That was on the other couch. The pillowcases were on the couch along the rear wall.

Q: Okay. And so it got moved somehow to get on the couch; right?

A: I would assume so.

Q: But we don't know who moved it to the couch?

A: I do not.

Q: Do you know whether or not Mr. Rowell moved it and put it on the couch?

A: I do not.

Q: Okay. Do you know how long it had been on the couch?

A: I do not.

Q: Now, let me ask you in regards to the prints that you did -- the latents that you did make of that machine, did you compare those latents that you found on that machine to Mr. Sanders?

A: I am not qualified in the area of latent print comparison. I assisted in the processing, and the latents examiner would be more qualified to answer that question.

Q: Okay. All right. Do you recall how many latents you actually lifted personally from that machine?

A: I do not.

Q: Okay. Do you have that in your notes?

A: I -- I do not have the examination. That would be on the latents examiner's report and worksheets.

Q: Okay.

A: They might not have been the actual lifts either. They could have been photographs.

Q: Okay. So you do photographs as well as that?

A: Yes. If the surface requires it, yes.

Q: Okay. Now, you also found a coffee cup in the club area of this place; right?

A: Yes, I did.

Q: And you said you wanted DNA touch and DNA saliva and latents. Now, what does that mean?

A: That means that the coffee cup would be processed by the latent examiner and/or a DNA person, and they would look at it to see if they thought they could get latent prints off of it, and if not, they would swab it for touch DNA and then they would swab around the area where your mouth would go if you were drinking out of it for any possible saliva DNA.

Q: Okay. All right. And to your knowledge, did you request that SLED look at that and analyze it to see if, in fact, DNA of -- especially I'm concerned about Mr. Sanders, whether his DNA was on that coffee cup.

A: May I look at my case filed?

Q: Yes, ma'am. Sure. Okay.

A: Okay. I requested DNA analysis and latent prints on that. That is correct.

Q: Okay. So you requested them to look at that and to determine whether or not he ever drank from that coffee cup?

A: To determine who.

Q: Who drank from the coffee cup?

A: Yes.

Q: Okay. Now, you also found two cigarette butts in an ashtray in this place; right?

A: I --

Q: From on the desk in the club area.

A: Yes, I did.

Q: Okay. And you sent that off also as well to have DNA done on that trying to determine whether or not the perpetrators of this crime smoked those cigarettes?

A: Yes, I did.

Q: All right. And you also sent a set of swabs from the living room door?

A: Yes, I did.

Q: Trying to determine the same thing; right?

A: Yes, I did.

Q: Okay. You also got latents from one of the doors. Now, which door was that? Was that the door that was broken open or kicked open? Is that the door that you got the latents from?

A: No. The latent that I lifted on the scene was from the door that led to the steps near the security camera off of the front porch area.

Q: Okay. Now, the fingernail clippings, let me ask you about that because I think I asked Agent Stanley about it and she said she turned that over to you I think. There were some fingernail clippings of the victim that were taken at the time of the autopsy and those fingernail clippings were supposedly turned over to you.

A: Yes.

Q: And those were the fingernail clippings of Mr. Rowell?

A: Yes.

Q: Now, tell -- tell this jury why it would be important to get the victim's fingernail clippings. Why would that be important to do?

A: There could be possible DNA evidence under the fingernails if the person had fingernails that were long enough to collect anything that could have come from any type of struggle with -- or if you scratched somebody, anything like that.

Q: So essentially, if -- if the victim had been in a fight or a struggle and he scratched one of the perpetrators, there would be a chance that some of his DNA -- the perpetrator's DNA might be very well under his fingernails?

A: There's be a possibility of it, yes.

Q: And we would want to know that?

A: Yes.

Q: And if it was there, then DNA would tell us who that person was or could tell us perhaps who that person was?

A: Yes.

Q: All right. Now, this place was a club or a lounge or whatever you want to call it. Is that -- is that -- is that a fair statement based on your view of it as a crime scene specialist?

A: I would assume that social activities took place there, yes.

Q: Okay. And do you know how frequently social activities took place there?

A: No, I do not.

Q: Okay. How many sets of known fingerprints or standards did you send to SLED to be measured against all of the many latents that you had garnered during the course of this investigation?

A: I only submitted the latent prints that were collected from Mr. Rowell at autopsy.

Q: Okay. So you only submitted Mr. Rowell's prints?

A: Yes.

Q: And -- and -- and the prints on the door, for instance, did you ever find out who those prints belong to?

A: I am not aware of what the examiner determined. No, sir.

Q: Okay. Now, you also -- you swabbed the -- the door handle and -- and it was at the door that you enter into the bedroom? Is that the door we're speaking of? You had one pair of swabs collected from the door handle of the door open on the headboard of the bed?

A: That was one of the wooden doors that was part of the bed as the headboard had, like, cabinets on it and around it.

Q: Okay. So how many -- how many items was it that you submitted to SLED and asked them to test or analyze to make a determination as to whether there was DNA or whether there was fingerprints involved in this particular case that you are aware of?

A: I submitted over 60 items, butn some of those were not submitted for analysis.

Q: Okay. Did you ever make a determination as to when the last time was that they had a party or a club event at this location?

A: No, I did not.

Q: Do you know whether or not there was one the night before?

A: No, I do not.

Q: Let me ask you -- you indicated that there was a footprint inside the house on the floor I think when you were addressing the solicitor earlier?

A: A shoe print, yes.

Q: A shoe print? And, in fact, there was a shoe print outside in the yard as well; right?
A: No, sir.
Q: There was no shoe print in a yard?
A: No, sir.
Q: Are you sure?
A: It was in the field way back by the tree line.
Q: Okay. Well, in the field -- in the yard, there was another print outside, let's put it that way?
A: Yes, there was.
Q: All right.
A: It was a significant distance.
Q: And did the two prints match the one that was in the house on the floor and the one that you found out in the field? Did those two match?
A: I am not qualified to answer that question.
Q: Okay. Well, did you submit both of those to SLED and ask that they be analyzed first to see if they matched? And then the second part of the question is did you then try to find out who they matched to?
A: I photographed them. I did not -- they were not analyzed at SLED.
Q: Okay. They were not analyzed?
A: They were not.
Q: So we don't know if those footprints belonged to somebody

in law enforcement who was helping to investigate out there?

A: I do not.

Q: And we don't know either whether or not some of those prints that were found on the video recorder machine belong to law enforcement officers who were out there looking around before you got there?

A: That is not a question I can answer.

Q: Okay. Well, do you know?

A: I do not know.

Q: Okay. Now, when EMS -- did you -- did you ever examine the body of Mr. Rowell when you got there?

A: When --

Q: I know you said you've got a call out there. I know you said you photographed it. What I'm asking you is other than taking pictures did you actually look at the body?

A: Limited. We looked at it enough to roll it over and to -- when the coroner was present on the scene or the coroner's people were present, which was prior to transport.

Q: Did you notice three marks in his arm area?

A: I did not.

Q: Okay. Have you seen a copy of the autopsy report?

A: I have not.

Q: Now, the pillowcases -- you said that there were two pillowcases missing off of the bed; is that right? Two?

A: Yes.

Q: All right. And there were two pillowcases on the couch in the living room?

A: Yes.

Q: Okay. And do we know whether or not -- well, let me ask you it this way. Do you know how the pillowcases got from the bedroom to the living room?

A: No, I do not.

Q: Do you know when they got from the bedroom to the living room?

A: No, I do not.

Q: Do you know whether or not Mr. Rowell moved them from the bedroom to the living room?

A: No, I do not.

MR. WILSON: I don't have any other questions. Thank you very much.

THE COURT: Mr. Floyd, cross examination.

MR. FLOYD: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FLOYD:

Q: I just have a couple of questions. How are you today?

A: I'm good. How are you?

Q: Good. When you try to lift a latent print on an object like a table or whatever, a door, how do you detect the presence of a print?

A: One way of detecting it would be to look for a void area,

like what I mentioned on the window where you can tell there's been a disturbance in the film or the dust on the surface. We use oblique lighting, which is holding a light at an angle so that sometimes you can visualize them that way, and then they are also processed using different types of powders.

Q: Okay. And once you detect a print that you want to have tested, you actually lift it? Is that how you refer to it?

A: We call it lifting it. That's when you take a piece of tape and you apply it to the print, smooth it out, and then you lift the tape off of the print, and the powder leaves an impression on the tape, and that is applied to a white -- or a backer of some type, kind of like a note card, so that you can see the print. And since you're using a dark powder, it would contrast against the white background. Or it can be photographed on scene.

Q: Okay. So the tape that you use to lift the print, that's what's actually sent to the lab to be tested; is that correct?

A: On the backer, yes.

Q: Right. Okay. So you -- basically, you're transferring a print from one medium to another; is that correct?

A: Yes.

Q: Okay. Thank you.

THE COURT: Any redirect?

MR. SALEEBY: Yes, Sir. If I could, please, Your Honor, I neglected to show this. I did not show this item to Ms.

Fellers. It's State's Exhibit 28 -- 27-A, and with all the other stuff, I overlooked it.

REDIRECT EXAMINATION

BY MR. SALEEBY:

Q: But I'm going to show that to you and ask you if you can identify it?

A: Yes.

Q: And what can you identify it as being?

A: These are the papers that were collected from the table that was on that front porch area.

Q: And is it substantially in the same condition as when you retrieved in?

A: Yes.

MR. SALEEBY: I move its introduction.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No, sir.

THE COURT: Without objection, State's Exhibit 27 is admitted into evidence.

Q: And just as a couple of procedural things, you testified earlier that when you got to SLED, you helped Mr. Darnell process some evidence, but you did not actually do any fingerprint testing yourself?

A: I do not do comparison. I'm not qualified.

Q: That's not something you're qualified to do. Mr. Darnell would be qualified to speak to that?
A: Yes, he would.
Q: And there's something else that you said that folks might not be aware of. You said you didn't see any signs of EMS nor anybody else to your knowledge tampering with Mr. Rowell's body. What do you ordinarily see once EMS shows up?
A: Usually -- sometimes when EMS comes to a scene, they might leave some gloves around or they'll put medical leads on the body to try to detect any heartbeat or anything like or there might be some sterile packaging where they remove gauze or anything that they might have did while they were on the scene.
Q: And part of that protocol there is not going into people's pockets, is it?
A: I am not sure what the protocol is.
Q: Okay. Thank you, ma'am.
THE COURT: Mr. Wilson?
MR. WILSON: Nothing further, Your Honor.
THE COURT: Mr. Floyd?
MR. FLOYD: Nothing further.
THE COURT: All right. Ma'am, you may step down. Thank you.
THE WITNESS: Thank you.
MR. SALEEBY: And I'll ask that she be excused.

THE COURT: Any objection?

MR. WILSON: No objection, Your Honor.

MR. FLOYD: No objections.

THE COURT: Ma'am, you are excused. You have no further responsibilities regarding your subpoena. Thank you for being here.

THE WITNESS: Is that for both --

THE COURT: You're free to go.

THE WITNESS: For both subpoenas?

THE COURT: Ma'am?

THE WITNESS: Is that for both subpoenas or --

MR. WILSON: Yes, sir.

THE COURT: Yes, ma'am.

THE WITNESS: Thank you.

THE COURT: All right. Ladies and gentlemen, we're going to take an afternoon break. It's four o'clock or a few minutes after four. I'm going to ask that you step to your jury room for just a few minutes and I'll get you back out here as quickly as possible and we'll resume the trial of this case. Do not discuss the case. Do not discuss the case.

(Whereupon, the jury exits the courtroom at 4:02 p.m.)

(Whereupon, a bench conference is held off the record regarding a juror requesting to make a phone call and regarding scheduling.)

(Whereupon, a juror enters the courtroom.)

THE COURT: All right. Ma'am, I'm going to let you go make a phone call. I'm just going to ask that you be escorted by one of the bailiffs and one of law enforcement and they'll get you back up here. Okay?

THE JUROR: Okay.

(Whereupon, the juror exits the courtroom and a bench conference is held off the record.)

THE COURT: We'll stand down for just a few minutes.

(Whereupon, there is a break in the proceedings from 4:05 p.m. until 4:23 p.m.)

THE COURT: All right. Anything from the State before I bring the jury back out?

MR. CLEMENTS: No, Your Honor.

THE COURT: Defense counsel, Mr. Wilson?

MR. WILSON: No, Your Honor.

MR. FLOYD: No, Your Honor.

THE COURT: All right. Bring me the jury, please.

(Whereupon, the jury enters the courtroom at 4:24 p.m.)

THE COURT: We've got everybody back. Call your next witness, Mr. Clements.

MR. CLEMENTS: Thank you, Your Honor. If it please the Court, we'd call Mr. Andre Paige.

MR. SALEEBY: Step right there, sir.

THE CLERK: Sir, please come forward and let me swear you in, please. Place your left hand on the Bible and raise your

right hand. Do you solemnly swear or affirm the evidence you are about to give in this trial will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Thank you. You can have a seat in the witness chair.

ANDRE PAIGE, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Paige, how are you doing?

A: Good.

Q: Can you please state your name and spell it for the court reporter, please?

A: Andre Paige. A-N-D-R-E P-A-I-G-E.

Q: And where do you live, Mr. Paige?

A: I live in Friendship.

Q: And that's in Marion County?

A: Yeah.

Q: Is that correct?

A: Mm-hmm.

Q: And how long have you lived there?

A: About all my life.

Q: And did you know Sam Rowell?

A: I knew him.

Q: Did you know his brother, David?

A: Yeah.

Q: What do you call David?

A: Harold.

Q: Harold?

A: Mm-hmm.

Q: Okay. Now, do you remember back July 4th, 2012, when Mr. Sam Rowell got killed?

A: Mm-hmm.

Q: Do you remember --

THE COURT: Hold on a minute. Mr. Paige, I need a yes or a no.

THE WITNESS: Oh, I'm sorry.

A: Yes.

THE COURT: Okay. Thank you.

MR. CLEMENTS: It's kind of hard for the court reporter to get a mm-hmm or an uh-uh.

THE COURT: Go ahead.

Q: But you remember when Mr. Rowell got killed; is that correct?

A: Yes.

Q: And something unusual happened to you some days after that?

A: Yes.

Q: Would you please turn and tell the jury what happened,

what you were doing, and what you discovered?

A: We were going on a -- we were going to the beach with the church and I was checking the oil in the car and I found a card on the ground and it was a Walmart card and it had Sam Rowell's name on it, and I told his brother about it and gave it to him and we went -- he asked me where I found it at. So I took him to where I found it at and then he found some more stuff on the ground, too, some other cards and stuff.

Q: And what road was that on? What was that near?

A: That was on -- it was near Wahee Road at the corner at Wahee Road.

Q: Which corner? Wahee and what other road?

A: I can't remember the name of the other road. I -- one road -- oh, Foxworth Road and Wahee Road.

Q: Foxworth Road and Wahee Road?

A: Mm-hmm.

Q: Okay. All right. I'm going to show you what's been marked as State's Exhibit 39 and ask can you identify that?

A: Yeah. That's the card that I found.

Q: Okay.

MR. CLEMENTS: And, Your Honor, I'm not sure. If this is not in evidence already, we'd move to have it submitted into evidence at this time.

THE COURT: That's Number what?

MR. CLEMENTS: 39.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: Nothing new, Your Honor. I think we addressed that issue earlier.

MR. FLOYD: No objections.

THE COURT: Subject to Mr. Wilson's prior objection, without objection from Mr. Woods' attorney, Mr. Floyd, 39 is admitted into evidence.

Q: Now, you said you went out there with his brother. Which brother was that?

A: Harold.

Q: Harold? Okay.

A: Well, David Rowell.

Q: David?

A: Yeah.

Q: And you found some other items?

A: Yeah.

Q: You were there with him when those were found?

A: I was there with him when he found the other items, but I didn't actually find them. He found them.

Q: Okay. Do you know basically what they were?

A: Some other cards, ID. It was probably about three or four more pieces of ID, something like that.

Q: All right. And they're in this bag here --

A: Yes, sir.

Q: -- as well? State's Exhibit 39?

A: Yes, sir.

Q: Okay. I want to show you a couple of more exhibits. State's Exhibit 16-A, can you identify that?

A: Yeah. That's -- this is Foxworth Road where it leads up to Wahee Road.

Q: Okay. And State's Exhibit 16-B?

A: That's the corner where the stop sign is.

Q: Okay. And State's Exhibit 16-C?

A: That's the back of the stop sign.

Q: Where?

A: At the corner of Foxworth and Wahee Road.

Q: And that's where the items were found?

A: Yeah.

Q: Right by that stop sign?

A: Mm-hmm.

Q: State's Exhibit 16-D?

A: Same corner.

Q: Same corner?

A: Yes, sir.

Q: All right.

MR. CLEMENTS: Your Honor, State's Exhibit 16-A, B, C, and D, we would move into evidence at this time.

THE COURT: As previously indicated by Mr. Wilson as well as Mr. Floyd, there was no objection to those. Any objection at this time, Mr. Wilson?

MR. WILSON: No, sir. No objections.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: Without objection, State's Exhibits 16-A through D admitted into evidence.

MR. CLEMENTS: Your Honor, request permission just to hold these up for the jury --

THE COURT: Yes, sir.

MR. CLEMENTS: -- to look at them.

THE COURT: They're in evidence.

Q: Mr. Paige, while y'all were out there and you were looking to see what you could find where you found these cards, was there anything else in particular that you were looking for?

A: No.

Q: You didn't look for a wallet or anything like that?

A: We didn't find a wallet.

Q: You didn't find a wallet?

A: No, sir.

Q: Just the cards was all you found?

A: Just the cards. That's it.

MR. CLEMENTS: I beg the Court's indulgence a moment.

THE COURT: All right.

MR. CLEMENTS: Please answer any questions Mr. Wilson or Mr. Floyd may have.

THE COURT: Mr. Wilson, cross examination.

MR. WILSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:

Q: Mr. Paige --

A: Yes, sir.

Q: When -- when you found the first card, do you know when that was? Do you know the date?

A: The exact date?

Q: Yes, sir.

A: I can't remember the exact date. It was on a Saturday. We were getting ready to go to the beach with the church.

Q: Okay. Now, you gave a statement to the police back on August the 23rd --

A: Mm-hmm.

Q: -- which was probably a month and a half after this incident happened.

A: Yeah.

Q: Is that -- did you give -- did you find the card close in time to the time you gave the statement?

A: It was probably -- it wasn't that long before, yeah.

Q: I'm just trying to get some idea. When you say it wasn't that long, are you talking, like, two or three days? Two or three weeks?

A: Maybe a week -- week -- or maybe a week.

Q: Okay. So you would have found the cards the first part sometime in August based on what you're saying if it was a week or so before you notified the police?

A: Yeah.

Q: Okay. And then when you found the first card sometime in August, you then waited a couple of days and then you saw Mr. David Rowell?

A: Yeah.

Q: And then --

A: When I saw Mr. David Rowell, that's when I gave him the card.

Q: All right. When you saw him? You just happened to run into him somewhere?

A: Yes, sir.

Q: Okay. And where was that that you ran into him?

A: It was actually up the street from my house.

Q: Okay. Now, you said that you'd known Mr. Sam Rowell and Mr. David Rowell prior to this -- to the death of Mr. Sam Rowell?

A: Yeah. I grew up in the neighborhood.

Q: Okay. So you knew all of them very well?

A: Yes.

Q: And -- and so when you found the card in August, you knew that the card because it had Mr. Rowell's name on it belonged to Mr. Rowell?

A: Yes.

Q: Is there a reason that you waited two days before you took it to Mr. David Rowell to tell him that you found it?

A: No. I hadn't seen him. When I saw him, that's when I mentioned it to him.

Q: Okay. And then when you took it to him, then the two of you guys went back to where it was that you had found the original card?

A: Yes, sir.

Q: And you didn't find any more cards actually where you had found the first card, but y'all walked further down the street and then you found some more cards? Is that fair?

A: Yes, sir.

Q: Okay. How far from where you found your card was it that you found the stack of cards laying down by a stop sign all neatly laying there?

A: Probably about a hundred feet maybe.

Q: Further than from here to the back of the courtroom?

A: Yes, sir.

Q: Further than that?

A: Yes, sir.

Q: Maybe twice that distance?

A: Maybe.

Q: Okay. And the cards that you found, you said that they were neatly stacked? Or were they? Maybe I should ask you

that. Were they neatly stacked or were they scattered all over the place and you just kind of picked them up?

A: They were -- they were stacked under the stop sign.

Q: Okay. They were stacked and laid under the stop sign?

A: Yes.

Q: Okay. Any question about that?

A: No, sir.

Q: That that's how they were?

A: That's how they were.

Q: Okay.

MR. WILSON: No other questions.

THE COURT: Mr. Floyd?

MR. FLOYD: Your Honor, I don't have anything.

THE COURT: Any redirect?

MR. CLEMENTS: Yes, sir.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Paige --

A: Yes, sir.

Q: When you found that card, what was the grass like on the sides of the road?

A: When I found the card that I found?

Q: Right.

A: It hadn't been cut at all.

Q: It hadn't been cut at all? The grass was tall and hadn't

been cut at all?

A: It was probably six to eight inches tall.

Q: Okay. Now, when you and David went back out there and you found these other cards -- as Mr. Wilson asked you -- stacked neatly by the stop sign, what was the condition of the grass then?

A: It had been freshly cut.

Q: It had been freshly cut?

A: Yes.

Q: Okay. So one of two things happened -- would have happened --

MR. WILSON: Objection.

THE COURT: Hold on a minute. What's your objection?

MR. WILSON: To the one of two things happened. That is not a question, first of all.

THE COURT: Rephrase your -- rephrase your question or restate it.

MR. CLEMENTS: All right.

Q: Would it be fair to say that one of two things could have happened to those cards if someone was cutting the grass and they were along the side of the road?

THE COURT: Hold on.

MR. WILSON: I'm -- I withdraw my objection.

THE COURT: You can answer the question, please, sir. Go ahead.

A: They could have gotten cut up or --

Q: Or somebody could have stacked them up?

MR. WILSON: Your Honor --

A: Yeah.

MR. CLEMENTS: No further questions.

THE COURT: Mr. Wilson, anything else?

MR. WILSON: Nothing further, Your Honor.

THE COURT: All right. You may step down, sir.

THE WITNESS: Thank you.

MR. CLEMENTS: Your Honor, we would call David AKA Harold Rowell, and we want to ask that Mr. Paige can be excused from his subpoena.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: Without objection, Mr. Paige, you are excused. You have no further responsibilities under your subpoena. You're free to go. Thank you for being here.

THE CLERK: Come over here and let me swear you in, please, sir. Place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Thank you. You can have a seat in the witness box.

DAVID "HAROLD" ROWELL, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Can you please state your name for the record and tell the jury where you live?

A: David Leon Rowell. I live at 339 Highway 9 -- 3951 Highway 9, Marion, South Carolina.

Q: And how close is that to Phil Court?

A: It's about a quarter mile.

Q: I'm just curious. Your name is David Leon Rowell. Where do you get Harold from?

A: Well, that came back a long time ago. My mother told me two doctors named me and Harold wasn't on my birth certificate.

Q: Okay. All right. And do you know Mr. Andre Paige?

A: Yes, I do.

Q: Is he a friend of yours?

A: Yes, he is.

Q: Okay. What was your family relationship to Mr. Sam Rowell?

A: Sam is my brother.

Q: Okay. How many brothers and sisters do you have, Mr.

Rowell?

A: I have four sisters and ten brothers.

Q: And what -- where do you find -- where do you fall in the line there? Toward the younger end or the older end?

A: I am I think on the lower end.

Q: Okay. How about Sam? Was he older or younger than you?

A: Older.

Q: Older? Okay. All right. And do you remember Mr. Paige coming and talking to you --

A: Yes, I do.

Q: -- about finding something?

A: Yes, I do.

Q: And as a result of that, what did y'all do?

A: As a result, he had a -- one of my brother's cards in his -- in his hand and asked me did I know whose it was and I said yes, it's my brother's, and I asked him where he found it at. And what he did was show me where he got that from so I could look -- investigate and see whether I could find anything else. And he said yes and he took me to the area on Fox -- Foxworth Road and I went there.

When I first got there, I seen the grass was freshly cut down the side of the road, but he showed me where it was at, and so I was looking for something to be scrapped up somewhere side the road, cut up, but it was not. So I walked up and down that road and came back and I didn't see anything. So I

decided to walk the other way a little bit and didn't see anything. So my mind told me to walk back to the sign and I walked back to the stop sign and there the cards was in a little neat pile beside the sign. So I figured somebody knew what was there and just put them there hoping for somebody to find them.

Q: Okay. All right. I'm going to show you what's been marked as State's Exhibit Number 39 into evidence and tell me can you identify this?

A: Yes. Those are the cards.

Q: Those are the cards y'all found?

A: Yes, sir.

Q: Okay. Now, I want to show you State's Exhibit 16-A. Do you recognize that?

A: Yes, I do.

Q: Okay. Where is that?

A: That's on Foxworth Road. That's the stop sign before you enter the road off of Foxworth Road.

Q: Okay. So it's right before you go onto Wahee?

A: Right.

Q: State's Exhibit 16-B, do you recognize that?

A: Yes, sir.

Q: What is that?

A: That's the stop sign on Foxworth Road.

Q: And State's Exhibit 16-C, do you recognize that?

A: Yes, sir.

Q: What is that?

A: That's the stop sign on Foxworth Road.

Q: And what -- what did you find there?

A: I found the cards laying right beside the pole right here.

Q: Okay. Right beside that pole?

A: Right beside it, right in there.

Q: All right. State's Exhibit 16-D?

A: That's -- that's the same pole, the bottom of it.

Q: The bottom of it? Okay. All right. Thank you, sir. When you found these cards of your brother's and you looked at those, did you look for anything else other than cards?

A: I didn't look at anything else besides that. I didn't look at anything else besides the cards, but I did walk -- continue to walk the road trying to find a wallet or something else. I didn't see his wallet or nothing like that, just the cards.

Q: You didn't see his wallet?

A: No. I didn't see no wallet.

Q: Did Sam carry a wallet all the time?

A: Yes. He carried a wallet.

Q: Okay. All right. And when you got these cards, what did you do in regards to contacting law enforcement or did you contact law enforcement?

A: Yes. As soon as we found the cards and checked for the wallet and we didn't find any wallet, we got in the car and we drove to the police department and -- and reported that we had his cards.

Q: Okay. And who did you -- do you recall who you gave those to?

A: I don't recall the officer's name that we gave them to, but --

Q: Do you know what he looks like?

A: I know what he looks like if I see him.

Q: You don't see him in here today right now?

A: I don't think I see him.

Q: Okay. Now, you gave those cards to him. Did you ever get them back?

A: No. I've never gotten them back.

Q: You never got them back? Okay. They kept those?

A: Yes, sir.

Q: For today's purposes?

A: Yes, sir.

Q: Okay. Now, I want to move on from that a little bit. Can you tell me what type of business your brother was in?

A: My brother was in all types of business, housing and stuff like that. He, you know, purchased houses and stuff like that, and he had a farm. Also, he had a -- built his place back there for recreation that family could go or

somebody could have parties or something like that. He was trying to get it ready for weddings and stuff so we had a little pond and stuff out there.

Q: Okay.

A: And stuff like that.

Q: So he had a pond out on his property there on Phil Court?

A: Yes, sir.

Q: And horses and he owned a lot of property?

A: Yes, sir.

Q: All right. Did he -- did he have any other businesses that people helped him with and people worked for him some?

A: Yes. He had other businesses he worked for. Also, I don't say it, but this -- this is just hearsay. I don't like to say hearsay, but some --

Q: If it's something hearsay, don't tell us.

A: Yeah. I don't want to say hearsay.

Q: I'm asking you what you know. Okay?

A: Yeah.

Q: Let me ask you this then. Did you know Marco Sanders?

A: I did not know Marco Sanders.

Q: Did you know Tyrell Woods?

A: No, I did not.

Q: To your knowledge --

A: To my knowledge, I did not know them.

Q: To your knowledge, did they ever work for Sam to your

knowledge?

A: Not to just my knowledge, no.

Q: Not to your knowledge? Okay. All right. But he would have different people work for him --

A: Yes, sir.

Q: -- around, clean up around his house?

A: Yes, sir.

Q: Doing other jobs?

A: Yes, sir.

Q: He also -- did he also ever go cook and sell food?

A: Yes, sir.

Q: Where would he do that?

A: He would go down to Atlantic Beach.

Q: Okay.

A: For Biker's Week.

Q: Who were some of the people who would cook and work for him?

A: Some of the people that worked for him was -- I think Sister Gus Ann Weeks used to work for him some.

Q: Gus Ann Weeks?

A: Yeah.

Q: Okay.

A: And some others.

Q: All right. And do you recall seeing him at all that day on July 4th yourself?

A: I don't remember seeing him on July 4th.

Q: Okay. Do you -- did you see him the day before or a couple days before?

A: I had seen him. I had seen him a few days before.

Q: Okay. Was -- at that time, was he using or opening up the back of his home at that particular time for entertainment purposes?

A: He -- he -- he does that, but I don't know whether he was going to have a party or something out there that week or not. But he'd normally open up and have little things back there.

Q: Okay.

A: Yeah.

Q: All right. And do you recall when you first got called regarding what had happened to him?

A: Yes. I was at a -- at a cookout. I was at a cookout with some friends and I got the call and my sister told me that she had heard there had been a shooting back there. Back up there, she heard some shots and I was just assuming it's the 4th of July, like somebody was using fireworks or something like that, just having a party or something back in that area.

Q: Okay. Did you go to his home at that time?

A: At that time, I didn't rush off and go because I figured it was some firecrackers or something like that that just happened back up in there to cause that noise. Normally have occasions like that. But I stopped by my friend's house and

they told me -- they said --

MR. WILSON: Objection.

A: -- what are you doing --

THE COURT: Hold on.

MR. WILSON: Objection, Your Honor.

THE COURT: Objection sustained.

Q: You can't tell us what somebody else said.

THE COURT: Objection sustained.

A: No, no, no. Okay. What I'm saying is my brother had been shot. I take that back. I stopped by there and what they told me was -- and then I left there and I went to my brother's residence --

Q: Okay.

A: -- but I wasn't able to get in because they had already had it taped off and a lot of people was there --

Q: And the law was there?

A: -- and they wouldn't let me in and I couldn't get any information.

Q: Now, were you aware that he had surveillance cameras?

A: Yes, I was aware of that.

Q: And how many cameras did he have working on the house at that time?

A: I think he's got -- I think he's got four at each part of the house and I think one was out. He had three working.

Q: Okay. All right. And -- and he kept those running all

the time?

A: Yes, sir.

Q: Do you know where he had the monitor and recorder set up in his home to your knowledge?

A: It was at the foot of his bed to the left.

Q: Okay.

A: Towards the bathroom.

Q: And that's where he kept that?

A: Yes, sir.

Q: Okay. All right. Mr. Rowell, at this time that's all the questions I've got. Will you please answer any questions that Mr. Wilson or Mr. Floyd may have?

A: Yes, sir.

THE COURT: Mr. Wilson, cross examination.

CROSS EXAMINATION

BY MR. WILSON:

Q: Mr. Rowell, I think I just have a couple of questions. Let me ask you if -- on the day that you went to find the -- the cards, you said Mr. Paige came to you and told you that he had -- that he had seen the card or brought the card, and did y'all go that same day to look for the other cards?

A: The -- the same day, yes, sir.

Q: All right. And do you know about what time of day that was that y'all went to look?

A: It was afternoon.

Q: Okay. And did you actually find the cards or did someone else find them?

A: I found them.

Q: Okay. Was it just the two of you that went out?

A: Yes, sir.

Q: All right. Now, the cards were -- were stacked together at the foot of the stop sign?

A: Yes, sir.

Q: Okay. And it was like somebody had put them together and then placed them there?

A: Right.

Q: Okay. And the grass had been freshly cut --

A: Right.

Q: -- in that area?

A: Yes, sir.

Q: Now, how long had your brother been dead before this occurred?

A: I don't recollect how long he had been dead. I don't recollect.

Q: Okay. All right. Did the police take a statement from you and Mr. Paige that day?

A: Yes, sir.

Q: Okay. And in regards to Mr. -- Mr. Paige, his statement was on August the -- August 23rd. Do you know whether that was the day that you gave your statement as well?

A: I gave my statement the same day he gave his.

Q: Okay. So that would have been August 23rd and that would have been the day that you also found the cards?

A: Right.

Q: Or the second piece of the cards. Now, let me ask you about your brother's business for just a minute. This was a little -- a little club and -- and people would come and visit the club from time to time. Patrons would come into the lounge and they would have alcoholic beverages and sit around and I guess do whatever people do at a club.

MR. CLEMENTS: Your Honor, I would object. I didn't hear a question in that if there was a question in there, but it sounds like Mr. Wilson is testifying.

THE COURT: Hold on a minute. Restate your question, Mr. Wilson.

Q: I'm asking you -- this was a place of business where people would come from time to time and sit around and drink liquor and drink beer and talk; is that correct?

A: Well, he -- well, not -- not with him. He didn't -- he didn't operate -- operate to sell anything like that. He rented out.

Q: Okay.

A: And the only time that alcohol was -- was sold was when he did his business at the beach for Memorial Day.

Q: Okay. So --

A: That's what he did.

Q: Who did the alcohol in the house belong to?

A: It belonged to him. That was for the beach.

Q: Okay. And -- and when did he sell alcohol at the beach?

A: During Memorial weekend.

Q: Okay.

A: Biker's Weekend.

Q: Memorial weekend would have been in May of that year. This was -- this would have been in July when he was killed; is that correct?

A: That's correct.

Q: So -- and he only -- and you're saying that he only sold alcohol one time a year which would have been Memorial weekend and that would have been at Atlantic Beach. So at the club when these -- when these people come, what would they do? I mean in terms of alcohol.

A: Well, they'd buy it or bring their own.

Q: Okay.

A: For their -- for their parties.

Q: Had you ever been to one of the events where -- at this location when it was active as when an event was occurring? Had you ever been there?

A: Yes. I've been to a -- a baseball -- a baseball after gathering party.

Q: Okay. And how many people were at that baseball party?

A: There could have been 45 -- 50 people.

Q: Okay. And they were all in that house doing whatever it is that they were doing?

A: Yes. In that -- in that lower area.

Q: Okay. And when was that baseball party that you went to?

A: I can't remember, but any time after baseball season in the spring -- summertime of the year.

Q: Okay.

A: And they have the after gathering.

Q: Okay. But you don't recall how close in time that was to the death of Mr. Rowell?

A: No. That was way before. That was way before his death.

Q: So that was a good period of time before?

A: Right.

Q: All right. You also said that Mr. Rowell rented out the property; is that correct?

A: Yes. He had some homes and stuff that he rents out.

Q: Okay. Who was he renting his property to? Do you know?

A: I -- I don't know all the tenants.

Q: Okay. All right. Did he own any other clubs other than the one that was at his house?

A: He didn't own one, but he rented one.

Q: Okay. Who did he rent that one to?

A: I -- I don't know the young man's name.

Q: Okay. Now, is that club called Sweet Daddy's Sugar

Shack?

A: It is.

Q: Okay. And how far is Sweet Daddy's Sugar Shack from where Mr. Rowell's house was?

A: It's I'd say the distance from where I live a quarter mile.

Q: Okay. But we don't know how far it is so --

A: About a quarter mile.

Q: -- if you would tell us like in miles or feet if you can?

A: Yeah. About a quarter mile.

Q: Okay. About a quarter mile? So that Sweet Daddy's Sugar Shack is about a quarter of a mile from where Mr. Rowell's house is; is that correct?

A: Right.

Q: All right. And -- and you said you don't know who was renting the club, that Sweet Daddy's Sugar Shack, from Mr. Rowell?

A: No, I don't.

Q: Okay.

A: By name.

Q: Well, let me ask you this. Had Mr. Rowell ever been robbed before that you know of?

A: Yes.

MR. CLEMENTS: Your Honor, we would object on the basis of relevance. I don't know what that has to do with what

happened on July the 4th, 2012.

THE COURT: Can the lawyers approach?

MR. WILSON: I'll withdraw the question.

THE COURT: Sir?

MR. WILSON: I'll withdraw the question.

THE COURT: All right. Objection sustained.

Q: Let me ask you this. In regards to the items that were in Mr. Rowell's house, the beer in boxes and the Crown Royal boxes or whatever, do you know how long those boxes had been there? Do you have any idea?

A: No. I don't know how long they have been there.

Q: All right. Did Mr. Rowell sell cigarettes or cigars or anything like that?

A: He might have on occasion because he sells them on the beach.

Q: Okay. All right. Do you know of your own personal knowledge whether he sold cigarettes or handled cigars?

A: Yes. He used to sell them at the beach for Biker's Week.

Q: Okay. All right. Did he sell any at the house on [sic.] Phil Court?

A: Not to my knowledge.

Q: Okay. All right. And -- and as I understand what you're saying that the house at [sic.] Phil Court was rented out to people for parties and things like that, but that there was no -- it wasn't like a club where you -- or a lounge where you

just go and hang out and drink and do that kind of stuff. Is that what you're saying?

A: It was not.

Q: I'm sorry.

A: It was not.

Q: Okay. All right. Thank you so much. I appreciate it.

THE COURT: Mr. Floyd?

MR. FLOYD: Your Honor, I don't have any further questions.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Was it your brother's habit to have liquor boxes and cigar boxes stacked up in the middle of his floor?

A: No.

Q: Okay. Thank you.

MR. CLEMENTS: No further questions.

THE COURT: Mr. Wilson?

MR. WILSON: Nothing further.

THE COURT: Sir, you may step down. Thank you.

THE WITNESS: All right.

MR. CLEMENTS: Our next witness, Your Honor, will be Officer Marion Richardson. Your Honor, we'd ask that Mr. Rowell be released from his subpoena.

MR. WILSON: Without objection, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: Sir, you are released and have no further responsibilities under your subpoena.

THE CLERK: Sir, if you would, come over here, please. Place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm the evidence you are about to give in this trial will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You can have a seat in the witness stand.

MARION RICHARDSON, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Can you state your name and where you work at?

A: My name is Marion Richardson and I work for the County Administrations Office in charge of code enforcement.

Q: Okay. And -- and you work with codes enforcement and you haven't had an opportunity to come in the new courtroom yet, have you?

A: Absolutely not. It's totally changed as far as the first time.

Q: So you didn't know where to sit?

A: No. No, absolutely.

Q: Okay. All right. But you're okay? You good now?

A: I'm good now. I'm good now.

Q: Okay. All right. Back on July the 4th, 2012, were you working with codes enforcement?

A: I was working with the county at the Marion County Sheriff's Office.

Q: Okay. And what -- what were you working as? There are different law enforcement officers. What part did you play in the Sheriff's Office?

A: Patrol officer.

Q: Okay. And you were working on a shift?

A: Yes, sir.

Q: Who did you work on a shift with?

A: I worked on a shift with -- at that time, my sergeant was Clemson Legette and PFC was Greg Pike and I was the corporal.

Q: Okay. All right. And did you know Andre Paige?

A: No, not -- not at that time until -- up until I was addressed a couple of weeks later.

Q: Okay. All right. Now, I'm going to ask you -- you met Mr. Paige a couple of weeks later?

A: Correct.

Q: What were -- and did you know Mr. David Rowell?

A: Not at the time, no.

Q: Okay. Did you meet them at the same time?

A: Yes, sir.

Q: Can you please tell this jury what were the circumstances of you -- of being introduced to them and what transpired?

A: When I was introduced to them, I received a call from central dispatch that there was two gentlemen that had some evidence in relations to the case which is going on now and that they had found along the roadside. And we were eating supper at the time and the two gentlemen met me at Jimmy B's in Marion, at the restaurant where we were having supper, and at that time they brought the evidence in, which was some ID and other personal items of the deceased.

Q: Okay. And did you receive those items from them at that time?

A: Yes, I did.

Q: What did you do with those items?

A: I took those items and placed them into evidence and turned them over to the investigative officer at that time.

Q: Did you take any statements from Mr. Rowell and Mr. Paige?

A: I did not take the statements. The statements were given to the -- to the investigative officers who were on the case.

Q: All right.

A: I took their name and number and address and contact information and told them they would be in contact with them.

Q: So the statements weren't taken that same day?

A: No. No, sir, not that day.

Q: They were taken later by investigators?

A: Yes, sir.

Q: Okay. All right. Do you recall what day that was that you met with them?

A: It was around July the 18th in the evening time. I'm suspecting that was either -- it was on a weekend.

Q: Okay. And you're sure about the date?

A: It was around the 18th.

Q: Around the 18th?

A: Yes, sir.

Q: Okay. All right. I'm going to show you what's been marked State's Exhibit 39. Do you recognize these?

A: Yes, sir.

Q: What are they?

A: This is the identification cards, driver's license, and other personal items that belonged to the deceased.

Q: Okay. All right. Now, July 4th, 2012, you were working on patrol with Clemson Legette and Gregory Pike?

A: Yes, sir.

Q: Did you receive a call to respond to a home invasion?

A: Zone 3 received a call and all units reported to that location to the home invasion.

Q: Okay. And what was that location?

A: I -- I couldn't rightly remember.

Q: Does Phil Court sound like the right address?

A: Yes, sir. That was -- I do remember the court was Phil Court.

Q: Okay. And what type of road is that?

A: It was a dirt road -- a county dirt road.

Q: Okay. And when you responded to there, who did you find there when you got on the scene?

A: Well, there -- there was quite a few people around there. When I got there on the scene, there were -- I'm not sure. It's been some time, but I think Officer Pike was on scene first when we arrived.

Q: He was the first one there?

A: I believe he was the first one on scene when we arrived.

Q: Did you -- did you arrive at the same time as Sergeant Legette or after him or before him?

A: I think I -- I think I arrived behind Sergeant Legette or maybe a couple of seconds. We both arrived down there about the same time.

Q: About the same time? And there were a few people out there?

A: Yes, sir. Around the residence, but not at -- not totally at the residence, but around the area of it.

Q: So around -- away from the residence in the yard?

A: Oh, yeah, away from the residence.

Q: Okay. When you got up there and you got out of your

patrol car, what did you see or what did you observe?

A: The -- the first thing I observed when I -- when I got out of the patrol car, naturally there were a lot of people at the scene but not necessarily on the scene, just around the house. We were advised at the time by Mr. Pike that there was -- there was a body laying in the threshold of the doorway. At that time, I secured the security tape, secured the scene, and then started a log-in report of the scene.

Q: All right. Is that that yellow tape that says crime scene?

A: Crime scene tape. I secured the scene.

Q: Did anyone try to cross that?

A: No.

Q: No?

A: Anyone that tries to pass -- pass through or go onto the scene has to -- has to be signed in on a log sheet.

Q: Okay. To your knowledge, while you were there did anybody go in that crime scene other than law enforcement or emergency personnel?

A: Correct. And I was only there briefly. I went back out to direct the detectives into the incident location.

Q: Okay. And you didn't see any civilian --

A: No.

Q: -- traffic in that house?

A: No.

Q: Okay. Now, did you start the crime log yourself?

A: I started the first page of the crime log myself.

Q: And who completed it?

A: And it was completed by Officer Legette or Officer Pike at that time. Like I said, my first page I completed it and then I left the -- left the incident.

Q: All right. And is this a copy of the crime scene log?

A: Yes, sir.

Q: That is complete?

A: Right.

Q: And page 1 was the one you filled out?

A: Yes, sir.

(Whereupon, counsel confer.)

MR. WILSON: I have no objections.

MR. FLOYD: No objection.

THE COURT: Without objection -- what number is that, Madam Court Reporter?

MR. CLEMENTS: Your Honor, I haven't moved it in. I just wanted to show it to them before I asked any further questions about it.

THE COURT: I'm sorry.

MR. CLEMENTS: That's okay, Your Honor.

Q: Did EMS respond?

A: Yes, they did respond.

Q: So there were a couple of EMS workers there?

A: There was two EMS workers on -- that was on location prior to my exiting the incident location.

Q: You let them onto the scene?

A: Yes, sir. After -- after I received their information, I let them onto the scene.

Q: Do you have any knowledge whatsoever of what they were able to do for, if anything, Mr. Rowell?

A: No.

Q: Okay. All right. And on -- on this, is there any -- other than those two, is there anybody else other than employees and investigators of the Marion County Sheriff's Office?

A: No. Everything is -- everything is pretty much Marion County Sheriff's Office other than the two EMS workers.

Q: Okay. All right.

MR. CLEMENTS: I beg the Court's indulgence.

MR. CLEMENTS: Officer Richardson, will you please answer any questions Mr. Wilson or Mr. Floyd may have?

THE COURT: Cross examination.

MR. WILSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:

Q: Mr. Richardson, as I understand it, you're saying that it was actually you think around August 18th that you received the cards for Mr. Rowell --

A: Yes, sir.

Q: -- from the family?

A: Yes, sir.

Q: From Mr. David Rowell and Mr. Paige? Are you certain that it was on the 18th?

A: It was -- it was -- I'm -- I could only state that it was around the 18th.

Q: All right.

A: I can't be absolutely for certain, but I'm thinking it was around the 18th.

Q: Well, did you do a report once they brought you this evidence and turned it over to you? Did you file a written report showing that you had received it and that you were then turning it over to the case agent, whoever that case agent may be?

A: I -- it's been -- it's been a while. I don't remember, sir.

Q: Okay. So you don't know if you did that or you don't --

A: I don't have recollection of it. You know, I don't have -- I can't remember. Being the time lapse, I can't remember if I did a report or a supplemental to the fact that evidence was turned over. I can tell you I did notify the investigator of the scene and placed it into an evidence bag.

Q: Well, wouldn't that be fairly standard procedure if you are receiving evidence in a murder case that you would record

the reception of that evidence so that we would know when it was that you received it and what happened to it while it was in your possession?

A: Yes. It was recorded on the evidence bag and turned over to the evidence container.

Q: When did you turn it over to the --

A: At approximately the same day I suppose.

Q: Okay. And who did you turn it over to?

A: We have an evidence box. We have an -- we have an evidence box and we transfer it over to the evidence box and then it's picked up and processed out to the investigators.

Q: Okay. And we think that that was done around the 18th that you put it in the box we think; right?

A: Yes, sir.

Q: And -- but you're not a hundred percent certain that it was the 18th?

A: I believe that -- I believe the day that we took the information from them or took the evidence from the subject is I believe the 18th or around the 18th. I'm not sure.

Q: What day of the week would that have been?

A: It would have been on a weekend. It would have been on a Saturday or a Sunday. I'm not quite sure. I'm thinking maybe a Saturday.

Q: Okay. Now, when -- when the items were turned over to you, how did you -- now, you were at a restaurant you said

when you received them. So how did you package them to preserve any fingerprints or anything, DNA or whatever might be on them after this period of time? What did you do to preserve them?

A: The only -- the only thing that I could do at that present time -- because I wasn't sure what they had in relations to the case. Once they brought it in, they -- one of the individuals had it in a hat and he took all of them out and laid them on the table. At that point, I took a napkin and wrapped them up, and I wrote down their home information, contact information, and that sort of stuff. And then when I got to my patrol car, I inserted them into an evidence bag to seal it up.

Q: Okay. Well, did you go out to the area that they -- where they told you that they had found the cards to see if there were any other cards or if a wallet or any other piece of evidence might be there?

A: Sure. We went. Myself and Officer Gerald went to that location and we searched the location and walked up and down the road of the area where they -- they said they located them items and I think also we took -- I believe we took pictures of the area also.

Q: Did you go to the same day or the same week?

A: We went the same day.

Q: Okay. Now, what time of night was it that they brought

you the stuff at the restaurant?

A: I can't -- I can't affirm the time. It was before -- it was before dark. The area that we located and searched was close to the evening hours, getting -- getting pretty close to dark.

Q: Okay.

A: But it was all done in the daylight hours.

Q: All right. Moving to another subject, you said that -- you told the solicitor that you were the person responsible at least for page 1 of the crime scene report. That would be those people who were coming and going from the crime scene?

A: Absolutely.

Q: And there's no doubt about the fact that EMS -- emergency medical people actually did come to the scene before SLED came. Is that fair?

A: I can't -- they were -- I would assume that, but -- oh, I can say that, yes, because they were they shortly after we made -- you know, after we arrived on the scene.

Q: And -- well, did EMS get there before you got there?

A: I can't remember. I don't -- I'm not -- no, I don't think they did.

Q: Well, let me ask you this. There is a crime log and I think the solicitor showed you one. Let me show you this one and see if that's the same one that the solicitor showed you.

A: Yes, sir. That is.

Q: All right. And is that your name at the bottom of it?

A: That is. Correct.

Q: Okay. Now, is that in order of the people who went into that house?

A: Yeah. Greg -- yeah, Officer Pike was on scene first. Yeah, that is the order in which I remember them being on scene.

Q: Okay. So you're then -- the order that they went in the house would have been Officer Pike of the Sheriff's Office and then Sergeant Legette and then you?

A: Yes, sir.

Q: And then Emily Avant from EMS?

A: Correct.

Q: And then somebody -- Bobby Larrimore from EMS?

A: Correct.

Q: Okay. And how long were the EMS people there dealing with the body of Mr. Rowell?

A: At that time, I turned -- I turned the -- I wasn't there. I was briefly there to get their information and then I turned the crime log sheet over to Officer Pike and Officer Legette.

Q: Okay. Did you leave at that point or did you stay?

A: Yes, sir. I left at that point and I went to the -- back to the major highway and directed the detectives into the incident location.

Q: Okay. When you left, was EMS still there at the scene

when you left?

A: Yes.

Q: Okay. So you don't know how long they were there?

A: No.

Q: And you don't know what procedures, if any, they employed while they were there?

A: No.

MR. WILSON: No other questions. Thank you, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: I don't have any questions, Your Honor.

THE COURT: All right. Any redirect?

MR. CLEMENTS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Marion, I think you testified on direct that you believe you met them at Jimmy B's on July 18th, but Mr. Wilson asked you August 18th. Which is right?

A: July the 18th.

Q: July the 18th? Okay.

A: Yes, sir.

MR. CLEMENTS: Nothing further.

THE COURT: Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Sir, you may step down. Thank you.

MR. CLEMENTS: Your Honor, may we approach a minute?

THE COURT: Yes.

(Whereupon, a bench conference is held off the record in the presence of the jury but out of the hearing of the jury off the record regarding scheduling.)

THE COURT: All right. Ladies and gentlemen, we are going to -- we are at a stopping point. You all have been here all day and I've kept you here all day. You all have been very patient with us and with me. You've been very attentive throughout the day and I appreciate that and I know the lawyers and all parties involved appreciate that.

What I am going to do at this time -- I am going to release you for the evening. Okay? I'm going to release you for the evening. My instructions remain the same that I gave you at the beginning of this trial.

You're not to discuss this case at all -- at all with anyone. You are not to do any independent investigation on your own. You are to decide this case based solely -- and I emphasize based solely upon the testimony in this courtroom and the evidence that's been admitted into evidence. All right?

At this time, I'm going to let you go for the balance of today. I'm going to ask you to be back up here at nine o'clock in the morning and we will resume the trial of this case as promptly at that time as possible. Thank you all. You all are free to go. Everybody else except -- everybody

else remain seated while the jury exits the courtroom.

(Whereupon, the jury exits the courtroom at 5:15 p.m.)

THE COURT: All right. Anything from the State before we break for the balance of today?

MR. CLEMENTS: No, Your Honor.

THE COURT: Defense counsel, Mr. Wilson?

MR. WILSON: Nothing further, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing.

THE COURT: All right. Let me -- the jury is leaving now. Mr. Wilson wants a few minutes to speak with his client.

MR. WILSON: Yes, sir, please.

THE COURT: As well as Mr. Woods to speak with his lawyers. I'm going to allow -- I would ask law enforcement -- taking into consideration now that they've got to transport them to various places, I will ask law enforcement if they'll remain here for about thirty minutes to let you all talk if you need to.

MR. WILSON: That's good.

THE COURT: And that should give the jury more than sufficient time to vacate the grounds here of the courthouse and its surrounding area for them to be transported to the facilities that they're currently being housed.

Let me say this, too. I know there is some family in the courtroom, victim's family as well as defendants' family, and

I understand some people can't whisper. They just can't talk silently, and I've heard some people from the victim's family during the course of the trial today talking in the back of the courtroom, which is disruptive to me, and I'm not going to allow it. I'm not going to allow it. It's disruptive to me and, more importantly, I have a concern about it being a disruption to the jury as they sit here trying to listen to this testimony that's being elicited from the witness stand.

If it happens tomorrow, I'm going to ask that you be removed from the courtroom because I do not want it to be a disruption during the course of this trial. Am I clear on that?

All right. Any questions on that? Does anybody in here not understand that? Okay. Thank you. Nine o'clock in the morning. Thank you.

MR. WILSON: Thank you, Your Honor.

(Whereupon, the proceedings adjourn for the day at 5:18 p.m.)

MAY 21, 2014

(Whereupon, the proceedings resume at 9:06 a.m.)

THE COURT: All right. Anything? I've been advised that all the jurors are here. Anything before I bring the jury out, Mr. Clements?

MR. CLEMENTS: No, Your Honor. Thank you.

THE COURT: Mr. Wilson?

MR. WILSON: Nothing, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing, Your Honor.

THE COURT: All right. If you will, bring me the jury, please sir.

(Whereupon, the jury enters the courtroom at 9:07 a.m.)

THE COURT: Good morning, ladies and gentlemen. I hope you all had a nice evening last night and are ready and prepared to go forward with the trial of this case this morning. I appreciate you all being back here when I asked you to be back here this morning.

All right. At this time, we are going to continue the trial of this case. Mr. Clements, you're recognized. Call your next witness, please, sir.

MR. CLEMENTS: Thank you, Your Honor. May it please the Court. We would call Lafayette Emmanual Reed.

THE CLERK: Mr. Reed, if you'll come forward and let me swear you in, please, sir. Place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm that the testimony you are about to give in the trial of this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. Have a seat in the witness box.

LAFAYETTE REED, being first duly

sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Good morning, Mr. Reed. How are you doing today?

A: Great. And yourself?

Q: All right. I'm going to tell you, if you can, keep your voice up so this court reporter can take down everything you say and so that everybody can hear you. Okay?

A: Okay. Good enough.

Q: All right. Mr. Reed, can you tell the jury where do you live?

A: Probably less than fifty -- probably about a hundred yards from where Sam Rowell had lived on Phil Court.

Q: On Phil Court about a hundred yards down from -- from San Rowell?

A: Right.

Q: Okay. Were you around your house the evening of July the 4th, 2012?

A: Later that evening.

Q: Later that evening?

A: Yes, sir.

Q: Okay. All right. And when you were home on that evening, you said later in the evening, around what time are you talking about?

A: Just -- just about dark.

Q: Just about dark?

A: Right.

Q: Okay. And you came home and who lives -- if you walk out your front door, who lives on the left side of your house?

A: Francis Davis.

Q: Okay. And who lives on the right side?

A: Residence of Sam.

Q: All right.

A: Sam. Sam Rowell.

Q: So looking at the front of your house, Sam Rowell is on the right and Francis Davis is on the left?

A: Yeah.

Q: That's Bay-Bay?

A: Right.

Q: All right. You came home and you were home close around dark you said?

A: Yes.

Q: Did you go to either one of your neighbor's houses?

A: Not at the time, but by the time I got there because they was over at Francis' house and they walked over and said something was going down up to Sam Rowell's house. So I didn't know what to think of it at the time. Then I left and came back, and then we was standing in the yard and then I -- then again I heard about three shots go off up that way.

Q: Okay. All right. And what did you do when you heard

shots?

A: Immediately, I got in my car and I got my gun and I was heading up that way and --

Q: You said you got in your car and you got your gun?

A: Right.

Q: Okay.

A: Well, I got my gun and then I got in the car.

Q: You got your gun and then you got in your car and headed up that way. Which way was that way?

A: Towards Sam.

Q: Towards Sam's house? All right. As you were headed towards Sam's house, what did you see?

A: At the time I got in front of the house, I didn't see anything at the time, but I seen Eddie Godbold's car parked out in the yard and the closer I got to the house, I seen Eddie was getting in his car kind of squatting down, and by the time I got to Eddie's car, a set of lights came on and as I got a little closer to it, it ran me off the road coming back.

Q: All right. A set of lights? Was that -- and let me be sure. Correct me if I'm wrong. If you pulled out your driveway going to Sam's, you're going this way; right?

A: Right.

Q: And as you were going this way, you said you saw a set of lights come on. Was that in front of you?

A: That was after I got in front of Sam Rowell's house.

Q: You kept going, you're getting to Sam's house, saw Eddie get in his car, and then a set of lights came on. Which direction were those lights at?

A: The lights was facing out.

Q: Coming -- coming towards you?

A: Right.

Q: Okay. All right. And then when you saw those lights coming towards you, how fast were they coming?

A: Fast enough I had to get out the -- run up on the hill to get out the way so they could get back.

Q: You had to run up on the hill?

A: Right. Ran me off the road.

Q: All right. What kind of a road is that?

A: Dirt road.

Q: Dirt road?

A: Right.

Q: And you got dirt kind of on either side?

A: Right.

Q: Kind of raised up?

A: Yes.

Q: Did you have to run up on the hill?

A: Yes.

Q: Why did you have to run up on the hill?

A: To keep from getting hit.

Q: To keep them from hitting you?

A: Right.

Q: Okay. What type of vehicle was that, if you could tell?

A: It was a light-colored car. I was -- I told the detectives it looked like it was a Expedition or a Ford Explorer. It was a light-colored car.

Q: Could it have been possibly a Cadillac or some other SUV like that?

A: It could have, but at the time, like I said, it was dark and the only thing I see is just the color. It was a light-colored vehicle.

Q: Okay. All right. I want to show you two things for identification purposes, 17-A and -- excuse me. Yes -- and 17-B.

A: Possibility it was the vehicle, but like I said, it was at night and the only thing I seen was the color of the car, and I couldn't tell was who or what or who was in the car.

Q: Okay. So is it fair you're telling me you can't say this was the vehicle?

A: Right.

Q: But was it similar to this?

A: Similar to it, yes.

Q: So it could have been or could not, but something similar?

A: Right.

Q: Is that fair?

A: Fair. That's fair.

Q: Okay.

MR. CLEMENTS: Your Honor, at this time, we'd move 17-A and B in as evidence of something similar to -- not as the actual vehicle itself, but as a reasonable representation.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: Well, yes, sir. I mean the witness --

THE COURT: State your grounds for your objection.

MR. WILSON: My grounds is that there's not a proper foundation. The witness has not identified this as being the vehicle that he saw. He says that it is a similar type of vehicle and not only that, based on the witness' --

THE COURT: I don't want to hear your argument. I just want to hear your grounds. Mr. Floyd, any objection?

MR. FLOYD: Your Honor, I would object.

THE COURT: All right. Objection is sustained at this time. Objection sustained at this time.

MR. CLEMENTS: All right. Thank you, Your Honor.

MR. WILSON: Thank you, Your Honor.

Q: Now, you told the investigators at the scene that night what you saw?

A: Yes, sir.

Q: And you gave them a written statement?

A: Yes, sir.

Q: And is that statement the same as what you're testifying to today?

A: Yes.

Q: That it was a light-colored large SUV?

A: Correct. Correct.

Q: All right. Could you tell at all how many people were in that vehicle?

A: No, I couldn't.

Q: Okay. Could you tell whether they were male or female in the vehicle?

A: I couldn't tell because it was too dark. I couldn't see.

Q: Okay. You couldn't see the occupants at all?

A: Right.

Q: Okay. All right. I want to show you what's been marked State's Exhibits 5-D and 5-E, and I believe they're in evidence without objection. And I'm going to ask you if 5-D is something you recognize?

A: Yes. That's the front of the house.

Q: That's the front of whose house?

A: Sam Rowell's house.

Q: Looking which direction? Away from where you were coming from or where you -- or back towards your house? Which direction?

A: That's coming from my house.

Q: All right. So coming from your house, not looking

towards your house?

A: Right.

Q: Okay. All right. And I'm going to show you State's Exhibit 5-E. Can you identify that for me?

A: This would be the side of the house about on the end where the vehicle was parked coming.

Q: All right. Is that looking off from his -- from the side of his house?

A: Yes.

Q: Is that what's across the field?

A: Yes.

Q: And down the road?

A: Right.

Q: All right. And that's looking back towards his house?

A: Right.

Q: What is that right there?

A: That's a side door where it was broken down when we got there.

Q: All right. Of Sam's house?

A: Right.

Q: Okay. All right. What -- what is right in this area right here?

A: It was a field and a little dirt road that goes through there.

Q: Okay. So right here is where there's a dirt road?

A: Yes.

Q: All right. And you had testified earlier those are hills -- there's a little hill --

A: On the side.

Q: -- on the sides of the road. So where can you turn around on this road at?

A: The only way you can turn around is that road right there.

Q: Okay. You either had to turn around in that little dirt road or at Sam's?

A: Yes.

Q: Okay. Or further down?

A: Further down.

Q: Okay. All right. When the vehicle passed you, the light-colored SUV, at a high rate of speed, you said it almost ran you off the road. After they passed you, where did you go and what did you do?

A: I turned around and --

Q: Where did -- where did you turn around at?

A: At the little road I was showing you up on that picture.

Q: On -- on State's Exhibit 5-E?

A: Right. Yes, the road right there. I turned around there and then I went back behind trying to kind of follow the vehicle.

Q: Okay. So on State's Exhibit 5-D, you went past that tree

there and turned around?

A: Yes.

Q: Okay. All right. And then after you turned around, what did you try to do?

A: Well, follow the vehicle, and I, like, lost contact because I went all the way up to 41, which would be at T-Mart where that is located, and then I turned around and came back because I didn't see the vehicle.

Q: All right. You couldn't catch up with them?

A: No, sir.

Q: All right. I'm going to -- let me just turn this a little bit where you can see this.

MR. CLEMENTS: I hope all the jurors can see it. Everybody okay? And, Your Honor, I'm going to ask if Mr. Rowell [sic.] can come stand right here.

THE COURT: All right.

MR. CLEMENTS: Mr. Rowell [sic.], if you would, step down.

THE COURT: Mr. Wilson, Mr. Floyd, if you all need to get up, feel free to do so.

MR. WILSON: Thank you, Your Honor.

MR. CLEMENTS: This is State's Exhibit Number 2.

THE COURT: All right.

Q: Now, I'm going to point this -- and this is State's Exhibit Number 2. It's into evidence. This is Phil Court

Road and this is Sandy Land Road right here.

A: Okay.

Q: All right. Where -- where am I pointing at right now?

A: That's Sam Rowell's house.

Q: Okay. And where am I pointing at right now?

A: That's where I live at.

Q: Okay. And down here, who lives down here?

A: Francis.

Q: Okay. What -- what am I pointing at right now?

A: That should be that pecan tree.

Q: Is that -- I'm going to show you again State's Exhibit 5-E, and is that where that is?

A: Yes.

Q: Okay. All right. Now, you rode past Sam's house and you went here and turned around right here?

A: Right.

Q: And you came back?

A: Right.

Q: When you were following them, when you saw the white SUV, did it go down Phil Court or did it turn here on Sandy Land?

A: It turned on Sandy Land.

Q: It turned on Sandy Land and went in this direction?

A: Right.

Q: And you followed it this direction?

A: No. I went straight. I went down Phil Court.

Q: You went straight on Phil Court?

A: Right.

Q: And why did you go straight out Phil Court instead of going on Sandy Land?

A: I didn't know exactly where it went.

Q: Okay. And you went -- and this goes out to which road?

A: Highway 9.

Q: And this goes out to which road?

A: It comes back out to Highway 9.

Q: When you got to Highway 9 up here, which way did you turn? Right or left?

A: Left.

Q: Left? And went all the way down to the T-Mart?

A: The T-Mart, right.

Q: Okay. And did you see them at all?

A: No, sir.

Q: Okay. And after you went to the T-Mart, you turned around and you came back?

A: I came back.

Q: And went back to Sam's house?

A: Well, I went back to Francis' house first.

Q: Okay.

A: And then we left from there and went back up to where Sam's was.

Q: Okay. All right. When you got back to Sam's house, who

did you find there?

A: There was Eddie, Bay-Bay, and a couple more. I can't think of exactly who was all there.

Q: Okay. All right. Were there a lot of people or a handful of people?

A: There was a lot of people there --

Q: Okay.

A: -- by the time I got back.

Q: Okay. More than ten?

A: I'd say close to ten.

Q: Okay. All right. Sit back up there, please, sir.

(Whereupon, the witness returns to the witness stand.)

Q: Now, when you got up to the house, where were the people at? In the house? In the yard? Away from the house? Close to the house? Where were they?

A: They were away from the house, closer by the road.

Q: Close by the road?

A: Yes.

Q: Okay. Nobody was at the house?

A: No, sir.

Q: Did you go in the house?

A: No, sir.

Q: Did you go look in the side door?

A: I didn't go. I looked at -- I went from the house. I didn't go to the house because it's a crime scene so it's good

for nobody to go near the house.

Q: You didn't go near it because it was a crime scene?

A: Right.

Q: How about did you see the rest of the people go near it?

A: No, sir.

Q: All right. You didn't -- did you see anybody go in and out?

A: No, sir.

Q: All right. Was there a door on the side open?

A: Yes, the door was open.

Q: All right. So you went and you looked in the door and you could either look in the door close by or stand way away from it and look in the door. Which one did you do?

A: Stand away from it and looked in.

Q: And looked in? And what did you see?

A: The only thing I could see was his feet.

Q: All right. Did you call his name?

A: Yes.

Q: Any response?

A: No response.

Q: All right. And you didn't go any closer than that?

A: No, sir.

Q: Did you see anybody else go any closer than that?

A: No, sir.

Q: Okay. All right. But you couldn't say what they did

before they went in?

A: No, sir.

Q: Before you got there?

A: No, I couldn't say.

Q: Did you hear any talk about anybody going in the house?

A: No, sir.

Q: Okay. All right. Did you stay at the scene then?

A: Sir?

Q: Did you stay there at the scene?

A: Yes.

Q: And why did you remain at the scene and stay there?

A: Just to see what was going on and see whether he was still living at the time, but come to find out he was dead.

Q: All right. And who else -- who arrived on the scene after you did?

A: I think they called in and 9-1-1 came up.

Q: All right. So law enforcement came up?

A: Yes.

Q: Did you see EMS come up?

A: I think a little while later then they came up.

Q: The ambulance came up?

A: Right.

Q: Okay. And did you talk to anyone there at the scene with law enforcement?

A: No, sir, I didn't.

Q: All right. Nobody from law enforcement talked to you --

A: No, sir.

Q: -- that evening?

A: Well, I talked to -- I can't think of the detective's name, but I told him what I --

Q: What you saw?

A: Right.

Q: Where did you tell him? There at the scene or at your house?

A: At the scene.

Q: Okay. All right. And did you give him a written statement at that time?

A: Yes, sir.

Q: Okay. All right. Now, you said you got your gun and got in your car and went to Sam's. Why did you get your gun?

A: To protect myself.

Q: All right. What -- what did you hear before that?

A: Before I got my gun?

Q: Yeah.

A: I heard three shots going off from up in that area.

Q: You heard three shots?

A: Yes, sir.

Q: You sure of the number?

A: Yes. I heard three.

Q: Okay. All right. Mr. Reed, if you would, please answer

any questions that Mr. Wilson has or Mr. Floyd has.

THE COURT: Mr. Wilson, cross examination.

CROSS EXAMINATION

BY MR. WILSON:

Q: Mr. Reed --

A: Yes, sir.

Q: You and Mr. Rowell were good friends or are y'all related?

A: Related.

Q: Okay. And what's that relationship? Do you know?

A: Yes.

Q: What cousins or first cousins? Second?

A: We're -- I couldn't tell you which cousins.

Q: Okay. You just know you're cousins?

A: Right.

Q: Did y'all grow up together?

A: No. He's a lot older than I was.

Q: Okay. All right. And when did Mr. Rowell move back to Marion County?

A: I really couldn't tell you.

Q: Okay. Has it been a while though?

A: Yes.

Q: Like, ten -- twelve years?

A: It has been a while.

Q: Okay. And you live just down the street from where Mr.

Rowell lives, and I think you said it was like a hundred yards from where he lives?

A: Yeah.

Q: All right. And that's pretty much a long dirt road and there are what? Maybe three or four houses on that whole road -- on that dirt road leading from Highway 9?

A: Well, just in that, like, area, but further up there's about four more houses.

Q: Okay. Now, Ms. Bay-Bay, who you were telling the solicitor about a minute ago, she lives what? Maybe a hundred yards from you?

A: I would say closer to fifty.

Q: Fifty yards from you? Okay. Further down --

A: Right.

Q: -- away from Mr. Rowell's house?

A: Right.

Q: And you -- your house is in-between Mr. Rowell's house and Ms. Bay-Bay's house?

A: Right.

Q: Okay. And Mr. Rowell's house would be further down Phil Court if you're coming in from 9 the way that you went out to look for the car?

A: Right.

Q: If you're coming in on that road, you'd have to pass Ms. Bay-Bay's house and then your house, then you'd get to Mr.

Rowell's house?

A: Right.

Q: Okay. And now, that night when you say you heard the shots, what time do you think it was that you -- you heard the shots?

A: That would be somewhere between about seven thirty and eight so I would say between seven thirty and eight.

Q: Okay. It could have been later than that in all fairness, could it?

A: It could.

Q: You weren't really keeping up with the time?

A: Right.

Q: You just know that you heard some shots?

A: Right.

Q: And you ran out there after you heard the shots and you said you got your gun and then you went to try to see what was going on?

A: Right.

Q: Okay. And -- and this is the 4th of July. Now, when you got your gun and you headed out, was it already dark at that point?

A: Yes.

Q: Okay. And in fact, it was dark enough that the car that you said that you saw coming towards you as you headed out going towards Mr. Rowell's house from your house, which you

said was about a hundred yards or less, and you started going down the dirt road to Mr. Rowell's house, and at that point you had -- did you have your -- were you driving your vehicle?

A: Yes.

Q: All right. Did you have your lights on?

A: Yes.

Q: Okay. And the other car had its lights on? The car that was coming towards you?

A: Not at the time.

Q: Okay. They didn't have lights on?

A: No. They didn't have no lights on until after I got right in front of Mr. Rowell's house. When I got in front of Sam's house --

Q: Okay.

A: -- and then all of a sudden a set of lights came on and that's when they passed me.

Q: Okay. Now, let me ask you about that. You said that you were in front of Sam's house now?

A: Right.

Q: When -- when you first saw the lights to the other car, you were already in front of Sam's house?

A: No. No. I said when I got in front of Sam's house, after I got in front of Sam's house, all of a sudden a set of lights came on in front of me.

Q: And that's what I'm asking you.

A: Okay.
Q: You were headed -- you were headed towards Sam's house?
A: Right.
Q: There is a car which is headed towards you?
A: Okay.
Q: Is that correct?
A: Correct.
Q: All right. And what I'm asking you is when you first saw the lights from the vehicle, the other vehicle, where was your car on that road? Were you already in front of Sam's house? Is that what you're saying?
A: Yes.
Q: All right. So you were in front of Sam's house, you see this other car now coming from further up the road; is that right?
A: Right.
Q: Okay. So they're coming from further up the road past Sam's house?
A: Correct.
Q: Coming towards you because you're in front of Sam's house?
A: Right.
Q: All right. And so this car that you saw was not coming out of Sam's yard?
A: No.

Q: It was not?

A: No.

Q: Okay. And you never saw this car parked in Sam's yard?

A: No.

Q: All right. Now, once the car comes out, comes past you, you try to look at the car and you try to get a good look at it as best you could?

A: Right.

Q: Okay. But at some point, the car turns its lights -- its headlights on; is that right?

A: Right.

Q: And you got your headlights on and you couldn't see who was in the vehicle?

A: Right.

Q: So you don't know whether there was one person or two people or five people in the car?

A: No.

Q: And you don't know if the people were black or white or Asian or otherwise?

A: I don't know.

Q: All right. Now, as I understand it, when that car passed you, did you ever stop at Mr. Rowell's house before you chased the white car that you say passed you?

A: No.

Q: Okay. So did you have -- did you stop at some point and

have a conversation with Mr. Godbold, who was up at Mr. Sam's house?

A: No, not at -- not at Sam's house. It was later at Bay-Bay's house.

Q: Okay. So you talked to Mr. Godbold later on --

A: Right.

Q: -- at Ms. Bay-Bay's house about what had happened up at Sam's house?

A: Correct.

Q: Okay. So when this car passed you, how did you know that you should follow this car? What made you think that you needed to follow that particular car?

A: Just instincts.

Q: Okay. Just instincts? All right. So when the car passed, how far down did you have to go past Mr. Sam's house in order to turn around? Because that's a pretty narrow dirt road right there; right?

A: Right.

Q: All right. So how far did you have to go down past Mr. Sam's house before you could turn around to go follow the other car?

A: I'd say close to about fifty feet.

Q: Okay. And you had to go around about fifty feet?

A: Right.

Q: All right. And now -- and did you make like a three-

point turn or were you able to actually turn onto -- onto a yard or something?

A: It's a -- it's a back road there so I just pulled up in it and backed out.

Q: Okay. All right. And now, when -- when you -- when you were there the first time, you were passing Mr. Sam's house the first time, did you see Mr. Godbold's car parked there?

A: Yes.

Q: Okay. And where is his car parked?

A: Side of the highway beside the dirt road.

Q: Okay. Was he actually on the dirt road or was he off of the dirt road into Mr. Sam's -- edge of Mr. Sam's yard?

A: He was in the edge of his yard.

Q: Okay. And did you see any other vehicles other than Mr. Godbold's vehicle and Mr. Sam's truck in Mr. Sam's yard when you passed there?

A: No, I didn't.

Q: Okay. There was nobody else in that yard that you saw?

A: No.

Q: Did you even see Mr. Godbold himself at that moment?

A: Well, I seen him as I was going back.

Q: Okay. So after you turned around and was coming back out, that's when you actually saw him?

A: Right.

Q: But you saw his car earlier?

A: Right.

Q: All right. And so you then go and you try to follow this other car, and was the car going fast or slow? And I know that's a relative term, but try to describe to me how the speed of the car that was coming past you?

A: It was coming past me --

Q: Pretty fast?

A: -- pretty fast.

Q: Okay. And then the car headed out and it went straight out Phil Court or did it make that left or do you know?

A: When I seen it, I was walking the road and I seen where it turned and went down Sandy -- Sandy Land.

Q: Okay. All right. And -- and the solicitor asked you about giving the statement to the police and you did. You talked with the police that night and you told them what you knew about this?

A: Right.

Q: Did you not?

A: Correct.

Q: And -- and you told them at that time that you thought that it was either a Cadillac or a Navigator?

A: Right.

Q: Okay. And -- and -- but you said here that you thought it was an Expedition, but that was something that you learned later; right?

A: (No verbal response.)

Q: You have to say yes or no.

A: Yes. I'm sorry.

Q: Okay. Thank you, sir. And -- and now, let me ask you when you came -- after you -- how -- well, let me ask you this. How long were you gone chasing the other car? How long would you think you were gone down that road chasing the other car?

A: Probably about twenty or thirty minutes.

Q: That long? Okay. So you were gone twenty or thirty minutes chasing this car. So then you come back to Mr. Rowell's house; correct?

A: Well, I stopped by Francis' house first.

Q: All right. Bay-Bay's?

A: Right.

Q: Okay.

A: Then I -- we went on back up there.

Q: Okay. Now, you -- all right. So when you come back in, do you come back in on Phil Court or do you come back in on the other dirt road?

A: Phil Court.

Q: You come back on Phil Court? And when you come back in off of 9 onto Phil Court, you go to Ms. Bay-Bay's house?

A: Right.

Q: All right. And do you stay there for any length of time

or do you -- do you immediately leave there and go back to Mr. Rowell's?

A: We stayed there for wasn't even five seconds.

Q: Okay. So you just picked her up?

A: Right.

Q: All right. Just -- just you and Ms. Bay-Bay?

A: Yes and no.

Q: Okay.

A: Eddie, he drove back up there. So --

Q: Okay. So when you got back to Ms. Bay-Bay's house, Eddie was where? At Ms. Bay-Bay's?

A: Yes.

Q: Okay. So when you got to Ms. Bay-Bay's house after chasing the car, Mr. Godbold was at Ms. Bay-Bay's house and -- and then you and Ms. Bay-Bay got in your vehicle?

A: Right.

Q: Did Eddie drive his vehicle or did he ride with y'all?

A: I think, if I'm not mistaken, he drove his vehicle.

Q: Okay. And then the two vehicles then leave Ms. Bay-Bay's house and y'all go back down the road to go back to Mr. Sam's house?

A: Right.

Q: Now, what you're saying is you think that there was about a thirty minute window from the time that you chased those cars until the time you got back to -- to the house. Is that

-- is that fair?

A: That's fair.

Q: All right. All right. Now, let me ask you some questions about what the -- well, let me finish with this line of questioning first. When you got back to the house, when you went back, you were telling the solicitor that you thought that there were maybe eight -- ten people outside. This is when you come back?

A: Right.

Q: And this is when you come back with Mr. -- with Mr. Godbold and with Ms. Bay-Bay. When y'all get back, you're saying there are eight -- seven or eight other people already there?

A: Yeah. Close. About seven people.

Q: Okay. All right. So when the three of y'all come back, there are already several other people outside the house?

A: Right.

Q: And you don't know how long those people had been out there --

A: No.

Q: -- at that point? All right. And -- and do you know whether or not any of those people had gone into the house before you got back?

A: Well, I heard one of them saying they wanted to go to see was he living and I said no, it's best not to go over there

yet.

Q: Yeah.

A: Because they would come -- the police would have to come and investigate it there.

Q: So when you got back, you tried to make sure that nobody else went in the house?

A: Right.

Q: Okay. Once you got back, but what I was asking you, do you know whether or not any of those people who were out there had gone into the house before you got back?

A: Well, I don't know for sure.

Q: Okay. That's fair. All right. Now, let's talk for a minute about the -- Mr. Rowell had -- had like a little -- I don't want to call it a farm because I don't know if it's really a farm, but he had like animals, horses and some cows and things like that out there --

A: Right.

Q: -- on this area. Is that fair?

A: That's fair.

Q: All right. And -- and there was also this I guess club or lounge or whatever we want to call it that was there. How long had -- had that club or lounge been there?

A: Since -- well, since he had the trailer put there so I would say close to -- I would say probably two to three years maybe.

Q: Okay. All right. And -- and how often or how frequently was it used? Do you know?

A: Mostly used when family reunions. That's basically the things he used it for.

Q: Okay. All right. And -- and -- and now, have you -- have you ever been to any event up there at the house?

A: Yes.

Q: Okay. All right. And when is the last time that you had been to some event there at the house?

A: I really couldn't tell you the last event that I went to at that time before he got killed.

Q: Okay. All right. You're not real sure when that was?

A: Right.

Q: All right. Did you ever go to Atlantic Beach to sell -- help him sell stuff down in Atlantic Beach?

A: No, sir.

Q: All right. But you knew that he was doing that?

A: Mm-hmm.

Q: Okay. All right. Now, let me ask you in terms of -- of -- of the video recording devices that -- were you aware that he had video recorders at his house?

A: Yes.

Q: All right. And did you know where the video recording machine was in his house?

A: Not at the time.

Q: Okay. You didn't know where it was at?

A: No.

Q: All right. Did he ever talk with you about it or tell you about it?

A: About?

Q: The video recording machine that he had?

A: Yes.

Q: That recorded the outside and stuff like that?

A: Yes, he did.

Q: Okay. Now, Mr. -- Mr. Rowell also had a number of people working for him -- did he not? -- from time to time helping him with feeding the animals and do the yards and -- and fix up things around there. That was not uncommon to see him have two or three guys over there doing stuff and working around there, would it not?

A: Right.

Q: In fact, he owned some other properties as well?

A: As far as I know, he does.

Q: Yeah. And he owned another club which was the Sugar -- Sweet Daddy's Sugar Shack?

A: Right.

Q: All right. And -- and do you know who he rented that place to?

A: I don't know the fellow's name.

Q: Okay. Let me ask you about EMS. That night when -- when

you got back from -- from trying to find the white car, you came back and you picked up Ms. Bay-Bay and -- and Mr. Eddie followed y'all or y'all followed him, but you went back to the house. How long after you got back was it before EMS people came to -- to -- to the house?

A: I couldn't give you a roughly estimate of exactly what time they showed up.

Q: Okay. But when they came in -- when they came up, were they driving the regular EMS emergency medical van?

A: Yes.

Q: Like they always drive?

A: Yes.

Q: All right. And did they get out and go inside the house?

A: If I'm not mistaken, I think they called the -- like, called the coroner first.

Q: Okay.

A: If I'm not mistaken.

Q: Who called the coroner first?

A: I -- I think the police called him first.

Q: Okay.

A: Because they wanted to make sure that he was dead and stuff before they moved him.

Q: Okay. Yeah. What I'm asking about was when EMS people came. You told the solicitor that EMS people came, and I'm just trying to find out did they go in the house. Did the EMS

people go into the house?

A: If I'm not mistaken, they did.

Q: Okay.

A: If I'm not mistaken.

Q: All right. All right. And -- and you don't know what they did when they went in there; you just know that they showed up?

A: Right.

Q: All right. Now, how long did you stay there that evening?

A: It was about one -- one o'clock before I left.

Q: Okay. All right. Did EMS leave before you did or after you?

A: Yes.

Q: They left before you did?

A: Yeah.

Q: Okay. So do you know how long they were there?

A: Not that --

Q: You weren't paying attention to the time so you don't really remember?

A: Right.

Q: Okay. All right.

MR. WILSON: If the Court would bear with me just one second?

THE COURT: Yes, sir.

MR. WILSON: No other questions. Thank you so much.

THE COURT: Mr. Floyd, cross examination.

MR. FLOYD: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FLOYD:

Q: Good morning, Mr. Reed.

A: Good morning.

Q: How are you?

A: I'm fine.

Q: Mr. Reed, could you just take a look at this statement for me?

(Whereupon, the witness complies.)

Q: Is that a statement that you wrote?

A: Yes.

Q: Okay. Did you --

MR. CLEMENTS: No objection if he wants to put it into evidence, Your Honor.

THE COURT: All right.

MR. FLOYD: Thank you.

Q: Did you write that on July the 4th of 2012?

A: Yes.

Q: Okay. Now, when you wrote this statement, you said the vehicle looked similar to an Escalade or a Navigator; is that correct?

A: Right.

Q: Okay. And you spoke to an investigator on the scene and told him that?

A: Yes.

Q: Okay. Did you talk about anything else other than your seeing that car and what it looked like?

A: No, sir.

Q: That's -- that's the only subject y'all talked about?

A: Right.

Q: Were you ever interviewed by anyone else after that or did you talk to anybody else about any subject?

A: Not that I recall.

Q: Okay. All right. Thank you very much.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Wilson asked you about people working around helping Mr. Rowell out. Did you ever see Marco Sanders there working?

A: No.

Q: Did you ever see Tyrell Woods there working?

A: No. I haven't seen him.

Q: All right. Also, Mr. Wilson asked you -- I want to be sure I've got this clear. Mr. Wilson asked you about people going in -- going into the scene and -- and you said you heard them talking about no, and then he said, "So you tried to stop them; didn't you?" Is that you that said, "No, this is a

crime scene," or is that you heard somebody else say, "No, this is a crime scene. You better not go in there?"

A: I said it.

Q: Okay. Did you hear anybody else say that?

A: Yes. I heard a couple more people said it also.

Q: A couple more people said it also?

A: Right.

Q: Okay. All right. So to your knowledge, no one went in there?

A: For my knowledge, no one did.

Q: Okay. Thank you.

THE COURT: Mr. Wilson?

MR. WILSON: I have no other questions, Your Honor.

MR. FLOYD: Nothing further, Your Honor.

THE COURT: All right. Sir, you may step down. Thank you.

THE WITNESS: Thank you.

MR. CLEMENTS: Your Honor, we'd ask that Mr. Reed be excused from his subpoena.

THE COURT: Any objection, Mr. Wilson?

MR. FLOYD: No objection, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: No objection.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Thank you. Sir, you're free to go. You have no further responsibilities under your subpoena. Thank you for being here. Call your next witness please.

MR. CLEMENTS: Your Honor, we'd call Levern Nichols.

(Whereupon, there is a pause in the proceedings until the witness enters the courtroom.)

MR. CLEMENTS: If you would, step up and be sworn, Mr. Nichols.

THE CLERK: Do you solemnly swear or affirm the testimony you give in the trial of this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. Have a seat in the witness box.

LEVERN NICHOLS, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: How are you doing?

A: Fine. And yourself?

Q: Doing fine. Please introduce yourself to this jury?

A: Hi. My name is Levern Nichols. I live here in Marion.

Q: And what does everybody call you?

A: JJ.

Q: Okay. And can you tell this jury what kind of business you run?

A: A detail shop.

Q: Tell them exactly, in case they don't know, what a detail shop is?

A: A car wash.

Q: A car wash?

A: Hand car wash.

Q: All right. And you detail cars?

A: Yes, sir.

Q: All kinds of cars?

A: All kinds.

Q: Okay. And did you formerly work for the Marion County Sheriff's Office?

A: Yes, sir.

Q: All right. Back around July the 4th or 5th of 2012, did you hear anything about a murder that occurred in the county?

A: Yes, sir.

Q: And did you hear about anything that they were looking for?

A: Yes.

Q: Can you tell this jury what -- what you heard that they were looking for?

A: A white SUV. A white Expedition.

Q: All right. Are you sure it was an Expedition or just a white SUV at that time?

A: Well, they said a white SUV at the time.

Q: Okay. All right. And as a result of knowing law enforcement was looking for individuals with a white SUV, did you talk to any of the law enforcement officers or any of the investigators?

A: I talked to Detective Lee about it.

Q: And what did you tell Detective Lee?

A: That I saw Marco and Tyrell in one the day before.

Q: The day before the shooting?

A: Yes, sir.

Q: July 3rd of 2012?

A: Yes.

Q: And how long had you known Marco Sanders?

A: About the last twenty years maybe.

Q: The last twenty years?

A: Yes.

Q: And how long had you known Tyrell Woods?

A: Not that long. Briefly. Maybe a year or two.

Q: What -- was there an age difference between Marco and Tyrell?

A: Yes.

Q: All right. Is there a family relationship there?

A: Yes.

Q: What is that relationship?

A: Nephew and uncle.

Q: Tyrell is the nephew and Marco is the uncle?

A: Yes.

Q: Okay. Now, when you told James Lee what you had seen, did you do a written statement at that time?

A: Yes, I did. I think a day or two after maybe.

Q: All right. Can you remember -- was it some -- could it have been longer than that?

A: It couldn't have been no longer than two or three days at the tops.

Q: Okay. But you told him verbally first?

A: Verbally first. Yes.

Q: Okay. Mr. Nichols, do you see Marco Sanders in the courtroom?

A: Yes, sir.

Q: Can you please point him out for me?

A: (Witness gestures.)

Q: Can you describe him verbally please for the court reporter?

A: He's wearing a full beard, glasses, white shirt, black tie.

Q: All right. Do you see Tyrell Woods in the courtroom?

A: Yes, sir.

Q: What's he wearing?

A: A polo shirt with stripes, blue in color.

Q: All right.

MR. CLEMENTS: May the record reflect that the witness

has identified both of the defendants?

THE COURT: So noted for the record.

MR. WILSON: Your Honor, I have a matter I want to take up with the Court.

THE COURT: All right. Ladies and gentlemen, I have to ask you to step to the jury room for just a minute. Do not discuss the case. While you all are back there -- let me just say this before you step back there. I want you all to select a foreperson while you all are back there. Write it down on a piece of paper. The two ladies that are seated over here as alternates cannot -- cannot serve as foreperson. The twelve of you who are seated here, please select a foreperson while you are back there and write it on a piece of paper and give it to the bailiff when you come back in. Thank you. Do not discuss the case.

(Whereupon, the jury exits the courtroom at 9:53 a.m.)

THE COURT: All right. Mr. Wilson?

MR. WILSON: Yes, sir. Your Honor, I had filed a motion and asked that we have an in-camera hearing before any in-court identification of this defendant -- and this is clearly an in-court identification -- and I -- because I wanted to make sure that we had in-camera hearings on this issue to have some opportunity to know whether or not the witness had the knowledge and information in order to make the identification, first of all, and there's not -- there's not been any showing,

you know, in any kind of in-camera hearing on this witness at all.

THE COURT: Mr. Floyd, you got anything?

MR. FLOYD: Your Honor, I would -- I would join in that motion as well on that issue.

THE COURT: Mr. Clements, anything in response?

MR. CLEMENTS: Your Honor, I did not -- I did not pause on that. I asked him if he'd known him and he's known him for twenty years. I moved ahead and asked the question, and just forgot that he had asked for an in-camera hearing and figured he would -- I would figure he would have objected, but I probably moved too fast for him and I wasn't even thinking about that.

THE COURT: You got any questions you want to ask him, Mr. Wilson?

MR. WILSON: Well, the cat's out of the bag now, Your Honor. I mean I can't undo what's already been done, and I mean the Court may very well have allowed him to testify anyway. I'm not saying that you wouldn't have, but I'm just saying --

THE COURT: What you asked for wasn't done and --

MR. WILSON: Yes, sir.

THE COURT: -- therefore, you're objecting pursuant to -- or subsequent to it not being done.

MR. WILSON: Yes, sir.

THE COURT: Correct?

MR. WILSON: That's it.

MR. CLEMENTS: And, Your Honor, I did ask the question, and I guess the thing to do now is to see if there is a foundation and you would have ruled and if there would have been any prejudice that would have come.

THE COURT: I mean there's certainly been a foundation laid as to his knowledge of each of these two individuals. Based upon what I've heard and based upon the foundation that was laid, I would have allowed the in-court identification of them. I do not find that there would have been any prejudice to either one of these defendants in allowing him to testify as to his knowledge of them and identifying them in this courtroom. But I certainly understand where you're coming from and -- but based upon what I've heard, I would have allowed it. Is there -- are there any questions before I bring the jury back in that you may want to ask him?

MR. WILSON: Yes, sir.

THE COURT: Okay. Go ahead, Mr. Wilson.

MR. WILSON: Judge, my client wants me ask the questions. I -- I'm not comfortable that I should ask these questions, but --

THE COURT: Well, as his lawyer, it is your responsibility to try the case as you see fit.

MR. WILSON: Yes, sir.

THE COURT: You're the experienced lawyer here. Just kind of like with motions, just because clients ask us to file motions doesn't mean as lawyers we have to file every motion and do everything that our client asks us to do. So if as his lawyer and as a well-experienced -- has tried hundreds of cases, whether it be from the prosecution side or the defense side, and who has tried cases in front of me --

MR. WILSON: Yes, sir.

THE COURT: -- knowing how good of a trial lawyer you are and knowing how experienced you are, as well as each of these lawyers sitting at these tables. If you do not believe it's in your client's best interest, then that's your decision.

MR. WILSON: Yes, sir.

THE COURT: It's not for your client to run the show here, so to speak. It's your decision as his lawyer.

MR. WILSON: I --

THE COURT: Having said that, you make the decision.

MR. WILSON: All right.

IN-CAMERA EXAMINATION

BY MR. WILSON:

Q: Let me ask you just a couple of questions. You said that you've known Mr. Sanders for twenty years; is that correct?

A: Yes, sir.

Q: How do you know him?

A: Well, not personally. Just, you know, I've been in

business in Marion for about the last twenty years; so I've had different locations with detail shops. You always see him I mean regularly throughout the day and stuff like that.

Q: Okay. Have you ever been involved with drugs with Mr. Sanders?

A: No, I haven't.

Q: Okay. Have you ever bought or sold drugs to or from him?

A: No, sir.

Q: All right. Now, you -- when you made this -- when you made this statement, you were working for the Marion Sheriff's Office?

A: Yes, sir.

Q: All right. And you're no longer there?

A: No, sir.

Q: All right. Why is that?

A: I was fired for issues with controlled substances.

Q: Issues with what?

A: Controlled substance.

MR. WILSON: I don't have any other questions, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: Yes, sir.

IN CAMERA EXAMINATION

BY MR. FLOYD:

Q: Mr. Nichols, you said you had known Mr. Woods for one or

two years?

A: Yeah. I never knew him personally. Just, you know, passing, you know, or in the store or something like that.

Q: Okay. You knew him one or two years prior to the time that you saw him in July?

A: Well, before then.

Q: Before then?

A: Yes.

Q: Okay. I mean when had you seen him before then?

A: I can't remember. It had probably been a while before then.

Q: Okay. Well, how did you get to know him?

A: Well, I was -- I worked at the Sheriff's Department for the last six and a half years before I was terminated. So I knew a lot of people.

Q: Okay. Well, I mean did you know him socially?

A: No.

Q: Did you go to church together?

A: No.

Q: Then how did you know him?

A: By just seeing him with other guys that I had problems with at work from time to time.

Q: Okay. Do you -- do you recall the last time you had seen Mr. Woods before you saw him July 2012?

A: Probably maybe a month or two. I was looking -- I went

to his cousin's address and he was there when I went to serve her for jury duty or something, and he was at his cousin's house at the Bluff Road projects here in Marion.

Q: When was that? A month or two before July 2012?

A: Excuse me. That was Marco, not Tyrell.

Q: Okay.

A: Yeah.

Q: I was asking about Tyrell.

A: No. I hadn't seen --

Q: You don't remember the last time you had seen him?

A: No.

Q: Before July 2012?

A: No.

Q: Thank you.

THE COURT: All right. Anything else on this issue?

IN CAMERA EXAMINATION

BY MR. CLEMENTS:

Q: Did you know who he was in relationship to Marco Sanders on July 3rd, 2012?

A: Yes, sir.

Q: And you knew he was what to Marco?

A: That was his uncle.

Q: Okay. Marco was Tyrell's uncle? You knew that?

A: Yes.

Q: Okay. Were you familiar enough with other family members

that you knew that connection?

A: Yes, sir.

THE COURT: All right. Anything else?

MR. CLEMENTS: No, sir.

THE COURT: All right. Based upon what I've heard here, I would have allowed the in-court identification. I do not find there is any suggestiveness whatsoever. He's basing his identification solely upon personal knowledge of each of these individuals charged with this offense, Mr. Woods and Mr. Sanders, and, therefore, I would have allowed the identification. But your objection --

MR. WILSON: Thank you, Your Honor.

THE COURT: -- is noted for the record. Mr. Clements, for future reference, if there are any identification witnesses identifying these individuals in any capacity, please -- we've had the hearing on Mr. Rouse and Mr. Lee. We've dealt with this issue now with --

MR. CLEMENTS: My mistake, Your Honor. I did not do that intentionally. I apologize.

THE COURT: I understand. All right. Anything else before I bring the jury back out?

MR. WILSON: Nothing further, Your Honor.

THE COURT: All right. What I will do -- does anybody got to go to the bathroom? Mr. Clements?

MR. CLEMENTS: No, sir.

THE COURT: Bring me the jury, please, sir. Can the lawyers approach at sidebar as they're coming back in?

(Whereupon, a bench conference is held off the record.)

(Whereupon, the jury enters the courtroom at 10:03 a.m.)

THE COURT: Thank you, ladies and gentlemen. All right. Ms. Williams?

THE JUROR: Yes, sir.

THE COURT: That's been your seat throughout and that's going to be your seat through the remainder of this trial. Ms. Earline Williams has been selected as the forelady or foreperson of this jury. Thank you all for doing that while I had you step out there. So at this time, Mr. Clements, you may continue, sir.

CONTINUED DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Nichols --

A: Yes.

Q: You said that you gave that verbal information to James Lee?

A: Yes.

Q: And then later he asked you to do a written statement?

A: Yes.

Q: And you said it was a couple of days later?

A: Yes, sir.

Q: Is that -- is that the statement that you wrote?

A: Yes, sir.

Q: Can you look at the date down at the bottom?

A: Yes.

Q: Does that refresh your recollection?

A: Yes.

Q: When -- when did you do a written statement?

A: On August 23rd.

Q: August 23rd?

A: Mm-hmm.

Q: That's when Mr. Lee asked you to do that?

A: Yes.

Q: Okay. All right. Now, can you tell us exactly what you told Mr. Lee in detail about the white SUV that you saw on July 3rd?

A: I told him -- well, court was letting out here and I was walking over to the restaurant next door to have some lunch, and they was circling the parking lot at the Martin's Exxon station.

Q: And you said they were circling the parking lot. Who are you talking about?

A: Marco and Tyrell. Marco was driving.

Q: Marco was driving; Tyrell was in the passenger seat?

A: Yes.

Q: And what type of vehicle was it?

A: It was a Ford Expedition.

Q: A Ford Expedition?

A: Yes, sir.

Q: All right. And did you have any knowledge whether they owned the Ford Expedition or not?

A: No, sir.

Q: Okay. Now, they were circling the parking lot, and you have a detailing business where you detail cars?

A: Yes.

Q: All right. Are you familiar with different brands and makes of cars?

A: Yes.

Q: Can you tell us what type -- what -- let me start with here. A Navigator is made by what company?

A: Ford.

Q: Ford? An Expedition is made by what company?

A: Ford.

Q: Other than the front grill and the back taillights, what differences in structure is there between an Expedition and a Navigator?

A: There's not much difference in the front end and the radiator.

Q: Okay.

A: I mean that's the only thing that pretty much distinguishes the two.

Q: That's the only thing that pretty much distinguishes the

two?

A: Yes.

Q: Okay. I'm going to show you what's been marked for identification purposes as State's Exhibit 17-A and B. Can you tell me -- State's Exhibit 17-A, what type of vehicle is that?

A: An Expedition.

Q: State's Exhibit 17-B -- what type of vehicle is that?

A: An Expedition.

Q: All right. And as a detail man, what color trim is that?

A: It's gold.

Q: Gold trim?

A: Yes.

Q: Okay. Do you recognize State's Exhibit A and State's Exhibit B or not?

A: Yes.

Q: You do?

A: Yes.

Q: Okay. How do you recognize State's Exhibit A and B?

A: Well, A is from the side and B is from the rear.

Q: Okay. All right. Can you identify this as being the same vehicle? Right?

A: Yes.

Q: A and B -- the same shots of the same vehicle?

A: Yes.

Q: Can you identify this particular vehicle?

A: Yes.

Q: You can?

A: Yes.

Q: How do you identify this vehicle?

A: Well, the Expedition --

Q: Let me rephrase my question.

A: All right.

Q: Can you say whether or not you ever seen this particular vehicle that's photographed here in 17-A and B?

A: Yes.

Q: Where?

A: At the Exxon station.

Q: Martin's service station right over there?

A: Yes.

Q: And who did you see with this vehicle, if anyone?

A: Marco.

Q: Okay. This is the vehicle you saw Marco driving?

A: Yes.

Q: Okay. All right.

MR. CLEMENTS: At this time, Your Honor, we would move State's Exhibit A and B -- 17-A and B into evidence.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: Yes, sir. Subject to my sidebar and I object in general to the introduction of this document with

this witness.

THE COURT: All right. Any objection, Mr. Floyd?

MR. FLOYD: Same objection, Your Honor.

THE COURT: All right. Over defense counsels' objection, 17-A and B are admitted into evidence at this time.

MR. CLEMENTS: Thank you, Your Honor.

Q: Let me ask you this. Did you see either one of these defendants, Mr. Sanders and Mr. Woods, in the next couple of days at all?

A: No, sir.

Q: Okay. After July 5?

A: No, sir.

Q: Okay. All right. Please answer any questions Mr. Wilson or Mr. Floyd may have.

THE COURT: Cross examination, Mr. Wilson.

MR. WILSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:

Q: Well, you did a statement, did you not?

A: Yes, sir.

Q: And in that statement, didn't you actually -- you just told the solicitor that you didn't see these defendants or Marco Sanders after July the 5th. That's not really true, is it?

A: Did I see them?

Q: Yes, sir.

A: After July 5th?

Q: Yes, sir.

A: No. I don't recall seeing them after July 5th.

Q: Well, do you remember making the statement? Let me show you this. Look at that and see if that's your statement.

A: Well, when I seen them in the blue Buick, I wasn't sure of that date at that time.

Q: Well, so you did see them after this according to you in your statement that you gave?

A: Yes.

Q: Did you not?

A: Yes.

Q: So what you told the solicitor just now is not correct?

A: Yeah. It wasn't correct.

Q: All right. It was not. And let me ask you this. Back -- back on July the 3rd, is that when you say that you saw the white Expedition?

A: Yes, sir.

Q: All right. And you were where when you say you saw the white Expedition?

A: At the Martin's Exxon station.

Q: The Martin's Exxon station right across the street?

A: Yes.

Q: And that would have been the day before July 4th?

A: Yes.

Q: Is that correct?

A: Yes.

Q: All right. Now, tell me about the car. The car had tinted windows?

A: No. Well, the windows was down on it.

Q: Which windows were down?

A: All of them.

Q: The passenger windows?

A: Well, then driver window was down and the passenger window was down and I didn't take the rear wants to be tinted, no.

Q: All right. And this was on July the 3rd; correct?

A: Yes.

Q: Is that correct?

A: Yes.

Q: And Mr. Rowell was killed on July the 4th; right?

A: Yes.

Q: You didn't give a statement to the police until August 23rd, and both these defendants and already been arrested at that time, hadn't they?

A: Yes.

Q: In fact, this statement comes after they were arrested and put in jail, and then you gave this statement saying that you knew them and that you saw them in this white car. Isn't

that the truth?

A: Yes.

Q: In fact, prior to July the 16th when they was arrested, you never said one word about ever having seen them anywhere ever until -- until after July 16th when they were arrested and put in jail, isn't that a fact?

A: I'm not sure about that. The 16th.

Q: Show me any document -- anything where you gave any statement prior to July 16th when they were arrested indicating that you saw them in a white Expedition?

A: Well, when I told James Lee verbally, he didn't ask me to put it in writing at the time, sir.

Q: Well, you told the solicitor that you gave the statement two or three days after you gave the oral --

A: I talked with him.

Q: Go ahead.

A: I mentioned it to James Lee after they said that they was looking for a white SUV, but I wasn't asked to write a statement until a week or two later maybe.

Q: You told the solicitor that it was two or three days between the time you gave the verbal indication to one of the other officers and the time you wrote the statement. The statement is dated August the 23rd of 2004 [sic.], more than a month and a half after Mr. Rowell was dead. Isn't that a fact?

A: Yes.

Q: Yes. And this is made up, isn't it? Made up after the fact in order to inculcate these defendants, isn't it?

A: No, sir.

MR. WILSON: I don't have any other questions.

THE COURT: Mr. Floyd?

MR. FLOYD: Your Honor, I don't have any.

THE COURT: Any redirect?

MR. CLEMENTS: Yes.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: I just want to clarify this. How soon did you talk to James Lee when you heard they were looking for somebody in a white SUV?

A: Same day it was brought up I mentioned it to him.

Q: The same day it was brought up you mentioned it to him?

A: Yes.

Q: And then later, was that July 4, 5, 6, somewhere in there?

A: Well, the 4th was on Thursday. It had to be sometime that next week.

MR. WILSON: This is all --

THE COURT: Hold on a minute.

MR. WILSON: I object. This is his witness and now he's doing --

THE COURT: You're only allowed to go into what he dealt with on cross examination.

MR. WILSON: And he's leading. That's the other ground.

THE COURT: All right. Rephrase your question.

MR. CLEMENTS: All right.

Q: You said it was some short period after when you heard. Is that what you just said?

A: Yes.

Q: And later he came and asked you to write. Is that what you --

A: Yes.

Q: -- was asking about and --

THE COURT: Hold on. You got any objection, Mr. Wilson?

MR. WILSON: Yes, sir. He's leading.

THE COURT: All right. Please restate your question.

MR. CLEMENTS: Okay.

Q: When did you write a statement?

A: August 23rd.

Q: Okay. Before -- what do you remember about it prior to looking at your statement as to that date? What do you remember?

A: Well, I'd forgot about the last part of it about seeing them after -- maybe after the 4th or the 5th or 6th or something. I seen them in the blue car. I'd forgot about that part of it.

Q: All right. What did you remember about the actual date you wrote it before you looked at the statement?

A: Oh, I remember everything about it, where I saw them at, and who was driving. I remember all that.

Q: Okay. But you don't -- you don't remember when you actually wrote it?

A: No, sir.

Q: Okay.

A: I mean the 23rd though.

Q: That's what it says?

A: Yes.

Q: Why did you write this statement?

A: James Lee asked me to. He told me he needed it for the record.

Q: And he said that we needed it for the record?

A: Yes.

Q: And he asked you to write it?

A: Yes, sir.

Q: What did you remember about that day when he asked you to write it? Do you remember when that was?

A: Not exactly.

Q: Okay. You thought it was sometime, but that document is true?

A: Yes.

Q: You put the date on that document?

A: Yes.

Q: Okay. All right. And based on what Mr. Wilson was asking you about and he said that you didn't give a statement until August 23rd, verbal or otherwise, is that true or not?

A: Verbal I did, but not written, no.

Q: Okay. All right. How many days after the 4th -- if you remember, how many days after the 4th did you give the verbal statement to James the first time?

A: After the 4th, maybe it was on that Monday or Tuesday. I'm not sure what date exactly it was that following week.

Q: All right. But it was a Monday or Tuesday after the 4th?

A: Yes.

Q: The first Monday or Tuesday after the 4th?

A: Yes.

Q: But you're not sure the exact date?

A: No.

Q: Okay. That was verbal, not written?

A: Yes.

Q: Okay.

MR. CLEMENTS: Nothing further.

THE COURT: Mr. Wilson, any -- any further recross?

RECROSS EXAMINATION

BY MR. WILSON:

Q: Just let me ask you this. Is it true or not true that you gave a statement on the 23rd and your initial statement to

the solicitor that it was two or three days before that that you gave an oral statement? Which is true? Did you give it on the 4th or the 5th? Which -- which is true?

A: The written statement was on the 23rd and the verbal statement was -- like I said, it was that following week after the holiday weekend.

Q: All right. And you are claiming that you told -- who did you tell on the 4th or the Monday after or whatever it was that you're saying --

A: Detective Lee.

Q: -- that you told? I'm sorry?

A: Detective Lee.

Q: Detective Lee?

A: Yes.

Q: Okay. And you told him on that date that it was Marco Sanders and Tyrell Woods in that car. That's what your story is now?

A: Yes, sir.

Q: Okay. And -- and you say even now that that was -- you told me earlier that that was after the 16th; so now you're saying it was before the 16th. Is that what you're saying now?

A: I don't recall mentioning anything about the 16th.

Q: No. I asked you specifically whether or not you gave that statement before the 16th, and you told me it was after the 16th, and what I'm asking you is --

MR. CLEMENTS: Your Honor, I object. He's testifying.

THE COURT: Let him finish his question.

MR. CLEMENTS: He needs to ask a question.

THE COURT: Let him finish his question, please. Go ahead, Mr. Wilson.

Q: What I'm asking you is was it before the 16th or was it after the 16th or do you even know?

A: It was a verbal before the 16th and I did a written statement after the 16th.

Q: So you did -- so you gave it before the 16th and then you didn't do a written statement for a month later until the 23rd?

A: According to the date on the document, yes.

MR. WILSON: I don't have any other questions.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing further.

THE COURT: Thank you, sir. You may step down.

THE WITNESS: Thank you.

THE COURT: Well --

MR. CLEMENTS: Your Honor, if he may remain under subpoena in case we need to call him later.

THE COURT: Well, hold on just a minute. Ladies and gentlemen, rather than do this -- and I hate to. I'm going to ask you to step back to the jury room for just a minute. I'll get you back out here as quickly as possible. Do not discuss the case.

(Whereupon, the jury exits the courtroom at 10:21 a.m.)

(Whereupon, a bench conference is held with a member of law enforcement off the record.)

THE COURT: All right. Mr. Nichols, if you'll come back around here and take the stand. As he's doing that, let me ask you -- Mr. Wilson, we had a discussion at sidebar and you had asked him some questions previously outside of the presence of the jury concerning some dealings with your client, Mr. Sanders, and I told you at sidebar I was not going to allow it. Let me ask this question and then we'll put some case law on the record and some rulings on the record right now concerning what I told you at sidebar.

Other than what you previously asked Mr. Nichols concerning their prior dealings, is there anything else that you would like to proffer on the record concerning that? Because I want the record abundantly clear to protect your client's interest.

MR. WILSON: No, sir. Nothing. Nothing other than the questions I asked him during the in-camera hearing.

THE COURT: Right. And those were questions that I did not allow you to go into.

MR. WILSON: Yes, sir.

THE COURT: And I told you that before I brought the jury back out here that I was not going to allow you to do that in the presence of the jury, and at sidebar -- and I want it

clear for the record at sidebar you objected to that and I told you I'd let you put anything on the record that you wanted to to so protect your client's interests as it relates --

MR. WILSON: Yes, sir.

THE COURT: -- to that issue and that's -- that's why I'm giving you that opportunity now.

MR. WILSON: Yes, sir.

THE COURT: Mr. Floyd, do you have anything concerning that issue?

MR. FLOYD: Nothing further.

THE COURT: And it didn't apply to your client, but I'm just giving you that opportunity.

MR. FLOYD: No, sir.

THE COURT: Now, I told you at sidebar that I was not going to allow it, but it was proffer testimony concerning questions that you asked of Mr. Nichols. Under State v. Aleksey, A-L-E-K -- Aleksey, excuse me. A-L-E-K-S-E-Y, 343 S.C. 20, 538 S.E.2d 248. In that particular case, the trial court -- it was determined that the trial court did not -- did not abuse its discretion in limiting the scope of cross examination to comply with Rule 609.

Rule 609 permits -- permits impeachment of a witness by evidence of conviction of certain crimes. Rule 609 also talks about they may, however, in the discretion of the Court if

probative of truthfulness or untruthfulness. It's a discretionary call on the Court's behalf as to whether the Court allows it if it's probative of truthfulness or untruthfulness.

All right. In this particular case, Mr. Nichols testified that he had been terminated from the Sheriff's Department for something to do as it relates to the narcotics laws. Is that correct, Mr. Nichols?

THE WITNESS: Yes, sir.

THE COURT: All right. Pursuant to Rule 609, it talks about impeachment evidence, about evidence of conviction of a crime. Here, we do not -- there's not any evidence of a conviction of a crime, but it goes on to say in the footnotes as to this particular rule, citing State v. Bryant, 369 S.C. 511, it says violations of narcotics laws are generally not probative of truthfulness or untruthfulness.

Therefore, pursuant to what I've said on 608 -- Rule 608, as well as Rule 609, and pursuant to my reading of State v. Aleksey, again, 343 S.C. 20, 538 S.E.2d 248, my ruling remains the same, but your objection is so noted -- is so noted for the record. All right.

MR. WILSON: Yes, sir. Your Honor, just in case I didn't make it clear for my -- my objection was twofold. One on identification, but also on credibility.

THE COURT: Right. And I ruled on the identification

issue.

MR. WILSON: Yes, you did.

THE COURT: I did not believe -- believe that any -- or the in-court identification was in any way suggestive in nature. He testified and laid the foundation as to how he knew your client, as well as Mr. Woods, and, therefore, I allowed the identification, as well as limiting your scope of cross examination of this witness. But your objections are so noted for the record.

MR. WILSON: Thank you, Your Honor.

THE COURT: For the record. All right. Anything else?

MR. WILSON: No, sir.

THE COURT: All right. We're going to -- Mr. Nichols, you may step down now, sir. I just wanted to bring you back in here and Mr. Clements had asked that you be held under your subpoena, and I believe based upon our discussion at sidebar as it related to that particular issue -- I'm not sure, but it was my belief that it was related to that particular issue. I wanted to deal with that issue right now as opposed to -- and they may still want you under that subpoena, but I wanted to deal with that issue right now before you stepped off the stand.

MR. CLEMENTS: Your Honor, we would ask that he be excused from his subpoena.

THE COURT: All right. Any objection now, Mr. Wilson? I

mean you've noted your objection. And I mean he may be under one of your subpoenas. You may have subpoenaed him.

MR. WILSON: Yes, sir. I did subpoena him. And, Your Honor, I would ask that he remain under my subpoena --

THE COURT: Okay.

MR. WILSON: -- at least at this time. I'm going to try to find some -- you know, something to --

THE COURT: All right.

MR. WILSON: -- convince the Court, but I don't know if I can.

THE COURT: Well -- and I'll certainly give you that. I told you at sidebar I'd give you an opportunity to see what you could find on that.

MR. WILSON: I appreciate that.

THE COURT: But I've -- in the meantime, I was looking. My law clerk was looking up here and I felt confident in what I told you at the sidebar, and I just put some rules and some case law on the record so the -- so the appellate courts -- if it -- if it becomes an issue on appeal, so the appellate courts know what I was doing and where I was -- my ruling came from.

MR. WILSON: Yes, sir.

THE COURT: Okay.

MR. WILSON: Thank you, Your Honor.

THE COURT: All right. You may step down. You're still

under subpoena, but you're free to leave here right now.

THE WITNESS: All right. Thank you.

THE COURT: Thank you, Mr. Nichols. All right. We're going to step down for -- we're going to stand down for just a few minutes. Anything before we step down, Mr. Clements?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Floyd?

MR. FLOYD: No, sir, Your Honor.

THE COURT: All right. We'll stand down for about five minutes.

(Whereupon, there is a break in the proceedings from 10:28 a.m. until 10:47 a.m.)

THE COURT: All right. Anything from the State before I bring the jury back in?

MR. CLEMENTS: No, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: Nothing, Your Honor.

THE COURT: Mr. Floyd?

MR. FLOYD: Nothing, Your Honor.

THE COURT: All right. If you will, bring me the jury, please.

(Whereupon, the jury enters the courtroom at 10:48 a.m.)

THE COURT: Madam Forelady, ladies and gentlemen, I hope

you all are ready to continue with the trial of this case. At this time, Mr. Clements, you're recognized. Call your next witness, please.

MR. CLEMENTS: Thank you, Your Honor. If it please the Court, we'd call Detective James Lee.

THE COURT: All right.

MR. CLEMENTS: Former Detective James Lee, now retired.

THE CLERK: Place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm your testimony you give the Court today will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. Have a seat in the witness stand.

JAMES LEE, being first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Good morning, Detective Lee.

A: Good morning.

Q: How are you?

A: Fine.

Q: Can you please state your full name for the record and tell this jury where you retired from and how long you were in that business?

A: Yes, sir. My name is James Lee. I retired from the

Marion County Sheriff's Department in February of 2013. I was employed in law enforcement for 18 years.

Q: And how long were you a detective with Marion County?

A: From '05 until I retired in '13.

Q: Did you have occasion to be called out on a home invasion and shooting on the 4th of July of 2012?

A: Yes, sir.

Q: Can you please tell this jury where you responded to?

A: I responded to Phil Court off of secondary 9 in the Gresham area.

Q: What did you find when you got there?

A: When I got there, I met with the shift commander and we walked up to the door at the end of the home and I noticed when I looked in the door a gentleman lying on the floor that had been gagged and he appeared to have blood coming from the back of his head.

Q: What were the conditions of his hands and feet?

A: They were bound up with tape.

Q: Okay. And did you go through the house at that time?

A: Not at that time.

Q: Okay. Did you later go through the house at that time?

A: Yes, I did.

Q: At a different time?

A: Right.

Q: And who took you through the house at that point?

A: SLED.

Q: All right. And also, SLED crime scene officers took you through to do an inventory to show you what they had?

A: Correct.

Q: And you were the chief investigator on this case?

A: Correct.

Q: At the end of that evening, what evidence or what leads at all did you have that you followed up on?

A: We had no leads at the end of the day.

Q: Anything about a vehicle?

A: Other than a white SUV.

Q: Okay.

A: Expedition-style.

Q: And what did you do to put that word out that you were looking for a white SUV?

A: I informed all the other officers with the Sheriff's Department, and it was spread about through the community we were looking for a SUV, white in color.

Q: All right. Did you have occasion to talk to another law enforcement officer regarding a white SUV?

A: Yes, sir, I did.

Q: Who was that officer?

A: JJ Nichols.

Q: JJ? Is that Levern Nichols?

A: Correct.

Q: Everybody calls him JJ?

A: Yes, sir.

Q: Do you recall what day that was?

A: It was shortly after the 4th after the incident happened.

Q: A couple of days after?

A: Correct.

Q: All right. And did you get information from JJ?

A: Yes, sir, I did.

Q: And based on that information, did you begin to look for anyone in particular?

A: Yes, sir. We started looking for Marco Sanders and Tyrell Woods.

Q: Okay. And did you get a written statement from JJ at that time?

A: Not at that time.

Q: Did you get a written statement from him later?

A: Yes, sir, I did.

Q: How much later, if you recall?

A: Later in the month around the 26th. I believe I was asked by your office to get the statement written by JJ.

Q: All right. Or a report?

A: Or a report. Yes, sir.

Q: Okay. And what did you choose to ask him to do?

A: I asked him to write a statement of what he had seen.

Q: Okay. And did he later get that back to you?

A: Yes, sir.

Q: Okay. Do you recall what the date was on that?

A: No, sir.

Q: All right. Now, you began to look for Marco Sanders and Tyrell Woods?

A: Correct.

Q: In that process of looking for them, did you go to see anyone?

A: I went and paid a visit to Tyrell's mother.

Q: Okay. And after talking with Tyrell's mother, then did you -- what did you begin to look for?

A: Well, after finding out that Tyrell had been seeing a girl over in the Florence area, I took her name and went back to the office and went to the DMV to check to see what type of vehicle she had. At that time, I found that she owned a white Expedition.

Q: Okay. And what was her name?

A: Valerie Commander.

Q: Okay. Did you hunt for Valerie Commander?

A: Yes, sir.

Q: Did you ever make contact with her?

A: We made contact with Ms. Valerie at Wateree Correctional Facility, where she was employed.

Q: She was employed there?

A: Yes, sir.

Q: Okay. And what were you able to do or verify at that time?

A: She stated to us that --

Q: You can't tell me what somebody states. And as a result of that, what did you verify?

A: That she was the girlfriend to Tyrell Woods.

Q: Okay. And how about her vehicle?

A: And that Tyrell had the vehicle.

Q: All right. And had use of it or hadn't at that time?

A: I'm sorry?

Q: That he had had use of it or hadn't at that particular time?

MR. WILSON: Your Honor --

MR. FLOYD: Your Honor, this is all hearsay he's calling for. I object to it.

THE COURT: Mr. Wilson?

MR. WILSON: Same objection.

THE COURT: Objection sustained. Go ahead, Mr. Clements.

Q: Let me rephrase my question. Did you determine where her vehicle was at that time?

A: At that time --

MR. FLOYD: Your Honor, I object. He's asking for information that he got from somebody else. His answer is going to be hearsay.

THE COURT: Objection overruled. Go ahead, Mr. Clements.

Q: Did you determine where her car was at that time?

A: That particular day?

Q: Yes.

A: At work with her.

Q: Okay. What did you pursue in regards to her car?

A: We obtained a search warrant.

Q: Okay.

A: From Sumter County.

Q: And after getting that search warrant, what did you -- did you execute that or did you have someone else execute that?

A: After I contacted the agent with SLED to come process the car.

Q: All right. And did that happen?

A: Sir?

Q: Did that happen?

A: Yes, sir.

Q: Okay. All right. Now, I want to -- now, let me back up a little bit. You followed that lead on the SUV?

A: Correct.

Q: And then you had a lead from JJ on two individuals?

A: Correct.

Q: Did you personally know either one of those individuals?

A: I knew of them.

Q: Okay.

A: Yes, sir.

Q: All right. And did you know them if you -- had you had face to face encounters with them, knowing them from being in the community? Would you have recognized them if you walked up and talked to them?

A: Yes, sir.

Q: Okay. All right. Now, at the -- at the scene that you did the inventory with when the SLED crime scene person took you through the house, what, if any, electronic equipment did you notice?

A: I noticed the surveillance recorder.

Q: And where was that? What -- what was done with that?

A: That was carried back to SLED with them.

Q: Okay. Did you ever have any other dealings after that regarding that surveillance recorder?

A: Yes, sir.

Q: Can you please tell the jury what happened in regards to that and what you did?

A: Yes, sir. The surveillance equipment was Bunker Hill. I carried it up to SLED and gave it to Bart Cave, and he started looking at it and he was able to find that there was something on the piece of equipment, but during the time of it being cut at the scene by the defendants, it did some damage. And Bart was able to get on his computer and find out where or who sold that type of equipment and he found out that Harbor Freight

was an outlet for the Bunker Hill surveillance system. And at that time, I told him I had been buying parts -- not parts but tools from Harbor Freight in Dillon and that I would go and see if I could get another video player.

And I got back to Marion County and I did that and I obtained one and I met with Bart -- I'm pretty sure the next morning, and he took that piece of equipment and was able to put whatever he did from the one from the home into that one and we were able to view or review what had taken place there that day.

Q: Okay. I'm going to show you what's been marked as State's 28, which I believe is in evidence without objection. Do you recognize State's Exhibit 28?

A: Yes, sir.

Q: What is State's Exhibit 28?

A: The surveillance equipment box.

Q: Okay. The one that was at Mr. Rowell's?

A: Correct.

MR. CLEMENTS: Your Honor, that's all the questions we have of Detective Lee at this time, but we would like to recall him later on some other issues, and we turn him over for cross examination by Mr. Wilson and Mr. Floyd at this time.

THE COURT: Mr. Wilson?

MR. WILSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:

Q: Now, Detective Lee, you were the chief investigator in this case. Is that fair?

A: Correct.

Q: And you've been doing this for a long time -- 18 years you said I think at the time you retired?

A: Correct.

Q: Which meant that you would have been doing this probably 15 -- 16 years at the time of the homicide involving Mr. Rowell?

A: Involving investigations, no.

Q: I'm sorry?

A: Not investigations.

Q: Not investigations? So what had you been doing the other 13 -- 14 years of your career?

A: I was an officer working the road. In '05, that's when I got moved up to detective.

Q: Okay. All right. And so since '05, you've been a detective; so '05 to '12, seven years at least?

A: Correct.

Q: All right. And you've been a detective and I would assume in those seven years that you have worked other crime scenes and you've probably been a chief investigator on other cases prior to Mr. Rowell's homicide?

A: I've had more cases that I was the lead investigator. Yes, sir.

Q: Okay. All right. And in working cases, especially working homicides and other serious felony cases, it's important to kind of document things and keep up with what's going on. Wouldn't you agree with that?

A: Sure.

Q: All right. And -- and I'm sure having the experience that you've had that you tried to do that in this case?

A: Correct.

Q: And you would try to do that in every case as best you could?

A: Correct.

Q: Now, let's -- let's talk for a minute about a couple of things. One, let's talk about the video first. This -- when you went to the house on -- well, let me ask you first did you go to the house? That is to Mr. Rowell's house on July the 4th?

A: Yes, sir.

Q: The evening, that night. And did you know that on July the 4th there were video equipment in that house?

A: You talking about prior to that night?

Q: No, sir. On the night of July 4th when y'all were doing the search of the house trying to determine what happened, did you find the video recording equipment in the house on that

night?

A: SLED found it.

Q: Okay. Well, you also were present when it was found. In fact, you signed a document indicating that it was found in your presence and that you were aware of it, did you not?

A: It was turned over to me, sir.

Q: I'm sorry?

A: It was turned over to me.

Q: What was turned over to you?

A: I did not go in the house until SLED finished their --

Q: Okay.

A: -- investigation.

Q: But my point is simply this. On the night of July 4th, you were aware of this video recording equipment?

A: Yes, sir.

Q: And you were aware that -- you didn't know at that point whether it worked or didn't work; right?

A: Correct.

Q: But it would have been important to find out if it worked or if it didn't work, and you would have wanted to do that as expeditiously as you possibly could; right?

A: Right.

Q: All right. Now, on the 4th, the evidence is collected and it's taken to SLED?

A: Correct.

Q: Including the video recorder?

A: Correct.

Q: Now, from the 4th to July 18th, nobody does anything with the video equipment; right? It's stays up at SLED?

A: As far as I know.

Q: Okay.

MR. CLEMENTS: Your Honor, I object. I don't know how he's even qualified to answer what was done with it at SLED.

MR. WILSON: Well --

THE COURT: I'll allow the question. It's cross examination. If he knows the answer, he can answer it. If he doesn't, he can so state.

MR. WILSON: Thank you.

Q: Do you know what happened to the video equipment between July the 4th and July 18th, two weeks?

A: No, sir.

Q: Okay. But you know it was up at SLED at least on the 4th because they took it when they left?

A: Correct.

Q: All right. Now, on July 18th, you -- well, let me ask you this way. Who picks it up from SLED on July 18th?

A: July the 18th?

Q: Yes, sir. Well, let me help you --

A: I know it was picked up July the 18th.

Q: Okay. Now, July 18th -- just so we're clear, July 18th an

arrest warrant had already been issued for both of these defendants before July 18th; isn't that correct?

A: Correct.

Q: In fact, they were in custody before July the 18th. Is there any question about that?

A: Not both of them.

Q: Okay. Mr. -- Mr. Tyrell Woods was in jail; right? Before the -- before the 18th?

A: Hold on just a minute. Mr. Woods turned himself in on the 19th.

Q: Okay. So on the 19th. So -- all right. And so on the 19th, he was arrested. What was the date of the arrest for Mr. Sanders?

A: I don't know, sir.

Q: Okay. But an arrest warrant had already been issued for both of these defendants before July 18th, even though they had not been actually put in jail at that point. They had been -- an arrest warrant had been issued for their arrest. Is that fair?

A: That's fair.

Q: Okay. And that arrest warrant was issued on July the 16th; is that correct?

A: Well, I signed two warrants on July the 12th.

Q: Okay. So you signed two warrants on July the 12th?

A: Correct.

Q: And that was for Marco Sanders and Tyrell Woods?

A: Correct.

Q: And on July the 12th, you had not gotten the video back from SLED?

A: Correct.

Q: So the video had absolutely nothing to do with the fact that you issued those arrest warrants?

A: Correct.

Q: Correct. On the 18th, six days after the arrest warrants had been issued, you go and you get the video equipment from SLED; right? When I say you, you or somebody at your direction.

A: Correct.

Q: But you get the video equipment from SLED, and the purpose of getting the video equipment from SLED now is so that you can see what's on the video.

MR. CLEMENTS: Your Honor, I object. He's making a statement. There wasn't any question there.

THE COURT: Restate your question or restate your --

MR. WILSON: Thank you, Your Honor. I will.

THE COURT: Get at what you're trying to get at there.

MR. WILSON: All right, sir.

Q: On July the 18th, is it true that you or someone at your direction went to SLED to pick up the video equipment?

A: Yes, sir.

Q: All right. Is it true that the purpose of doing that was so that you could see what was on the video, if anything?

A: To pick it up? Are you asking me did I want to pick it up to view it?

Q: I'm asking you -- well, I don't know why you picked it up. I'm going to ask you in a minute why you picked it up, but right now I'm simply asking you whether or not on July the 18th when you went to pick it up -- well, first of all, did you go pick it up and, if so, who was it that went to pick it up? I assume it was at your direction since you're the chief investigator.

A: Myself or somebody from the Sheriff's Office picked it up.

Q: Yes, sir. All right. And what was the purpose then of picking it up from SLED? SLED had had it and they're the people who do the analyzation of all these kinds of things; right?

A: Correct.

Q: All right. So why were y'all going to pick it up from -- why was Marion County going to SLED, who is supposed to do the analysis, and getting the equipment back from SLED to bring it back to Marion? Why was that happening?

A: To put it back in our evidence.

Q: Why? Had it been examined by SLED at that point?

A: Just a second, sir.

Q: Sure.

A: I'm really not sure, sir.

Q: Okay.

A: I don't -- I don't know if it was because they couldn't do nothing with it at the time or not.

Q: Okay. All right. So when you get it on the 18th and you put it in Marion County in your evidence locker, how long does it stay in your evidence locker before you do anything else with the video equipment?

A: August.

Q: August? So from July 18th to August when?

A: Around the 2nd.

Q: Okay. So from July 18th to August the 2nd, it sits in Marion County evidence locker and nothing is happening to it during that time?

A: Correct.

Q: Nobody views it?

A: We weren't able -- I think they were unable to view it at the time at SLED.

Q: Okay. So SLED couldn't view it. So now, at some point in time as I understand it, you say that you went to some local dealer and got a similar machine and you were able to then play it?

A: Correct.

Q: Was that before August the 23rd?

A: It would have had to have been. Yes, sir.

Q: Yeah. It would have been before August 23rd, and now at this point, both defendants are under arrest and incarcerated?

A: I'm sure of one. I'm not sure about the other one.

Q: Okay. And now, you also have some conversation with Mr. Nichols. I mean you call him JJ or J-Fer or something similar to that. What did you call him? JJ?

A: JJ.

Q: JJ. You have some conversation with JJ, and JJ gives you some information and tells you that he saw Marco Sanders and Tyrell Woods in a white SUV Expedition?

A: Correct.

Q: Right? What date was that?

A: It was a couple days after the 4th.

Q: A couple of days after the 4th? So now what you're telling us is is that a couple of days after the 4th, the 6th if you will, you knew that it was supposedly Marco Sanders and Tyrell Woods in the car; right?

A: From JJ.

Q: Yeah. From JJ because he told you, "I saw Marco Sanders," but you don't issue an arrest warrant until the 12th; right?

A: (No verbal response.)

Q: And in-between that, you actually interviewed other people to try to get them to identify the perpetrators, don't

you?

A: Between what dates now?

Q: Between -- between July the 4th and July the 16th when you actually -- or 12th when you actually issued the arrest warrant, don't you go to other people and try to get them to identify the perpetrators of this crime?

A: Yes, sir.

Q: Yes. And in fact, in the line-up, you don't have anybody in the line-up -- you don't have Mr. Sanders in that line-up and you didn't have Tyrell Woods in that line-up when you took it to try to get those people to identify them, did you?

A: I did not show the first line-up.

Q: Okay. Well, whoever showed it, their pictures weren't in there, were they?

A: No, sir.

Q: No. That's something that you came up with later on; right?

A: (No verbal response.)

THE COURT: Is that a yes?

A: Right.

Q: Yeah. And at that point, you had not seen the video?

A: No.

Q: Right? And at that point, in fact, when on the 12th you went and tried to find another individual to pick out somebody out of a line-up; right? Right?

A: Correct.

Q: And in the 12th when you did the line-up with this other person, you actually had Mr. Sanders' picture and Tyrell Woods' picture in those line-ups; right?

A: Yes, sir. Two different line-ups. Yes, sir.

Q: Okay. And in fact, the person that you -- that you had pick them out of the line-up -- that person was in jail himself; right?

A: Not at that time.

Q: He wasn't in jail at that time? In fact, it was that identification on which you based the arrest warrants, isn't it?

A: It had to be.

Q: Yeah. Yeah. It wasn't based on what Mr. JJ told you because Mr. JJ you say told you that they didn't -- or that they saw him riding around in this car back as far back as the 4th or the 5th or the 6th. So you had that information since the 6th. When you got this information from this person, then you issued the arrest warrant?

A: Correct.

Q: All right. All right. And now, did you make a deal with that person who you were trying to get to identify the two of them when you put their pictures in there on the 12th?

A: No, sir.

Q: Okay. But he's in jail now; right?

A: As far as I know.

Q: In fact, you showed him some pictures before that he didn't pick anybody out in, did he?

A: I didn't show him the pictures on the other line-up.

Q: Okay.

A: He didn't pick nobody out.

Q: In fact, didn't he give you a statement telling you he didn't know who it was? That he couldn't describe them other than they were two black men basically?

A: I can't recall.

Q: But you did take a statement from him; right?

A: Sir?

Q: You -- you took a statement from this particular witness?

A: That day of the line-up.

Q: Right. And then on the 12th, you go back to him because -- you meet with him on how many different occasions?

MR. CLEMENTS: Your Honor --

THE COURT: Hold on. Yes, sir?

MR. CLEMENTS: He's just making a statement and then he tries to follow it up with a question. I would object to him making statements because that's not what the witness just told him.

THE COURT: Ask questions, Mr. Wilson, please.

MR. WILSON: Thank you, Your Honor. I will.

THE COURT: Direct --

MR. WILSON: Yes, sir.

THE COURT: This is cross examination.

MR. WILSON: Thank you, Your Honor.

THE COURT: You can lead.

Q: Now, what are -- simply where we are going here is this. This person that you had on the 12th that picked the two people out because that's the basis for your warrant and everything else came after that; is that correct? That includes the video, includes the signed statement by Mr. JJ on August 23rd. All that was done after, wasn't it?

A: As far as JJ writing that statement, it was done after.

Q: Okay. Ain't no question about that, is there?

A: No.

Q: And there ain't no question about the fact that their pictures had already been put in the newspaper and on television and everywhere else that they were under arrest and the arrest warrants had been issued by the time he made that statement -- that he did that written statement. No question about that, is there?

A: No.

Q: Okay. Now, let me ask you in regards -- let's go back to the house. On the night of July the 4th, you're the chief investigating officer and you said that when you arrived, SLED then took you through the house and guided you through to show you what was there?

A: No, sir.

Q: No, sir, they didn't take you?

A: No, sir. When I first got there on the scene?

Q: Yes, sir. The night that you arrived. July the 4th, the night that you arrived, you would have been part of the command staff that we heard so much about; right?

A: Correct.

Q: All right. And what I'm asking you is on July the 4th when you got there, I thought your testimony -- if I'm misreading, it, then I apologize. I thought your testimony to the solicitor was when you got there, SLED guided you through the house -- took you and guided you through the house and told you kind of what was going on.

A: No. No, not when I got there.

Q: Okay. Well, tell me what happened when you got there?

A: When I got there, the shift commander -- we walked up to the door together and I looked in and I noticed the -- Mr. Rowell on the floor, and I walked back out.

Q: Okay.

A: I never entered. I didn't even never break the barrier of that door.

Q: Okay.

A: I looked in.

Q: All right. Well, at any point in time, did SLED take you into the house?

A: After they got through processing.

Q: Okay. Now, whose -- whose decision was it to decide -- who made the decisions as to what evidence would be processed by SLED? Would that be your decision as the chief investigating officer? Or would somebody else make that decision?

A: Anything that was evidentiary was to be carried back by SLED.

Q: But that wasn't my question. My question was whose decision was it as to what items of evidence should be or would be examined or analyzed by SLED?

A: At that time, the question didn't arise of who makes the decision to carry back.

Q: Well, at some --

A: Anything -- anything that is of concern of evidence goes back with SLED to be processed. It doesn't matter whether I make that decision or SLED makes that decision I don't think.

Q: Okay. So are you telling me then that you don't have to make a request for -- for pieces of evidence -- items of evidence to be analyzed? You just -- once it's collected, everything is analyzed? Is that what you're saying?

A: I'm not saying everything was analyzed. I guess it's at SLED's discrepancy [sic.] what they are going to analyze.

Q: Okay. So you can't request that SLED analyze a particular item? Say, for instance, try to get fingerprints

off of the video equipment or try to enhance the video equipment. You can't make that kind of request. Is that what you're saying?

A: I can suggest it.

Q: Okay. All right.

A: But whether it's done or not, I don't know.

Q: All right. Were there any specific pieces of evidence that you requested SLED to analyze?

A: The only thing would have been the video.

Q: Okay. And that -- we know that was done in August; right?

A: Right.

Q: All right. Now, the white SUV that the solicitor asked you about -- you indicated that you went to -- you said Wateree?

A: Correct.

Q: Wateree Correctional. And that the person who owned that vehicle was an employee there?

A: Correct.

Q: I assume a detention officer?

A: No, sir. I don't think she was a detention officer.

Q: Okay.

A: I think she was -- well, I'm not really sure what her job was.

Q: Okay. But just she's an employee there at the detention

center. Fair enough. And you got a search warrant to have that vehicle searched?

A: Yes, sir.

Q: Okay. Is there anything that you found that connects Marco Sanders with that car?

A: No.

Q: Okay.

MR. WILSON: I don't have any other questions.

THE COURT: Mr. Floyd, cross examination.

MR. FLOYD: Yes, sir, Your Honor. Just a couple.

CROSS EXAMINATION

BY MR. FLOYD:

Q: Mr. Lee, I believe you did testify earlier you thought it was important to -- to document what you do in cases like this; is that correct?

A: Yes, sir.

Q: Okay. And as a police officer, how do you typically document things?

A: I just make notes.

Q: You make notes?

A: Yes, sir.

Q: And do you -- is it also common to employ the incident reports?

A: The incident reports initiate it at the beginning.

Q: All right. And -- but you also have supplemental

incident reports that you can do along and along; is that right?

A: We could. Yes, sir.

Q: Okay. And it's not uncommon in any investigation for whichever officer works on the case for them to do a report; right? That's not uncommon?

A: Or as a supplement to it.

Q: Yes, sir.

A: Sure.

Q: As far as any documentation you did in that regard, did you prepare any incident reports in this yourself?

A: No.

Q: And -- but you were in on the investigation from --

A: Yes, sir.

Q: -- from the beginning on July the 4th until the conclusion?

A: Yes, sir.

Q: Is that correct?

A: Yes, sir.

MR. FLOYD: Thank you very much.

THE COURT: Mr. Clements, anything?

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Detective Lee, I think Mr. Wilson was asking you a lot about the date of the 12th of July.